

IMMIGRATION, RESIDENCE AND PROTECTION BILL 2007

BILL

entitled

AN ACT TO RESTATE AND 5 MODIFY CERTAIN ASPECTS OF THE LAW RELATING TO THE ENTRY INTO PRESENCE IN AND REMOVAL FROM THE STATE OF CERTAIN FOREIGN NATIONALS AND OTHERS, INCLUDING FOREIGN NATIONALS IN NEED OF PROTECTION FROM THE RISK OF SERIOUS HARM OR PERSECUTION ELSEWHERE AND TO PROVIDE FOR RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

(...)

PART 6 Removal from the State

(...)

Persons under 18 years of age.

53.—(1) *Subsections (2) to (4) of section 52* do not apply to a foreign national who is under 18 years of age.

(2) If, however, and for so long as an immigration officer or member of the Garda Síochána who has the custody of a foreign national believes and has reasonable grounds for believing that the foreign national is 18 years of age or over, *subsections (2) to (4) of section 52* shall apply to the foreign national.

(3) An immigration officer or member of the Garda Síochána who detains in custody any foreign national who has in his or her parental custody or is otherwise responsible for looking after a person under the age of 18 years shall, as soon as practicable, inform the Health Service Executive of that fact and such other circumstances as are relevant.

(4) An immigration officer or member of the Garda Síochána, may, by written direction given to a foreign national under the age of 18 years, require that foreign national to comply with any of the conditions set out in *paragraphs (a) to (c) of section 52(12)*.

(...)

PART 7 Protection

(...)

Application for protection and information to be given to protection applicant re procedure.

58.— (...)

(4) (a) Where it appears to the officer that the foreign national referred to in *subsection (1)(a)* is under the age of 18 years, the officer shall, as soon as practicable, so inform the Health Service Executive; and thereupon the provisions of the Child Care Act 1991 and other enactments relating to the care and welfare of persons under the age of 18 years shall apply in relation to that foreign national. 35

(b) (i) Where a foreign national to whom *paragraph (a)* applies is accompanied by an adult, the officer concerned, where he or she considers it appropriate to do so, may require that accompanying adult to verify that he or she is taking parental responsibility for the foreign national concerned.

(ii) The officer, where he or she is not satisfied that the adult referred to in *subparagraph (i)* is taking parental responsibility for the foreign national, shall so inform the Health Service Executive and thereupon the provisions of the Child Care Act 1991 and other enactments relating to the care and welfare of persons under the age of 18 years shall apply in relation to the foreign national.

(c) (i) Where it appears to the Health Service Executive, on the basis of information available to it, that an application for protection should be made by or on behalf of the foreign national referred to in *paragraph (a)* or *(b)(ii)*, or in *subsection (6)* of *section 23, 5* it shall arrange for the appointment of an employee of the Health Service Executive or such other person as it may determine to make such an application on behalf of the foreign national.

(ii) An application for protection shall not be made pursuant to *subparagraph (i)* by the Health Service Executive unless it is satisfied that it is in the best interest of the foreign national concerned that such an application should be made.

(iii) Any costs incurred by a person appointed under *subparagraph*

(i) other than any legal costs arising from an application for protection shall be paid by the Health Service Executive.

(...)