Changes to Legislation: as of 13 October 2026, this Act is up to date with all changes known to be in force.

Number 28 *of* 2024

CRIMINAL LAW (SEXUAL OFFENCES AND HUMAN TRAFFICKING) ACT 2024

REVISED

Updated to 10 August 2026

This Revised Act is an administrative consolidation of the *Criminal Law (Sexual Offences and Human Trafficking) Act 2024*. 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 the *Development (Strategic Gas Reserve) Act 2026* (36/2026), enacted 23 July 2026, and all statutory instruments up to and including the *European Union (Restrictive Measures concerning Libya) (No. 2) Regulations 2026* (S.I. No. 432 of 2026), made 10 August 2026, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.

Number 28 *of* 2024

CRIMINAL LAW (SEXUAL OFFENCES AND HUMAN TRAFFICKING) ACT 2024

REVISED

Updated to 10 August 2026

CONTENTS

PART 1

PRELIMINARY AND GENERAL

Section
1. Short title and commencement

2. Definition

3. Expenses

4. Regulations and orders

PART 2

SEXUAL OFFENCES

Chapter 1

DEFINITION (PART 2)

5. Definition (Part 2)

Chapter 2

AMENDMENT OF ACT OF 1981

6. Amendment of section 1 of Act of 1981

7. Amendment of section 4A of Act of 1981

8. Amendment of section 5 of Act of 1981

9. Amendment of section 6 of Act of 1981

10. Amendment of section 7 of Act of 1981

11. Amendment of section 8 of Act of 1981

12. Amendment of section 9 of Act of 1981

Chapter 3

VOUCHING OF CHARACTER OF CONVICTED PERSONS IN TRIALS FOR CERTAIN SEXUAL OFFENCES *(Repealed)*

13. Definitions (Chapter 3 of Part 2) *(Repealed)*

14. Vouching of character of convicted persons in trials for certain sexual offences *(Repealed)*

Chapter 4

AMENDMENTS TO OTHER ACTS OF OIREACHTAS RELATING TO SEXUAL OFFENCES

15. Amendment of Sexual Offences (Jurisdiction) Act 1996

16. Amendment of section 6 of Act of 2006

17. Amendment of Criminal Law (Sexual Offences) (Amendment) Act 2007

Chapter 5

REPEALS AND APPLICATION OF REPEALS

18. Repeals

19. Retrospective application of repeals

PART 3

NATIONAL REFERRAL MECHANISM

Chapter 1

INTERPRETATION (PART 3)

20. Interpretation (Part 3)

Chapter 2

TRUSTED PARTNERS AND OPERATIONAL COMMITTEE

21. Trusted partners

22. Operational committee

23. Functions of operational committee

24. Meetings and procedures of operational committee

Chapter 3

PRELIMINARY IDENTIFICATION STAGE AND CONCLUSIVE IDENTIFICATION STAGE

25. Criteria for identification as victim of human trafficking

26. Presumption of age of child applicant

27. Application for identification as victim of human trafficking

28. Referral or refusal by competent authority or trusted partner of application

29. Reconsideration, grant or refusal by operational committee of application

30. Sharing of information

Chapter 4

ENTRY TO NATIONAL REFERRAL MECHANISM

31. Effect of referrals, grants and refusals and entry to National Referral Mechanism

32. Presumed victim of human trafficking and identified victim of human trafficking and services

Chapter 5

Appeals

33. Appeal from decision of operational committee

34. Appeals officers

Chapter 6

Miscellaneous

35. Prohibition on deportation of certain persons

36. Amendment of Criminal Law (Human Trafficking) Act 2008

PART 4

AMENDMENT OF DEFENCE ACT 1954

37. Definition (Part 4)

38. Amendment of section 169 of Act of 1954

39. Amendment of section 192 of Act of 1954

PART 5

Miscellaneous

40. Amendment of Criminal Justice (Mutual Assistance) Act 2008

SCHEDULE

Text of Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, done at New York on 25 May 2000

ACTS REFERRED TO

Broadcasting Act 2009 (No. 18)
Charities Act 2009 (No. 6)
Child and Family Agency Act 2013 (No. 40)
Child Care Acts 1991 to 2022
Children Act 2001 (No. 24)
Civil Legal Aid Act 1995 (No. 32)
Criminal Justice (Female Genital Mutilation) Act 2012 (No. 11)
Criminal Justice (Mutual Assistance) Act 2008 (No. 7)
Criminal Justice (Public Order) Act 2011 (No. 5)
Criminal Justice (Safety of United Nations Workers) Act 2000 (No. 16)
Criminal Justice (Terrorist Offences) Act 2005 (No. 2)
Criminal Justice (United Nations Convention Against Torture) Act 2000 (No. 11)
Criminal Law (Human Trafficking) Act 2008 (No. 8)
Criminal Law (Rape) (Amendment) Act 1990 (No. 32)
Criminal Law (Rape) Act 1981 (No. 10)
Criminal Law (Sexual Offences) (Amendment) Act 2007 (No. 6)
Criminal Law (Sexual Offences) Act 1993 (No. 20)
Criminal Law (Sexual Offences) Act 2006 (No. 15)
Criminal Law (Sexual Offences) Act 2017 (No. 2)
Criminal Law Act 1997 (No. 14)
Defence (Amendment) (No. 2) Act 1960 (No. 44)
Defence (Amendment) Act 2006 (No. 20)
Defence Act 1954 (No. 18)
Geneva Conventions Act 1962 (No. 11)
Guardianship of Children Acts 1964 to 1997
Health Acts 1947 to 2022

Immigration Act 1999 (No. 22)
International Criminal Court Act 2006 (No. 30)
International Protection Act 2015 (No. 66)
Legal Services Regulation Act 2015 (No. 65)
Sex Offenders Act 2001 (No. 18)
Sexual Offences (Jurisdiction) Act 1996 (No. 38)

Number 28 *of* 2024

CRIMINAL LAW (SEXUAL OFFENCES AND HUMAN TRAFFICKING) ACT 2024

REVISED

Updated to 10 August 2026

An Act to amend the procedures applicable in proceedings for certain sexual offences including in relation to the adducing of evidence, the asking of questions, the exclusion of the public, the announcement of a verdict or decision and sentence and the anonymity of complainants and accused persons; for those and other purposes to amend the Criminal Law (Rape) Act 1981 and certain other enactments; to repeal certain provisions of the Criminal Law (Sexual Offences) Act 2006 and the Criminal Law (Sexual Offences) Act 2017; to provide for the retrospective application of certain of these repeals in certain circumstances; to provide for a mechanism for the identification of victims and presumed victims of human trafficking and the combatting of the trafficking of persons, to provide for the support of provision of assistance to such persons and, for those purposes, to provide for the establishment of a body to be known as the operational committee and to provide for its functions; to provide for the protection from deportation of certain persons; to amend the Defence Act 1954; to amend the Criminal Law (Human Trafficking) Act 2008; to give effect to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, done at New York on 25 May 2000, and for that purpose to amend the Sexual Offences (Jurisdiction) Act 1996 and the Criminal Justice (Mutual Assistance) Act 2008; and to provide for related matters.

[17*th July*, 2024]

Be it enacted by the Oireachtas as follows:

PART 1

Preliminary and General

Short title and commencement

1. (1) This Act may be cited as the Criminal Law (Sexual Offences and Human Trafficking) Act 2024.

(2) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Definition

2. In this Act, "Minister" means the Minister for Justice.

Expenses

3. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure, National Development Plan Delivery and Reform, be paid out of monies provided by the Oireachtas.

