

International Protection Bill 2026

Recommended Amendments

Coalition on EU Asylum and Migration Pact¹

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Introduction:

The Coalition on the EU Migration Pact comprises civil society organisations which share the mission of advancing human rights by supporting and working with international protection applicants and refugees. Many members of the coalition opposed the Pact. It comprises an erosion of refugee rights and involves a shift towards deterrence and externalisation. The coalition gave detailed analysis of the Heads of Bill and submitted to the Justice Committee.

Summary of main amendments:

- Age assessment:
 - Amendments to ensure essential protections for children subject to this assessment process
- Information:
 - Amendments to ensure information is promptly given to applicants
- Consequence of a screening:

¹ This submission is endorsed by: Crosscare, Doras, Irish Council for Civil Liberties, Immigrant Council of Ireland, Irish Penal Reform Trust, Irish Refugee Council, Jesuit Refugee Service, Nasc, Spirasi, Outhouse, LGBT Ireland, Action Aid, Sanctuary Runners.

- Amendment to include a decision to process an application in the border or accelerated procedure as an appealable decision, this is necessary given the gravity of the consequence of being processed in either process
- Vulnerability assessment:
 - Amendments to ensure there is an ongoing vulnerability assessment in addition to the preliminary assessment
- Legal counselling:
 - Amendment to provide a definition
- Appeal:
 - Amendment to allow for an oral appeal hearing if requested (as per existing legislation)
- Tribunal design:
 - Amendments to ensure the practical independence of the Tribunal and that it meets the EU law requirement of being an effective remedy before a court or tribunal
- Family reunification:
 - Amendment to use the text (with some amendments) that was contained in the General Scheme of the International Protection Bill
- Detention of Children:
 - Amendment to remove the power to detain children
- Detention:
 - Amendments to ensure essential safeguards if detention to be used
- Chief Inspector:
 - Amendments to ensure the operational independence and effectiveness of the inspector role and civil society presence on advisory board
- Article 31 of the Refugee Convention
 - Amendment to codify Article 31 of the Refugee Convention which has not been transposed into Irish law

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Omissions:

Subject	Suggested amended text	Explanation / Rationale

<p>Family reunification</p>	<p>Re-instate Heads 91 and 92 General Scheme of International Protection</p> <p><i>“Head 91: Permission to Enter and Reside for Member of Family of Beneficiary of International Protection Provide that:</i></p> <p><i>(1) A beneficiary of international protection (in this section referred to as the “sponsor”) may, subject to subhead (11), make an application to the Minister for permission to be given to a member of the family of the sponsor, where that family member does not qualify for international protection, to enter and reside in the State.</i></p> <p><i>(2) The Minister shall investigate, or cause to be investigated, an application under subhead (1) to determine— (a) the identity of the person who is the subject of the application, (b) the relationship between the sponsor and the person who is the subject of the application, and (c) the domestic circumstances of the person who is the subject of the application.</i></p> <p><i>(3) It shall be the duty of the sponsor and the person who is the subject of the application to cooperate fully in the investigation under subhead (2), including by providing all information in his or her possession, control or procurement relevant to the application.</i></p> <p><i>(4) Subject to subheads (6) and (7), if the Minister is satisfied that the person who is the subject of an application under this section is a member of the family of the sponsor, he or she shall give permission in writing to the person to enter and reside in the State and the person shall, while the permission is in force and the sponsor is entitled to remain in the State, be entitled to the rights and privileges specified in head 88 in relation to a beneficiary of international protection.</i></p> <p><i>(5)(a) A permission to reside issued pursuant to subhead (4) shall have the same date of expiry as the permission to reside issued to the beneficiary of international protection and</i></p>	<p>Unclear why the family reunification text contained in the heads of bill were withdrawn.</p> <p>Recommendation these are re-inserted.</p> <p>Essential to respect the fundamental right to family unity, as protected by A.8 ECHR.</p>
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	<p><i>shall, subject to subheads (6) and (7), be renewable for as long as the permission to reside issued to the beneficiary of international protection is renewed. (b) The period of validity of the permission to reside issued to the family member shall not extend beyond the date of expiry of the permission to reside held by the beneficiary of international protection.</i></p> <p><i>(6) The Minister shall refuse to give permission to enter and reside in the State to a person referred to in subhead (4) or revoke any permission given to such a person— (a) in the interest of national security or public policy (“ordre public”), where the Minister considers it necessary, (b) where the person would be or is excluded from being a refugee in accordance with head 55, (c) where the person would be or is excluded from being eligible for subsidiary protection in accordance with head 56, (d) where the entitlement of the sponsor to remain in the State ceases, or (e) where misrepresentation or omission of facts, whether or not including the use of false documents, by the person was decisive in the decision to give the person the permission.</i></p> <p><i>(7) The Minister shall refuse to give permission to enter and reside in the State to a spouse or civil partner where there are strong indications that the marriage or partnership was contracted for the sole purpose of enabling the person concerned to enter or reside in the State.</i></p> <p><i>(8) Family members who have been issued a permission to reside pursuant to subhead (4) shall be entitled to the rights laid down in articles 25 to 32, 34 and 35 of the Qualification Regulation.</i></p>	
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	<p><i>(9) A permission given under subhead (4) shall cease to be in force if the person to whom it is given does not enter and reside in the State by a date specified by the Minister when giving the permission.</i></p> <p><i>(10) A permission given under subhead (4) to the spouse or civil partner of a sponsor shall cease to be in force where the marriage or the civil partnership concerned ceases to subsist. (11) An application under subsection (1) shall be made within 12 months of the giving under head 78 of the refugee declaration or, as the case may be, subsidiary protection declaration to the sponsor concerned.</i></p> <p><i>(12)(a) In this head and head 92, family member means, insofar as the family already existed before the sponsor arrived on the territory of the State, the following members of the family of the beneficiary of international protection: (i) the spouse of the sponsor or his or her civil partner; (ii) the minor children of the sponsor or of his or her spouse or civil partner and the adult dependent children of the sponsor or of his or her spouse or civil partner, provided that they are unmarried and regardless of whether they were born in or out of wedlock or adopted; (iii) where the sponsor is, on the date of the application under subhead (1), a minor, the father, mother, and their children who, on the date of the application under subhead (1), are under the age of 18 years, or another adult responsible for that beneficiary, including an adult sibling. (b) For the purpose of paragraph (1)(a)(ii), an adult child should be considered dependent, on the basis of an individual assessment, only in circumstances where that child is unable to support him or herself due to a physical or mental condition linked to a serious non-temporary illness or severe disability.</i></p> <p><i>Head 92: Permission to Reside for Member of Family of Beneficiary of International Protection Provide that:</i></p>	
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	<p><i>(1) A beneficiary of international protection (in this section referred to as the “sponsor”) may, subject to head 91(2), (3), and (5) to (8), make an application to the Minister for permission to reside in the State to be given to a member of the family of the sponsor who, on the date of the application, is in the State (whether lawfully or unlawfully) and who does not himself or herself qualify for international protection.</i></p> <p><i>(2) Subject to head 91(6), if the Minister is satisfied that the person who is the subject of an application under this head is a member of the family of the sponsor, the Minister shall give permission in writing to the person to reside in the State and the person shall, while the permission is in force and the sponsor is entitled to remain in the State, be entitled to the rights and privileges specified in head 88 in relation to a beneficiary of international protection.”</i></p>	
Legal counselling, legal assistance and legal representation	<p>Insert definition:</p> <p><i>Well-resourced, individual, impartial, free legal assistance and representation, provided by qualified legal representatives, should be provided throughout the international protection process, including during the administrative and first instance procedures, in order to ensure more efficient as well as fairer processes.</i></p>	
Statelessness Procedure	<p>Need to establish process for referral to statelessness procedure.</p>	