Regulations and orders

4. Every regulation and order, other than an order under *section 1(2)*, made under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation or order is passed by either such House within the next 21 days on which that House sits after the regulation or order is laid before it, the regulation or order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

PART 2

SEXUAL OFFENCES

Chapter 1

DEFINITION (PART 2)

Definition (*Part 2*)

5. In this Part—

"Act of 1981" means the Criminal Law (Rape) Act 1981;

"Act of 2006" means the Criminal Law (Sexual Offences) Act 2006;

"Act of 2017" means the Criminal Law (Sexual Offences) Act 2017.

Chapter 2

AMENDMENT OF ACT OF 1981

Amendment of section 1 of Act of 1981

6. Section 1(1) of the Act of 1981 is amended—

(a) by the insertion of the following definitions:

" 'Act of 2001' means the Children Act 2001;

'Act of 2017' means the Criminal Law (Sexual Offences) Act 2017;

'applicable offence' means—

(a) a sexual assault offence, or

(b) an offence under section 3, 4, 5, 6, 7, 8, 21 or 22 of the Act of 2017;",

and

(b) in the definition of "a rape offence" by the substitution of "section 2(2)" for "sections 2(2) and 8".

Amendment of section 4A of Act of 1981

7. Section 4A of the Act of 1981 is amended—

(a) in subsection (5), by the substitution of "subsection (1)" for "this section" in both places where it occurs,

(b) by the insertion of the following subsections after subsection (5):

"(5A) Where a judge has given leave in accordance with section 3 or 4 for any evidence to be adduced or any question to be asked, the complainant shall be entitled to be heard in relation to the evidence or the question and, for this purpose, to be legally represented during the adducing of that evidence or the asking of that question.

(5B) The prosecution shall, as soon as practicable after a judge has given leave in accordance with section 3 or 4 for any evidence to be adduced or any question to be asked, notify the complainant of his or her entitlement to be heard in relation to the evidence or the question and to be legally represented, for that purpose, during the adducing of that evidence or the asking of that question.

(5C) The judge shall not permit the said evidence to be adduced or the said question to be asked without first being satisfied that subsection (5B) has been complied with.

(5D) If the period between the complainant's being notified, under subsection (5B), of his or her entitlements under subsection (5A) and the adducing of the said evidence or the asking of the said question is not, in the judge's opinion, such as to have afforded the complainant a reasonable opportunity to arrange legal representation of the kind referred to in subsection (5A), the judge shall postpone the adducing of the evidence or the asking of the question (and, for this purpose, may adjourn the trial or proceeding concerned) for a period that the judge considers will afford the complainant such an opportunity.",

and

(c) by the substitution of the following subsection for subsection (6):

"(6) This section applies to—

(a) a sexual assault offence,

(b) an offence under section 6 of the Criminal Law (Sexual Offences) Act 1993, and

(c) an offence under the Criminal Law (Sexual Offences) Act 2006.".

Amendment of section 5 of Act of 1981

8. Section 5 of the Act of 1981 is amended by the substitution of "Act of 2001" for "Children Act 2001".

Amendment of section 6 of Act of 1981

9. Section 6 of the Act of 1981 is amended—

(a) in subsection (1), by the substitution of "Subject to subsections (2), (3) and (3A), in any proceedings for an applicable offence," for "Subject to subsections (2), (3) and (4), in any proceedings for a rape offence or the offence of aggravated sexual assault or attempted aggravated sexual assault or of aiding, abetting, counselling or procuring the offence of aggravated sexual assault or attempted aggravated sexual assault or of incitement to the offence of aggravated sexual assault or conspiracy to commit any of the foregoing offences,",

(b) by the insertion of the following subsection after subsection (3):

"(3A) This section shall not apply to the hearing of proceedings to which section 94 of the Act of 2001 applies.",

and

(c) by the deletion of subsection (4).

Amendment of section 7 of Act of 1981

10. Section 7 of the Act of 1981 is amended—

(a) by the substitution of "an applicable offence" for "a sexual assault offence" in each place it occurs,

(b) in subsection (1), by the substitution of "published or broadcast" for "published in a written publication available to the public or be broadcast",

(c) in subsection (5), by the substitution of "applicable offence" for "sexual assault offence", and

(d) by the substitution of the following subsection for subsection (7):

"(7) In this section—

'broadcast' has the same meaning as it has in section 2 of the Broadcasting Act 2009;

'publish' means publish, other than by way of broadcast or in an indictment or other document prepared for use in particular legal proceedings, to the public or a portion of the public.".

Amendment of section 8 of Act of 1981

11. Section 8 of the Act of 1981 is amended—

(a) by the substitution of "an applicable offence" for "a rape offence" in each place where it occurs, and

(b) in subsection (1), by the substitution of "published or broadcast" for "published in a written publication available to the public or be broadcast".

Amendment of section 9 of Act of 1981

12. Section 9 of the Act of 1981 is amended—

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

"(1) This Act applies, with the necessary modifications, to the trial by court-martial of an applicable offence.",

(b) in subsection (2)—

(i) by the substitution of the following paragraph for paragraph (a):

"(a) for the references to a judge in section 3, 7 or 8 there shall be substituted references to a military judge, and",

(ii) by the substitution of the following paragraph for paragraph (aa):

"(aa) in section 8(8) for the reference to the Director of Public Prosecutions there shall be substituted a reference to the Director.",

and

(iii) by the deletion of paragraph (b),

and

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

"(3) In this section, 'court-martial', 'Director' (other than in the reference to the Director of Public Prosecutions) and 'military judge' have the same meanings as they have in the Defence Act 1954.".

Chapter 3

VOUCHING OF CHARACTER OF CONVICTED PERSONS IN TRIALS FOR CERTAIN SEXUAL OFFENCES

Definitions (*Chapter 3* of *Part 2*)

13. F1**[**...**]**

Vouching of character of convicted persons in trials for certain sexual offences

14. F2**[**...**]**

Chapter 4

AMENDMENTS TO OTHER ACTS OF OIREACHTAS RELATING TO SEXUAL OFFENCES

Amendment of Sexual Offences (Jurisdiction) Act 1996

15. The Schedule to the Sexual Offences (Jurisdiction) Act 1996 is amended by the insertion of the following paragraph after paragraph 14:

"14A. Section 3 of the Criminal Law (Sexual Offences) Act 2017.".

Amendment of section 6 of Act of 2006

16. Section 6 of the Act of 2006 is amended by the substitution of the following subsection for subsection (3):

"(3) Sections 6, 7 and 8 of the Act of 1981 shall apply in relation to an offence under this Act subject to the modification that references in those sections to 'applicable offence' shall be construed as including references to an offence under this Act.".

Amendment of Criminal Law (Sexual Offences) (Amendment) Act 2007

17. Section 3 of the Criminal Law (Sexual Offences) (Amendment) Act 2007 is amended by the substitution of the following subsections for subsection (3):

"(3) Sections 3 and 4 of the Act of 1981 shall apply to an offence under section 6 of the Act of 1993 subject to the modification that references in those sections to 'sexual assault offence' shall be construed as including references to an offence under section 6 of the Act of 1993.

(4) Sections 6, 7 and 8 of the Act of 1981 shall apply to an offence under section 6 of the Act of 1993 subject to the modification that references in those sections to 'applicable offence' shall be construed as including references to an offence under section 6 of the Act of 1993.".

Chapter 5

REPEALS AND APPLICATION OF REPEALS

Repeals

18. (1) The following provisions of the Act of 2006 are repealed:

(a) section 2(5);

(b) section 3A(5).