Chapter 2: Screening

Section, page and line	Bill text (current wording)	Suggested amended text	Explanation / Rationale
Section 26 (1), L.28	The Minister shall inform an applicant of—	Insert: The Minister shall inform an applicant, <i>within 5 working days of making an application</i> , of —	Need for information to be provided promptly to applicant. No timeline in current wording.
s.24 Arrest and detention, p.33, L.22	s. 24 (1) Where an applicant (other than an applicant referred to in section 22(6)(e)) refuses or fails to comply with a direction under section 22(2) or a requirement made for the purposes of alternative arrangements under section 23, a member of An Garda Síochána or an immigration officer shall inform the applicant of— (a) the obligations to cooperate referred to in sections 25 and 63, (b) the grounds for implicit withdrawal of an application under section 67, and (c) the powers under subsection (2)	Insert: a member of An Garda Síochána or an immigration officer shall inform the applicant of—.... <i>(d) appeal mechanism.</i> <i>(e) right to access legal representation</i>	It is noted that not all provisions on detention have been included in the Bill. The final Bill must include the protective provisions set out in A.13 Reception Conditions Directive which sets out “Detention of applicants with special reception needs”. The Bill does not include legal remedies or access to a legal representative.

S.24, Arrest and detention P.33, L.22	(3) Subsection (2) shall not apply to— (a) an applicant referred to in section 22(4) unless section 22(5) applies to the applicant, or (b) a minor. [...]	Remove section 24 (3)(a). (3)Subsection (2) shall not apply to— (a) an applicant referred to in section 22(4) unless section 22(5) applies to the applicant,	Like section 22(5), this provision conflates enforcement of asylum and refugee law with broader immigration law.
S.24, Arrest and detention, P.33, L.22	(4) An applicant arrested under subsection (2) may be detained— (a) in a screening centre or a place of detention prescribed by the Minister (in this section referred to as a “place of detention”), under warrant of the arresting member or officer and in the custody of the person for the time being in charge of the screening centre or place of detention, and	Delete: (4) An applicant arrested under <i>subsection (2)</i> may be detained— (a) in a screening centre or a place of detention prescribed by the Minister (in this section referred to as a “place of detention”), under warrant of the arresting member or officer and in the custody of the person for the time being in charge of the screening centre or place of detention, and	Screening centres are not places of detention. See Article 12 of the Reception Conditions Regulation.
S.24, Arrest and detention, P.34, L.1	(5)Where a place of detention referred to in subsection (4)(a) is a prison or a Garda Síochána station, the Governor of the prison or the member in charge of the station (within the meaning of	Add section 24(5)(i): <i>If a person is detained and brought to a place of detention referred to in subsection (4)(a) is a prison or a Garda Síochána station, they should be</i>	Add safeguards for people who are detained.

	Regulation 4 of the Criminal Justice Act 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations 1987 (S.I. No. 119 of 1987)) shall be informed of the fact that the applicant has been brought to the prison or station	<i>entitled to the rights and obligations contained within the Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations, 1987 (S.I. No. 119 of 1987), including, but not limited to, a record of detention, access to a solicitor, provided with meals, water, toilets and medical treatment as necessary, and not be subject to ill-treatment or the threat of ill-treatment.</i>	
S.24, Arrest and detention, P.34, L.14	(8) A person shall not obstruct or hinder a member of An Garda Síochána or an immigration officer engaged in the performance of a function under this section.	Delete section 24(8): A person shall not obstruct or hinder a member of An Garda Síochána or an immigration officer engaged in the performance of a function under this section.	This provision criminalises obstruction or hindrance of a Garda or immigration officer performing functions under the screening-related arrest and detention powers. The offence applies to third parties, without requiring that the obstruction be wilful or substantial. A conviction can result in up to 12 months' imprisonment. This could apply to