(2) Section 8(3) of the Criminal Justice (Female Genital Mutilation) Act 2012 is repealed.

(3) The following provisions of the Act of 2017 are repealed:

(a) section 22(5);

(b) section 29(2).

Retrospective application of repeals

19. (1) Subject to *subsection (2)*, the repeals effected by *subsection (1)* of *section 18* and *paragraph (a)* of *subsection (3)* of that section shall apply in respect of a relevant offence committed before the date of the coming into operation of this Chapter, including a relevant offence in respect of which proceedings had commenced before that date.

(2) *Subsection (1)* shall not apply in respect of a relevant offence committed prior to the date of the coming into operation of this Chapter where final judgment was given before that date in the proceedings in respect of the relevant offence.

(3) In this section "relevant offence" means—

(a) an offence to which section 2(5) or 3A(5) of the Act of 2006 applied, immediately before their repeal by *section 18(1)*, or

(b) an offence to which section 22(5) of the Act of 2017 applied, immediately before its repeal by *section 18(3)(a)*.

PART 3

NATIONAL REFERRAL MECHANISM

Chapter 1

INTERPRETATION (PART 3)

Interpretation (*Part 3*)

20. (1) In this Part—

"appeal" means an appeal under *section 33*;

"appeals officer" means a person appointed under *section 34(1)* to be an appeals officer;

"appellant" has the meaning assigned to it by *section 33(1)*;

"applicant" means a person who makes an application;

"application", other than in *section 21*, has the meaning assigned to it by *section 27(1)*;

"beg" shall be construed in accordance with section 1(2) of the Criminal Justice (Public Order) Act 2011;

"chairperson" means the chairperson of the operational committee;

"child" means a person who has not attained the age of 18 years;

"competent authority" means—

(a) the Garda Síochána,

(b) the Minister,

(c) the Minister for Children, Equality, Disability, Integration and Youth,

(d) the Minister for Social Protection,

(e) the Child and Family Agency,

(f) the Health Service Executive, or

(g) the Workplace Relations Commission;

"coordinating appeals officer" means a person appointed under *section 34(5)* to be a coordinating appeals officer;

"exploitation" means—

(a) labour exploitation,

(b) sexual exploitation,

(c) exploitation consisting of the removal of one or more of the organs of a person, or

(d) exploitation consisting of forcing a person to engage in—

(i) an activity that constitutes an offence and that is engaged in for financial gain or that by implication is engaged in for financial gain, or

(ii) an activity in a place other than the State that—

(I) constitutes an offence under the law of that place and would, if done in the State, constitute an offence, and

(II) is engaged in for financial gain or that by implication is engaged in for financial gain;

"forced labour" means a work or service which is exacted from a person under the menace of any penalty and for which the person has not offered himself or herself voluntarily, but shall not include any of the following:

(a) a work or service exacted by virtue of compulsory military service laws for work of a purely military character;

(b) a work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country;

(c) a work or service exacted from a person as a consequence of a conviction in a court of law if—

(i) the work or service is carried out under the supervision and control of a public authority, and

(ii) the person is not hired to, or placed at the disposal of, a person who is not a public authority;

(d) a work or service exacted in a case of an emergency that endangers or that may endanger the existence or the well-being of the whole or part of the population, including war, fire, flood, famine, earthquake, violent epidemic or epizootic diseases or invasion by animal, insect or vegetable pests;

(e) a minor communal service of a kind which, being performed by the members of the community in the direct interest of the community, can be considered as a normal civic obligation incumbent upon the members of the community, and where the members of the community, or their direct representatives, have the right to be consulted in regard to the need for that service;

"identified victim of human trafficking" has the meaning assigned to it by *section 31(3)(a)*;

"labour exploitation", in relation to a person, means—

(a) subjecting the person to forced labour (including forcing him or her to beg),

(b) forcing the person to render services to another person, or

(c) enslavement of the person or subjecting him or her to servitude or a similar condition or state;

"National Referral Mechanism" means the framework through which the State protects and promotes the human rights of identified victims of human trafficking and presumed victims of human trafficking;

"notify" means notify in writing;

"operational committee" means the operational committee established under *section 22(1)*;

"operational guidelines" has the meaning assigned to it by *section 23(1)(c)*;

"parent", in relation to a child, means the mother or father of the child or a guardian of the child appointed under the Guardianship of Children Acts 1964 to 1997;

"presumed victim of human trafficking" has the meaning assigned to it by *section 31(1)(a)*;

"registered charitable organisation" has the same meaning as it has in the Charities Act 2009;

"relevant body" means a body that—

(a) is a registered charitable organisation, and

(b) works with, or provides services to, people who have been or are being trafficked for the purposes of exploitation;

"relevant person" means a person who has—

(a) a physical disability,

(b) a mental or intellectual disability, or

(c) a mental illness,

which is of such a nature or degree as to severely restrict the person to guard himself or herself against serious exploitation;

"sexual exploitation", in relation to a person, means—

(a) the production of pornography depicting the person either alone or with others,

(b) causing the person to engage in sexual activity for the purpose of the production of pornography,

(c) the prostitution of the person,

(d) the commission of an offence specified in the Schedule to the Sex Offenders Act 2001 against the person; causing another person to commit such an offence against the person; or causing the person to commit such an offence against another person, or

(e) otherwise causing the person to engage or participate in any sexual, indecent or obscene act;

"suitable person", other than in *section 34(1)*, has the meaning assigned to it by *section 27(4)(a)(iii)*;

"trafficks", in relation to a person, means—

(a) procures, recruits, transports or harbours the person,

(b) transfers the person to, places the person in the custody, care or charge, or under the control of, or otherwise delivers the person to, another person,

(c) causes the person to enter or leave the State or to travel within the State,

(d) takes custody of the person or takes the person—

(i) into one's care or charge, or

(ii) under one's control,

or

(e) provides the person with accommodation or employment;

"trusted partner" means a body that is designated by order of the Minister under *section 21(3)(a)* as a trusted partner;

"victim of human trafficking" means a person who has been or is being trafficked for the purposes of exploitation.

Chapter 2

TRUSTED PARTNERS AND OPERATIONAL COMMITTEE

Trusted partners

21. (1) A relevant body may apply to the Minister to be designated as a trusted partner for the purposes of this Part.

(2) An application under *subsection (1)* shall be in writing, in such form as the Minister may specify from time to time and shall be accompanied by the following information, in writing:

(a) evidence of the relevant body being a registered charitable organisation at the time of the application;

(b) in relation to the work undertaken with, or services provided by the relevant body to, victims of human trafficking or presumed victims of human trafficking—

(i) the nature and type of such work or services, and

(ii) the number of persons with whom such work was undertaken or to whom such services were provided in the period of 2 years prior to the date of the application (where applicable);

(c) any code of practice, standard of service, mission statement or statement of values (howsoever called) of the relevant body in relation to the provision of its services;

(d) a statement by the relevant body as to how it intends to perform the functions and carry out the duties of a trusted partner under this Part;

(e) evidence of the relevant body's internal governance and management arrangements for the performance of its functions and the work undertaken with, and the provision of services to, victims of human trafficking;

(f) such other information as may be reasonably specified by the Minister for the purposes of making a decision in respect of an application under *subsection (1)*.

(3) The Minister may—

(a) by order designate a relevant body as a trusted partner for the purposes of this Part, or

(b) refuse to designate a relevant body as a trusted partner for the purposes of this Part.