			human rights defenders challenging potentially unlawful arrests.
S.24 (11) p.33, L.24	<p>A member of An Garda Síochána or an immigration officer may, in exceptional circumstances and as a measure of last resort, arrest without warrant and detain, in accordance with subsection (13), a minor who is in the custody of an applicant (whether the applicant is a parent or a person acting in loco parentis or any other person) where the applicant is detained under this section and where—</p> <p>(a) it is necessary for the purposes of determining or verifying the identity or nationality of the minor,</p> <p>(b) the member or officer is satisfied that less coercive alternative measures cannot be applied effectively,</p>	<p>Preferred amendment:</p> <p>Delete S.24 (11) in its entirety, because the detention of children can never be in their best interests.</p> <p>If the above amendment is not accepted, the following protective measures should be included:</p> <p>Insert “S11(2)(i). <i>Minors shall, as a rule, not be detained. They shall be placed in suitable accommodation in accordance with Articles 26 and 27. Adequate alternatives to detention shall, as a rule, be used for families with minors in accordance with the principle of family unity. Such families shall be placed in accommodation suitable for them.</i></p>	<p>The Bill currently allows for the detention of children. Ireland has never resorted to the detention of children for immigration reasons in the past, and this has been a point of pride for successive governments.</p> <p>While the Pact and Bill only allow for detention of children where it is in their best interests, detaining children who are seeking international protection for immigration purposes is never in a child’s best interests, as confirmed by the Committee on the Rights of the Child. The Committee sets out that detention harms their physical and mental health and their development, even when detained with their families.</p> <p>Need to include protections set out in Pact, at a minimum.</p>

	<p>and (c) it is assessed by the member or officer that the detention is in the minor's best interests.</p>	<p><i>(ii) In exceptional circumstances, as a measure of last resort and after it has been established that other less coercive alternative measures cannot be applied effectively, and after detention is assessed to be in their best interests in accordance with Article 26 Reception Conditions Directive, minors may be detained: (a) in the case of accompanied minors, where the minor's parent or primary care-giver is detained; or (b) in the case of unaccompanied minors, where detention safeguards the minor.</i></p> <p><i>(iii) Such detention shall be for the shortest possible period of time. Minors shall never be detained in prison or another facility used for law enforcement purposes. All efforts shall be made to release minors from detention and place them in accommodation suitable for minors. The best interests of the child, as referred to in Article 26</i></p>	
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		<p>Reception Conditions Directive, shall be a primary consideration.</p> <p>(iv)Where minors are detained, they shall have the right to education in accordance with Article 16 Reception Conditions Directive, unless the provision of education is of limited value to them due to the very short period of their detention. Those minors shall also have the possibility to engage in leisure activities, including play and recreational activities appropriate to their age.</p>	
s. 24, Arrest and detention, P 34. L 19	(10) Where a person under the age of 18 years is in the custody of an applicant (whether the applicant is a parent or a person acting in loco parentis or any other person) and the applicant is detained under this section, a member of An Garda Síochána or an immigration officer shall notify the Child and Family	<p>Amend:</p> <p>(10) Where a person under the age of 18 years is in the custody of an applicant (whether the applicant is a parent or a person acting in loco parentis or any other person) and the applicant would be detained but for his or her accompaniment by a child, is detained under this section,</p>	As above.

	<p>Agency of the detention and its circumstances without delay</p>	<p>a member of An Garda Síochána or an immigration officer shall identify other less coercive alternative measures to detention which are appropriate to families with minor children, and notify the Child and Family Agency of the detention alternative measures and its circumstances without delay.</p> <p>If the above recommendation is not accepted,</p> <p>Insert: “Detained families shall be provided with separate accommodation that guarantees adequate privacy. Detained families with minors shall be accommodated in detention facilities adapted to the needs of minors.”</p>	
<p>S.24 (11), Arrest and detention, P 34, L 24</p>	<p>(11) A member of An Garda Síochána or an immigration officer may, in exceptional circumstances and as a measure of last resort, arrest without warrant and detain, in accordance with subsection (13), a minor who is in</p>	<p>Delete in its entirety.</p> <p>(11) A member of An Garda Síochána or an immigration officer may, in exceptional circumstances and as a measure of last resort,</p>	<p>It is never in a child’s best interests to be detained.</p> <p>Less coercive alternative measures should always be used.</p>