(4) The Minister shall, when deciding whether to designate a relevant body under this section—

(a) take into account the information provided pursuant to *subsection (2)*, and

(b) have regard to whether the relevant body has demonstrated the following matters:

(i) an adequate understanding of the functions of a trusted partner;

(ii) experience of, and expertise in, working with, or providing services to, victims of human trafficking or other vulnerable persons;

(iii) that it has sufficient internal governance and management arrangements in place for the performance by it of the functions of a trusted partner and the provision of services by it to victims of human trafficking.

(5) Where the Minister under *subsection (3)(b)* refuses to designate a relevant body, he or she shall, as soon as practicable after such refusal, notify the relevant body of the refusal and the reasons for it.

(6) Where the Minister proposes to revoke an order made under *subsection (3)(a)*, he or she shall—

(a) notify the trusted partner—

(i) of the proposal and the reasons for it, and

(ii) that the trusted partner may make representations to the Minister in relation to the proposal within such period as the Minister may specify in the notification,

and

(b) consider such representations (if any) that are made in accordance with *paragraph (a)(ii)*.

Operational committee

22. (1) The Minister shall, as soon as practicable after the coming into operation of this section, establish a committee, which shall be known as the operational committee, to perform the functions specified in *section 23*.

(2) The operational committee shall consist of—

(a) an officer of the Minister, who shall be the chairperson, and

(b) at least one representative of each of—

(i) the competent authorities, and

(ii) the trusted partners (if any) for the time being designated under *section 21(3)(a)*.

(3) The Minister shall assign to the operational committee such resources as the Minister reasonably considers appropriate to perform the functions of a secretariat to the committee.

Functions of operational committee

23. (1) The operational committee shall have the following functions:

(a) to reconsider, grant or refuse applications in accordance with *section 29*;

(b) to determine the form and manner in which applications shall be made, including specifying the documents and other supporting information that shall accompany such applications;

(c) subject to this section, to issue guidelines (in this Part referred to as "operational guidelines") regarding—

(i) the circumstances and procedures relating to applications,

(ii) the indicators associated with human trafficking to which regard shall be had in decisions by—

(I) competent authorities and trusted partners under *section 28*,

(II) the operational committee under *section 29*, and

(III) an appeals officer under *section 33*,

(iii) the procedures relating to decisions made by competent authorities and trusted partners in relation to referrals under *section 28* and to those referrals,

(iv) specific procedures for the identification and support of child victims of human trafficking and presumed victims of human trafficking who are children, and

(v) the procedures relating to decisions made by the operational committee under *section 29*;

(d) to arrange for the issued operational guidelines to be published on a website maintained by or on behalf of the Minister;

(e) to make recommendations to the Minister or any other Minister of the Government having charge of a Department of State, a competent authority or a trusted partner regarding the provision of services by the Department, competent authority or trusted partner concerned to individual presumed victims of human trafficking and identified victims of human trafficking;

(f) to support the provision of services to presumed victims of human trafficking and identified victims of human trafficking.

(2) The operational committee may, with the consent of the Minister, amend or revoke any operational guidelines, or part thereof, issued by it under this section.

(3) The operational committee shall have all such powers as are necessary or expedient for the performance of its functions under this Part.

(4) Without prejudice to any power conferred by or under any other enactment or rule of law on each of the bodies specified in the definition of "competent authority", each of such bodies shall have all such powers as are necessary or expedient for the performance of its functions as a competent authority under this Part.

Meetings and procedures of operational committee

24. (1) The operational committee shall hold such and so many meetings as may be necessary for the performance of its functions under this Part.

(2) Subject to *subsection (1)* and *section 29(6)*, the operational committee may regulate its own procedures, including procedures relating to the conduct of its meetings and business, as it considers appropriate.

Chapter 3

PRELIMINARY IDENTIFICATION STAGE AND CONCLUSIVE IDENTIFICATION STAGE

Criteria for identification as victim of human trafficking

25. The following matters, in relation to an application, are specified for the purposes of *sections 27(2)*, *28(2)(a)*, *29(2)* and *33(8)(a)*:

(a) the applicant has been trafficked;

(b) the trafficking referred to in *paragraph (a)* has occurred by means of—

(i) the threat or use of force or other forms of coercion, abduction, fraud or deception,

(ii) the abuse of power or a position of vulnerability,

(iii) the giving or receiving of payments or benefits with the intent of obtaining the consent of a person having control over another person, or

(iv) the threat or use of force or other forms of coercion against any person in whose care or charge, or under whose control, the applicant was for the time being, in order to compel that person to permit the applicant to be trafficked;

(c) the trafficking referred to in *paragraph (a)* has been carried out, and at least one of the means referred to in *paragraph (b)* has been employed, for the purposes of the exploitation of the applicant.

Presumption of age of child applicant

26. Where—

(a) an applicant or appellant, as the case may be, or

(b) in the case of an application under *section 27(4)*, the person making an application on behalf of an applicant or an appeal on behalf of an appellant,

claims in the application that the applicant or appellant, as the case may be, has not attained the age of 18 years, the competent authority, the trusted partner, the operational committee or an appeals officer, as the case may be, shall presume, unless and until the contrary is proved, for the purposes of this Part, that that applicant or appellant, as the case may be, has not, at the date on which the claim is made, attained the age of 18 years.

Application for identification as victim of human trafficking

27. (1) A person who believes that he or she is, or may be, a victim of human trafficking may make an application (in this Part referred to as an "application") in accordance with this section to be identified, in accordance with this Part, as a victim of human trafficking to—

(a) a competent authority, or

(b) a trusted partner.

(2) An application shall be made in such form and manner and be accompanied by such documents and information that relate to or are evidence of the matters specified in *section 25*, and any other supporting information, as the operational committee may reasonably determine from time to time.

(3) Without prejudice to the generality of *section 23(1)(d)*, the operational committee shall arrange for the application form and a statement of the documents and other supporting information determined by the operational committee under *subsection (2)* to be published on a website maintained by or on behalf of the Minister.

(4) An application and, where applicable, an appeal may be made on behalf of—

(a) a child, by—

(i) a parent of the child,

(ii) the Child and Family Agency, or

(iii) any other person who, by reason of the person's relationship (including professional relationship) with the child and that person's interest in the rights and welfare of the child, is considered by the competent authority or trusted partner, to which the application is to be made, to be a suitable person to make that application (in this Part referred to as a "suitable person"),

or

(b) a relevant person (other than a child), by a person duly appointed or authorised to act on his or her behalf.

(5) Where an application or, where applicable, an appeal is made by a person (in this subsection referred to as the "first-mentioned person") on behalf of another person in accordance with *subsection (4)*, a requirement in this Part to notify an applicant of any matter relating to his or her application or to send any thing to the applicant shall be construed as a requirement to notify the first-mentioned person or to send the thing to the first-mentioned person.

Referral or refusal by competent authority or trusted partner of application

28. (1) A competent authority or a trusted partner, as the case may be, shall, as soon as practicable after an application in accordance with *section 27* is made to the competent authority or trusted partner, as the case may be, decide, in accordance with *subsection (2)*, whether there are reasonable grounds for believing that the applicant is a victim of human trafficking.

(2) The competent authority or the trusted partner, as the case may be, shall, in relation to a decision under *subsection (1)*—

(a) take into account whether the application includes, in respect of the applicant, information that relates to or is evidence of the matters specified in—

(i) where the application is made by a child or under *section 27(4)* on behalf of a child or a relevant person—

(I) *paragraph (a)* of *section 25*, and

(II) *paragraph (c)* of *section 25*, other than the reference to the means referred to in *paragraph (b)* of that section,

and

(ii) in any other case, *paragraphs (a)*, *(b)* and *(c)* of *section 25*,

and

(b) make the decision in accordance with the operational guidelines, including by reference to such indicators associated with human trafficking as may be specified therein.

(3) A competent authority or trusted partner, as the case may be, shall, when making a decision under this section, take into account any additional information provided to it under *section 30*.

(4) Where a competent authority or trusted partner decides that *paragraph (a)* of *subsection (2)* is satisfied in relation to an application made to the competent authority or the trusted partner, as the case may be, the competent authority or trusted partner concerned shall, as soon as practicable, refer the application to the operational committee.

(5) Where a competent authority or trusted partner decides that *paragraph (a)* of *subsection (2)* is not satisfied in relation to an application made to the competent authority or the trusted partner, as the case may be, the competent authority or trusted partner concerned shall not refer the application to the operational committee.

(6) The competent authority or the trusted partner, as the case may be, shall, as soon as practicable, notify the applicant concerned of its decision under *subsection (4)* or *(5)*, as the case may be.

(7) In the case of a decision under *subsection (5)*, the notification under *subsection (6)* shall include the reasons for the decision.

(8) Where *subsection (5)* applies, the applicant to whom the application concerned relates may, not later than 30 days after the date of the notification referred to in *subsection (6)*, make a request, in accordance with the operational guidelines, to have his or her application reconsidered by the operational committee under *section 29*.

Reconsideration, grant or refusal by operational committee of application

29. (1) The operational committee shall make a decision under this section in relation to an application as soon as practicable after receiving—

(a) an application referred to it under *section 28(4)*, or

(b) a request from an applicant under *section 28(8)* to reconsider his or her application.

(2) Subject to this section, the operational committee shall, in relation to an application received by it under *subsection (1)*, decide, in accordance with *subsection (3)*, whether there are reasonable grounds for believing that the applicant is a victim of human trafficking.

(3) The operational committee shall, in relation to a decision under *subsection (2)*—

(a) take into account whether the application includes, in respect of the applicant, information that relates to or is evidence of the matters specified in—

(i) where the application is made by a child or under *section 27(4)* on behalf of a child or a relevant person—

(I) *paragraph (a)* of *section 25*, and

(II) *paragraph (c)* of *section 25*, other than the reference to the means referred to in *paragraph (b)* of that section,

and

(ii) in any other case, *paragraphs (a)*, *(b)* and *(c)* of *section 25*,

and

(b) make the decision in accordance with the operational guidelines, including by reference to such indicators associated with human trafficking as may be specified therein.

(4) Where the operational committee decides that *paragraph (a)* of *subsection (3)* is satisfied in relation to an application received by it under *subsection (1)*, the operational committee shall grant the application.

(5) Where the operational committee decides that *paragraph (a)* of *subsection (3)* is not satisfied in relation to an application received by it under *subsection (1)*, the operational committee shall refuse the application.

(6) The operational committee shall, when making a decision under *subsection (4)* or *(5)*, take into account any information that is provided as part of the application and any additional information provided to it under *section 30*.

(7) The operational committee may request the competent authority or trusted partner that referred the application to it, to provide the operational committee with such information as it may reasonably require in order to verify any information in that application.

(8) (a) Subject to *paragraph (b)*, a competent authority or trusted partner, as the case may be, that receives a request made under *subsection (7)* shall comply with the request concerned.

(b) Nothing in this Part shall operate to compel a competent authority or trusted partner, as the case may be, to disclose any information or document that the competent authority or trusted partner would be entitled to refuse to produce on the grounds of legal professional privilege.

(9) The operational committee shall, as soon as practicable, notify an applicant of its decision under *subsection (4)* or *(5)* and, in the case of a decision under *subsection (5)*, the reasons for the decision.

(10) Where the operational committee receives a request under *section 28(8)* to reconsider an application, the competent authority or trusted partner to which the application was made shall not form part of the operational committee for the purposes of the reconsideration of the application.

Sharing of information

30. (1) This section applies where—

(a) an application is referred under *section 28(4)* to the operational committee,

(b) an applicant makes a request under *section 28(8)*, or

(c) an applicant makes an appeal.

(2) A competent authority may share relevant information (including personal data within the meaning of the Data Protection Regulation) with—

(a) another competent authority,

(b) a trusted partner, or

(c) the operational committee,

for the purpose of the performance of the functions of the competent authority, the other competent authority, the trusted partner or the operational committee, where to do so is in accordance with the law and to the extent that it is necessary and proportionate for the purpose.

(3) A trusted partner may share relevant information (including personal data within the meaning of the Data Protection Regulation) with—

(a) a competent authority,

(b) another trusted partner, or

(c) the operational committee,

for the purpose of the performance of the functions of the trusted partner, the other trusted partner, the competent authority or the operational committee, where to do so is in accordance with the law and to the extent that it is necessary and proportionate for the purpose.

(4) The operational committee may share relevant information (including personal data within the meaning of the Data Protection Regulation) with—

(a) a competent authority,

(b) a trusted partner, or

(c) an appeals officer,

for the purpose of the performance of the functions of the competent authority, the trusted partner or the appeals officer, where to do so is in accordance with the law and to the extent that it is necessary and proportionate for the purpose.

(5) Relevant information relating to an applicant may be shared under this section only—

(a) in a case in which the applicant is a child—

(i) where a parent of the child consents to such sharing,

(ii) in the case of a child who does not have a parent or where a parent of the child cannot be identified or located, where the Child and Family Agency consents to such sharing, or

(iii) in a case of a suitable person making an application on behalf of the child under *section 27(4)(a)(iii)*, where the suitable person consents to such sharing,

(b) in a case in which an application is made on behalf of a person under *section 27(4)(b)*—

(i) subject to *subparagraph (ii)*, where the applicant consents to such sharing, or

(ii) in a case in which the applicant is unable to consent to such sharing by reason of being a relevant person, where a person duly appointed or authorised to act on his or her behalf consents to such sharing,

or

(c) in any other case, where the applicant consents to such sharing.

(6) Information in relation to an applicant that is shared by a competent authority, a trusted partner or the operational committee under this section shall not be disclosed to any other person or body.

(7) This section is without prejudice to any obligation or power to provide information under any other enactment or rule of law.

(8) In this section—

"Data Protection Regulation" means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016[1] on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);

"relevant information", in relation to an applicant, includes—

[1] OJ No. L119, 4.5.2016, p. 1.

(a) an application relating to him or her,

(b) information provided pursuant to a request under *section 29(7)*,

(c) information relating to the arrival of the applicant in the State,

(d) information relating to—

(i) the investigation of an offence to which the applicant is, or is likely to be, connected, or

(ii) criminal proceedings to which the applicant is, or is likely to be, a party or in which the applicant may be a witness,

and

(e) any other information that the person who holds the information considers could assist a competent authority, a trusted partner, the operational committee or an appeals officer, as the case may be, in the performance of its functions under this Part in respect of the applicant.

Chapter 4

ENTRY TO NATIONAL REFERRAL MECHANISM

Effect of referrals, grants and refusals and entry to National Referral Mechanism

31. (1) The effect of a referral under *section 28(4)* shall be that the applicant to whom the referral relates shall, subject to *subsection (2)*—

(a) be presumed to be a victim of human trafficking (in this Part referred to as a "presumed victim of human trafficking") for the purposes of this Part, and

(b) enter the National Referral Mechanism.