	<p>the custody of an applicant (whether the applicant is a parent or a person acting in loco parentis or any other person) where the applicant is detained under this section and where— (a) it is necessary for the purposes of determining or verifying the identity or nationality of the minor, (b) the member or officer is satisfied that less coercive alternative measures cannot be applied effectively, and (c) it is assessed by the member or officer that the detention is in the minor’s best interests</p>	<p>arrest without warrant and detain, in accordance with subsection (13), a minor who is in the custody of an applicant (whether the applicant is a parent or a person acting in loco parentis or any other person) where the applicant is detained under this section and where— (a) it is necessary for the purposes of determining or verifying the identity or nationality of the minor, (b) the member or officer is satisfied that less coercive alternative measures cannot be applied effectively, and (c) it is assessed by the member or officer that the detention is in the minor’s best interests</p>	
<p>S. 26 Provision of information to applicant, p. 35, L.34.</p>	<p>Provision of information to applicant 26. (1) The Minister shall inform an applicant of— (a) the time limits and stages of the procedure in respect of an application, including the procedures</p>	<p>Insert: “(b) (iii) the rights of the applicant under the Reception Conditions Regulation And</p>	<p>A.8(2)(d) Asylum Procedures Regulation APR Reception conditions are an important right and should be included in information to the applicant</p>

	<p>that may be carried out under this Part,</p> <p>(b) the rights of an applicant, in particular—</p> <p>(i) the right to lodge an application in accordance with section 38,</p> <p>and (ii) the rights of the applicant under the Asylum and Migration Management Regulation,</p>	<p><i>(iv) the right to receive information on the right to legal counselling and legal assistance and representation”</i></p>	
<p>S 26 (4), Provision of information to applicant, P. 36, L21</p>	<p>Where the Minister considers it appropriate, the Minister may permit a relevant and competent national or international organisation or body or non-governmental organisation or body to provide an applicant with further information relevant to the matters referred to in subsection (1).</p>	<p>Amend:</p> <p>“Where the Minister considers it appropriate, the Minister may <i>permit authorise, on the Minister’s behalf,</i> a relevant and competent national or international organisation or body or non-governmental organisation or body to provide an applicant with further information relevant to the matters referred to in subsection (1).</p> <p><i>The granting of an authorisation under this section shall not operate to restrict or preclude any other relevant and competent national or</i></p>	<p>Allows for the minister to delegate the obligation on him to provide information to the applicant. Also allows for another organisation to provide information to an applicant.</p>

		<i>international organisation or body or non-governmental organisation or body from providing information or assistance to an applicant, and no authorisation or permission of the Minister shall be required for that purpose. ”</i>	
S.27(5) P.37, L.15 Preliminary health assessment	(5) A report of a qualified medical professional completed in respect of a preliminary health assessment conducted in respect of an applicant under this section shall— (a) be provided to the registered medical practitioner conducting the examination referred to in section 90 (if any), (b) be made available to the applicant as soon as practicable, and (c) be accessible to the Minister and, where applicable, the Tribunal.	Delete: (c) be accessible to the Minister and, where applicable, the Tribunal. Insert: <i>(c) be accessible to the Minister, where it is necessary to protect public health or public security.</i>	Confidential health data should not be shared unnecessarily.
s.28, Preliminary Vulnerability assessment, P38, L.41	N/A	Insert: <i>(8) Without prejudice to any specific conditions of detention as provided for in Articles 12 and 13, in relation to housing referred to in paragraph 1(a), (b) and (c) of this</i>	The Role of NGOS is not specifically set out. Such access is an important protective feature, as set out in A.20 Reception Conditions Directive. This must be correctly transposed.