(2) The presumption in *subsection (1)* shall cease to apply—

(a) where the application in relation to the applicant concerned is refused by the operational committee under *section 29(5)* and the date on which the period of 30 days specified in *subsection (1)* of *section 33* expires without an appeal having been made, or

(b) on the date on which the notification of the decision to refuse the applicant's application under *section 33(11)* is sent to the applicant concerned.

(3) The effect of a grant under *section 29(4)* of an application shall be that—

(a) the applicant concerned shall be identified as a victim of human trafficking (in this Part referred to as an "identified victim of human trafficking") for the purposes of this Part, and

(b) the identified victim of human trafficking shall, where he or she has not already so entered, enter the National Referral Mechanism.

(4) The effect of a decision by an appeals officer under *section 33(10)* to grant an appellant's application shall be that—

(a) the applicant, to whom the appeal relates, shall, for the purposes of this Part, be an identified victim of human trafficking, and

(b) an identified victim of human trafficking referred to in *paragraph (a)* shall, where he or she has not already so entered, enter the National Referral Mechanism.

Presumed victim of human trafficking and identified victim of human trafficking and services

32. (1) Subject to *subsection (3)*, the following may be made available to a presumed victim of human trafficking or an identified victim of human trafficking:

(a) social welfare benefits;

(b) assistance with accommodation;

(c) civil legal aid within the meaning of the Civil Legal Aid Act 1995;

(d) supports for access to education, training and employment opportunities, including any such opportunities provided by *An tSeirbhís Oideachais Leanúnaigh agus Scileanna* or an education and training board;

(e) where the presumed victim of human trafficking or the identified victim of human trafficking is a child, the services of the Child and Family Agency under the Child Care Acts 1991 to 2022 and the Child and Family Agency Act 2013;

(f) information and advice from a competent authority or trusted partner, or both, including information on the rights and entitlements of the presumed victim of human trafficking or the identified victim of human trafficking;

(g) at the request of the presumed victim of human trafficking or the identified victim of human trafficking, assistance with voluntary return to his or her country of origin.

(2) The services referred to in *subsection (1)* may be provided by—

(a) a competent authority or trusted partner, or

(b) a relevant body.

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

(a) imposing an obligation on any competent authority, trusted partner, relevant body or any other person to provide any service, or

(b) entitling any person to receive any service.

(4) In this section—

"country of origin" has the same meaning as it has in the International Protection Act 2015;

"social welfare benefits" includes any payment or services provided under the Social Welfare Acts or the Health Acts 1947 to 2022.

Chapter 5

APPEALS

Appeal from decision of operational committee

33. (1) An applicant (in this Part referred to as the "appellant") whose application is refused by the operational committee under *section 29(5)* may, not later than 30 days after the date on which the notification of the decision is sent to the applicant, appeal the decision of the operational committee and request the committee to arrange for his or her application to be reviewed by an appeals officer in accordance with this section.

(2) An appeal shall—

(a) be made in writing, and

(b) be accompanied by a statement of grounds relied on by the appellant.

(3) The Minister may prescribe by regulations the procedures to be followed in respect of the conduct and consideration of appeals and the appeals officer shall comply with those procedures.

(4) The operational committee shall, as soon as practicable after the making of the appeal under *subsection (1)*, send to an appeals officer the statement of grounds referred to in *subsection (2)* and a copy of the application form, documents and other supporting information comprising the application the subject of the appeal.

(5) An appeals officer, in his or her review of an application under this section—

(a) shall examine the statement of grounds referred to in *subsection (2)* and the application form, documents and other supporting information comprising the application the subject of the appeal, and

(b) may take into account any additional information provided to the operational committee under *section 30*.

(6) An appeals officer shall not include in his or her review of an application any documents or information additional to those specified in *subsection (5)*.

(7) Subject to this section, an appeals officer shall decide, in accordance with *subsection (8)*, whether there are reasonable grounds for believing that the appellant is a victim of human trafficking.

(8) The appeals officer shall, in relation to a decision under *subsection (7)*—

(a) take into account whether the application includes, in respect of the appellant, information that relates to or is evidence of the matters specified in—

(i) where the application is made by a child or under *section 27(4)* on behalf of a child or a relevant person—

(I) *paragraph (a)* of *section 25*, and

(II) *paragraph (c)* of *section 25*, other than the reference to the means referred to in *paragraph (b)* of that section,

and

(ii) in any other case, *paragraphs (a)*, *(b)* and *(c)* of *section 25*,

and

(b) make the decision by reference to such indicators associated with human trafficking as may be specified in the operational guidelines.

(9) An appeals officer shall complete his or her review of an application under this section as soon as practicable after receipt of the documents and information referred to in *subsection (4)* or the information referred to in *subsection (5)(b)*, whichever is the later.

(10) Subject to this section, an appeals officer shall, where he or she decides that *paragraph (a)* of *subsection (8)* is satisfied in relation to an application he or she reviews under this section, grant the application.

(11) Subject to this section, an appeals officer shall, where he or she decides that *paragraph (a)* of *subsection (8)* is not satisfied in relation to an application he or she reviews under this section, refuse the application.

(12) An appeals officer shall notify the appellant and the operational committee of his or her decision under this section and the reasons for it.

(13) An appellant may at any time withdraw an appeal by sending a notice of withdrawal to the operational committee and the operational committee shall, as soon as may be, notify the appeals officer concerned of the withdrawal.

Appeals officers

34. (1) The Minister may appoint a panel of suitable persons to be appeals officers for the purpose of reviewing applications in accordance with *section 33*.

(2) An appeals officer shall hold office on such terms and conditions as the Minister may determine, which may include, but are not limited to, the period for which they may be appointed, the payment of fees and expenses (with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform), resignation and removal for stated reasons.

(3) A person shall be a practising barrister or practising solicitor of not less than 5 years' standing to be appointed as an appeals officer.

(4) Subject to *section 33(3)* and without prejudice to the role of a coordinating appeals officer, an appeals officer shall be independent in the performance of his or her functions.

(5) The Minister may appoint an appeals officer to be a coordinating appeals officer.

(6) The duties of a coordinating appeals officer shall include liaising with the operational committee in relation to the assignment from the operational committee to an appeals officer of applications for review under *section 33*.

(7) In this section, "practising barrister" and "practising solicitor" have the same meanings as they have in the Legal Services Regulation Act 2015.

Chapter 6

MISCELLANEOUS

Prohibition on deportation of certain persons

35. (1) The Minister shall not make a deportation order under section 3(1) of the Act of 1999 in relation to an identified victim of human trafficking to whom paragraph (c), (d), (e), (f), (g) or (h) of section 3(2) of that Act applies.

(2) The Minister shall not make a deportation order under section 3(1) of the Act of 1999 in respect of an applicant or appellant, as the case may be, during the relevant period where the applicant, or appellant (other than a person who makes an application under *section 27(4)* on another person's behalf), as the case may be, is a person to whom paragraph (c), (d), (e), (f), (g) or (h) of section 3(2) of the Act of 1999 applies.

(3) In this section—

"Act of 1999" means the Immigration Act 1999;

"relevant period" means the period from the date of the making of an application to—

(a) in the case of an applicant whose application has not been referred to the operational committee under *section 28(4)* and who has not requested, within the period specified in *section 28(8)*, to have his or her application reconsidered under *section 29*, the date on which the period specified in *section 28(8)* expires,

(b) in the case of an applicant whose application is refused, or reconsidered and refused, pursuant to *section 29(5)* and who has not made an appeal, the date on which the period specified in *section 33(1)* expires, or

(c) in the case of an appellant whose application has been reviewed under *section 33* but, pursuant to *subsection (11)* of that section, his or her application has been refused, the date on which he or she receives a notification under *subsection (12)* of that section of a decision under *subsection (11)* of that section.

Amendment of Criminal Law (Human Trafficking) Act 2008

36. The Criminal Law (Human Trafficking) Act 2008 is amended—

(a) in section 4—

(i) by the substitution of the following subsection for subsection (3):

"(3) A person who trafficks a relevant person for the purposes of the exploitation of the relevant person shall be guilty of an offence.",

and

(ii) by the substitution of the following subsection for subsection (8):

"(8) In this section, 'relevant person' means a person who has—

(a) a physical disability,

(b) a mental or intellectual disability, or

(c) a mental illness,

which is of such a nature or degree as to severely restrict the person to guard himself or herself against serious exploitation.",

and

(b) by the insertion of the following section after section 5:

"Protection of certain persons from prosecution for certain offences

5A. Notwithstanding section 7 of the Criminal Law Act 1997, it shall not be an offence for a trafficked person to aid, abet, counsel or procure another person to commit an offence under this Act relating to the trafficking in, or to, the State of the trafficked person.".

PART 4

AMENDMENT OF DEFENCE ACT 1954

Definition (*Part 4*)

37. In this Part, "Act of 1954" means the Defence Act 1954.

Amendment of section 169 of Act of 1954

38. Section 169 of the Act of 1954 is amended—

(a) in subsection (1), by the substitution of "offences referred to in this section, other than an applicable offence committed in the circumstance referred to in subsection (4)," for "offences referred to in this section",

(b) in subsection (3)—

(i) in paragraph (b), by the substitution of "rape under section 4 or aggravated sexual assault, where the offence was committed while the person so convicted was on active service outside the State or despatched for service outside the State under section 2 of the Defence (Amendment) (No. 2) Act 1960 or for any purpose specified in section 3 of the Defence (Amendment) Act 2006," for "rape under section 4 (within the meaning of the Criminal Law (Rape) (Amendment) Act 1990) or aggravated sexual assault (within the meaning of the Criminal Law (Rape) (Amendment) Act 1990),", and

(ii) in paragraph (g), by the substitution of "is convicted of any offence, other than an applicable offence, not before in this section particularly specified" for "is convicted of any offence not before in this section particularly specified",

and

(c) by the insertion of the following subsections after subsection (3):

"(4) The circumstance referred to in subsection (1) is that the offence was committed by a person subject to military law who was not, when the offence was committed—

(a) on active service outside the State,

(b) despatched for service outside the State under section 2 of the Defence (Amendment) (No. 2) Act 1960, or

(c) despatched for service outside the State for any purpose specified in section 3 of the Defence (Amendment) Act 2006.

(5) In this section—

'aggravated sexual assault', 'rape under section 4' and 'sexual assault' have the same meanings as they have in the Criminal Law (Rape) (Amendment) Act 1990;

'applicable offence' means—

(a) rape,

(b) rape under section 4,

(c) aggravated sexual assault,

(d) sexual assault,

(e) attempted rape, rape under section 4, aggravated sexual assault or sexual assault,

(f) aiding, abetting, counselling or procuring the offence of rape, rape under section 4, aggravated sexual assault or sexual assault,

(g) incitement to the offence of rape, rape under section 4, aggravated sexual assault or sexual assault, or

(h) conspiracy to commit any of the foregoing offences.".

Amendment of section 192 of Act of 1954

39. Section 192 of the Act of 1954 is amended—

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

"(1A) In this section—

'aggravated sexual assault', 'rape under section 4' and 'sexual assault' have the same meanings as they have in the Criminal Law (Rape) (Amendment) Act 1990;

'relevant offence' means—

(a) the offence of treason or murder,

(b) an offence under section 3, as amended, of the Geneva Conventions Act 1962 or an offence under section 7 (genocide, crimes against humanity and war crimes) or 8 (ancillary offences) of the International Criminal Court Act 2006,

(c) manslaughter,

(d) rape,

(e) rape under section 4,

(f) aggravated sexual assault,

(g) sexual assault,

(h) attempted rape, rape under section 4, aggravated sexual assault or sexual assault,

(i) aiding, abetting, counselling or procuring the offence of rape, rape under section 4, aggravated sexual assault or sexual assault,

(j) incitement to the offence of rape, rape under section 4, aggravated sexual assault or sexual assault,

(k) conspiracy to commit the offences specified in paragraphs (d), (e), (f), (g), (h), (i) or (j),

(l) an offence under the Criminal Justice (United Nations Convention Against Torture) Act 2000,

(m) an offence under the Criminal Justice (Safety of United Nations Workers) Act 2000, or

(n) an offence under the Criminal Justice (Terrorist Offences) Act 2005.",

(b) by the substitution of the following subsection for subsection (3):

"(3) A general court-martial shall not have jurisdiction to try any person subject to military law for a relevant offence unless the offence was committed while the person was on active service outside the State or despatched for service outside the State under section 2 of the Defence (Amendment) (No. 2) Act 1960 or for any purpose specified in section 3 of the Defence (Amendment) Act 2006 when the offence was committed.",

and

(c) by the deletion of subsection (3A).

PART 5

MISCELLANEOUS

Amendment of Criminal Justice (Mutual Assistance) Act 2008

40. The Criminal Justice (Mutual Assistance) Act 2008 is amended—

(a) in section 2—

(i) in subsection (1)—

(I) in the definition of "international instrument", by the insertion of the following paragraph after paragraph (Ia):

"(Ib) the Second Optional Protocol;",

and

(II) by the insertion of the following definition:

" 'Second Optional Protocol' means the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, done at New York on 25 May 2000;",

and

(ii) in subsection (6), by the insertion of the following paragraph after paragraph (I):

"(Ia) Schedule 12A sets out the English text of the Second Optional Protocol,",

and

(b) by the insertion, after Schedule 12, of Schedule 12A set out in the *Schedule* to this Act.

SCHEDULE

Text of Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, done at New York on 25 May 2000

"SCHEDULE 12A

Text of Second Optional Protocol

Article 1

States Parties shall prohibit the sale of children, child prostitution and child pornography as provided for by the present Protocol.

Article 2

For the purposes of the present Protocol:

(a) Sale of children means any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration;

(b) Child prostitution means the use of a child in sexual activities for remuneration or any other form of consideration;

(c) Child pornography means any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.

Article 3

1. Each State Party shall ensure that, as a minimum, the following acts and activities are fully covered under its criminal or penal law, whether such offences are committed domestically or transnationally or on an individual or organized basis:

   (a) In the context of sale of children as defined in article 2:

      (i) Offering, delivering or accepting, by whatever means, a child for the purpose of:

         a.Sexual exploitation of the child;

         b.Transfer of organs of the child for profit;

         c.Engagement of the child in forced labour;

      (ii) Improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption;

   (b) Offering, obtaining, procuring or providing a child for child prostitution, as defined in article 2;

   (c) Producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography as defined in article 2.

2. Subject to the provisions of the national law of a State Party, the same shall apply to an attempt to commit any of the said acts and to complicity or participation in any of the said acts.

3. Each State Party shall make such offences punishable by appropriate penalties that take into account their grave nature.

4. Subject to the provisions of its national law, each State Party shall take measures, where appropriate, to establish the liability of legal persons for offences established in paragraph 1 of the present article. Subject to the legal principles of the State Party, such liability of legal persons may be criminal, civil or administrative.

5. States Parties shall take all appropriate legal and administrative measures to ensure that all persons involved in the adoption of a child act in conformity with applicable international legal instruments.

Article 4

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 3, paragraph 1, when the offences are committed in its territory or on board a ship or aircraft registered in that State.

2. Each State Party may take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 3, paragraph 1, in the following cases:

   (a) When the alleged offender is a national of that State or a person who has his habitual residence in its territory;

   (b) When the victim is a national of that State.

3. Each State Party shall also take such measures as may be necessary to establish its jurisdiction over the aforementioned offences when the alleged offender is present in its territory and it does not extradite him or her to another State Party on the ground that the offence has been committed by one of its nationals.

4. The present Protocol does not exclude any criminal jurisdiction exercised in accordance with internal law.

Article 5

1. The offences referred to in article 3, paragraph 1, shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties and shall be included as extraditable offences in every extradition treaty subsequently concluded between them, in accordance with the conditions set forth in such treaties.

2. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider the present Protocol to be a legal basis for extradition in respect of such offences. Extradition shall be subject to the conditions provided by the law of the requested State.

3. States Parties that do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. Such offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 4.

5. If an extradition request is made with respect to an offence described in article 3, paragraph 1, and the requested State Party does not or will not extradite on the basis of the nationality of the offender, that State shall take suitable measures to submit the case to its competent authorities for the purpose of prosecution.

Article 6

1. States Parties shall afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences set forth in article 3, paragraph 1, including assistance in obtaining evidence at their disposal necessary for the proceedings.

2. States Parties shall carry out their obligations under paragraph 1 of the present article in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

Article 7

States Parties shall, subject to the provisions of their national law:

(a) Take measures to provide for the seizure and confiscation, as appropriate, of:

(i) Goods, such as materials, assets and other instrumentalities used to commit or facilitate offences under the present protocol;

(ii) Proceeds derived from such offences;

(b) Execute requests from another State Party for seizure or confiscation of goods or proceeds referred to in subparagraph (a);

(c) Take measures aimed at closing, on a temporary or definitive basis, premises used to commit such offences.

Article 8

1. States Parties shall adopt appropriate measures to protect the rights and interests of child victims of the practices prohibited under the present Protocol at all stages of the criminal justice process, in particular by:

(a) Recognizing the vulnerability of child victims and adapting procedures to recognize their special needs, including their special needs as witnesses;

(b) Informing child victims of their rights, their role and the scope, timing and progress of the proceedings and of the disposition of their cases;

(c) Allowing the views, needs and concerns of child victims to be presented and considered in proceedings where their personal interests are affected, in a manner consistent with the procedural rules of national law;

(d) Providing appropriate support services to child victims throughout the legal process;

(e) Protecting, as appropriate, the privacy and identity of child victims and taking measures in accordance with national law to avoid the inappropriate dissemination of information that could lead to the identification of child victims;

(f) Providing, in appropriate cases, for the safety of child victims, as well as that of their families and witnesses on their behalf, from intimidation and retaliation;

(g) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting compensation to child victims.

2. States Parties shall ensure that uncertainty as to the actual age of the victim shall not prevent the initiation of criminal investigations, including investigations aimed at establishing the age of the victim.

3. States Parties shall ensure that, in the treatment by the criminal justice system of children who are victims of the offences described in the present Protocol, the best interest of the child shall be a primary consideration.

4. States Parties shall take measures to ensure appropriate training, in particular legal and psychological training, for the persons who work with victims of the offences prohibited under the present Protocol.

5. States Parties shall, in appropriate cases, adopt measures in order to protect the safety and integrity of those persons and/or organizations involved in the prevention and/or protection and rehabilitation of victims of such offences.

6. Nothing in the present article shall be construed to be prejudicial to or inconsistent with the rights of the accused to a fair and impartial trial.

Article 9

1. States Parties shall adopt or strengthen, implement and disseminate laws, administrative measures, social policies and programmes to prevent the offences referred to in the present Protocol. Particular attention shall be given to protect children who are especially vulnerable to such practices.

2. States Parties shall promote awareness in the public at large, including children, through information by all appropriate means, education and training, about the preventive measures and harmful effects of the offences referred to in the present Protocol. In fulfilling their obligations under this article, States Parties shall encourage the participation of the community and, in particular, children and child victims, in such information and education and training programmes, including at the international level.

3. States Parties shall take all feasible measures with the aim of ensuring all appropriate assistance to victims of such offences, including their full social reintegration and their full physical and psychological recovery.

4. States Parties shall ensure that all child victims of the offences described in the present Protocol have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible.

5. States Parties shall take appropriate measures aimed at effectively prohibiting the production and dissemination of material advertising the offences described in the present Protocol.

Article 10

1. States Parties shall take all necessary steps to strengthen international cooperation by multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism. States Parties shall also promote international cooperation and coordination between their authorities, national and international non-governmental organizations and international organizations.

2. States Parties shall promote international cooperation to assist child victims in their physical and psychological recovery, social reintegration and repatriation.

3. States Parties shall promote the strengthening of international cooperation in order to address the root causes, such as poverty and underdevelopment, contributing to the vulnerability of children to the sale of children, child prostitution, child pornography and child sex tourism.

4. States Parties in a position to do so shall provide financial, technical or other assistance through existing multilateral, regional, bilateral or other programmes.

Article 11

Nothing in the present Protocol shall affect any provisions that are more conducive to the realization of the rights of the child and that may be contained in:

(a) The law of a State Party;

(b) International law in force for that State.

Article 12

1. Each State Party shall, within two years following the entry into force of the present Protocol for that State Party, submit a report to the Committee on the Rights of the Child providing comprehensive information on the measures it has taken to implement the provisions of the Protocol.

2. Following the submission of the comprehensive report, each State Party shall include in the reports they submit to the Committee on the Rights of the Child, in accordance with article 44 of the Convention, any further information with respect to the implementation of the present Protocol. Other States Parties to the Protocol shall submit a report every five years.

3. The Committee on the Rights of the Child may request from States Parties further information relevant to the implementation of the present Protocol.

Article 13

1. The present Protocol is open for signature by any State that is a party to the Convention or has signed it.

2. The present Protocol is subject to ratification and is open to accession by any State that is a party to the Convention or has signed it. Instruments of ratification or accession shall be deposited with the Secretary- General of the United Nations.

Article 14

1. The present Protocol shall enter into force three months after the deposit of the tenth instrument of ratification or accession.

2. For each State ratifying the present Protocol or acceding to it after its entry into force, the Protocol shall enter into force one month after the date of the deposit of its own instrument of ratification or accession.

Article 15

1. Any State Party may denounce the present Protocol at any time by written notification to the Secretary- General of the United Nations, who shall thereafter inform the other States Parties to the Convention and all States that have signed the Convention. The denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Protocol in regard to any offence that occurs prior to the date on which the denunciation becomes effective. Nor shall such a denunciation prejudice in any way the continued consideration of any matter that is already under consideration by the Committee on the Rights of the Child prior to the date on which the denunciation becomes effective.

Article 16

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly and accepted by a two-thirds majority of States Parties.

3. When an amendment enters into force, it shall be binding on those States Parties that have accepted it, other States Parties still being bound by the provisions of the present Protocol and any earlier amendments they have accepted.

Article 17

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States Parties to the Convention and all States that have signed the Convention.”.

Number 28 *of* 2024

CRIMINAL LAW (SEXUAL OFFENCES AND HUMAN TRAFFICKING) ACT 2024

REVISED

Updated to 10 August 2026

About this Revised Act

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 1972, may be found linked from the page of the Act or statutory instrument at
www.irishstatutebook.ie.