		<p>Article, Member States shall ensure that: (a) applicants are guaranteed protection of their family life; (b) applicants have the possibility of communicating with relatives, legal advisers or counsellors, persons representing UNHCR and other relevant national, international and non-governmental organisations and bodies; (c) family members, legal advisers or counsellors, persons representing UNHCR and relevant non-governmental organisations recognised by the Member State concerned are granted access to the housing provided in order to assist the applicants; limits on such access may be imposed only on grounds relating to the security of the premises and of the applicants.</p>	
S.32, Cultural Mediator, P.43, L.2	The Minister may make arrangements to allow cultural mediators to assist an applicant during the carrying out of the procedures under this Part, including by the provision of	<p>Insert S.32:</p> <p>(1) A cultural mediator is defined as a person who is fluent in at least two languages and is familiar with at</p>	<p>In line with the Justice Committee’s PLS recommendations:</p> <p>11. To include a clear definition of the role, function, and limitations of</p>

	<p>information to the applicant and the provision of support to the applicant in the applicant’s communication with officers of the Minister.</p>	<p><i>least two cultures and who is using these skills and knowledge to facilitate communication between two or more parties and promote mutual understanding.</i></p> <p><i>(2) cultural mediators shall not assume the roles of interpreters, legal representatives, or legal counsellors.</i></p>	<p>cultural mediators, and that it be clarified that cultural mediators must not assume the roles of interpreters or legal representatives.</p> <p>12. The Committee recommends to set out minimum qualifications, training requirements, and ethical standards for any person acting as a cultural mediator, including safeguarding protocols and independence guarantees.</p>
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Preliminary Vulnerability Assessment

Section	Bill text (current wording)	Suggested amended text	Explanation / Rationale
<p>Section 28(2) Preliminary vulnerability assessment, P.38 L.17-22</p>	<p>“Preliminary vulnerability assessment shall be carried out by officers or agents of the Minister who have received specialised training in the conduct of such assessments and the officers or agents of the Minister may be assisted in the conduct of such assessments by healthcare professionals who have</p>	<p>Amend:</p> <p>“(2) A preliminary vulnerability assessment shall be carried out by officers or agents of the Minister who have received specialised training in the conduct of such assessments, <i>including in relation to detection, protection and support of victims</i></p>	<p>As currently set out, it appears that the Vulnerability assessment is being subsumed into the preliminary vulnerability assessment.</p> <p>A vulnerability assessment to comply with Article 25 of the RRCD should be an ongoing process and one that considers factors that become apparent at a later stage in the</p>

	<p>received specialised training in the conduct of such assessments and with whom or in respect of whom the Minister has entered into a contract for services.”</p>	<p><i>of trafficking</i> and the officers or agents of the Minister may be assisted in the conduct of such assessments by healthcare professionals who have received specialised training in the conduct of such assessments and with whom or in respect of whom the Minister has entered into a contract for services.</p> <p><i>(i) Officers or agents referred to in subsection (2) may carry out assessments of applicants referred by non-governmental actors or other agencies as the Minister considers appropriate.</i></p> <p><i>(ii) Following the preliminary assessment referred to in subsection (1), and separate to that assessment, an officer or agent of the Minister referred to in subsection (2) shall carry out or cause to be carried out an assessment of an applicant (in this section referred to as a “preliminary vulnerability</i></p>	<p>procedure, rather than limited to a preliminary vulnerability check.</p> <p>No involvement or referral mechanism for NGOS to support the preliminary vulnerability assessment or the ongoing dimension of vulnerability assessment process.</p>
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		<p><i>assessment”) for the purpose of identifying whether the applicant may— (a) be a stateless person, (b) be vulnerable or a victim of torture or other inhuman or degrading treatment, (c) have special reception needs within the meaning of Article 24 of the Reception Conditions Directive, or (d) require special procedural guarantees within the meaning of Article 21 of the Asylum Procedures Regulation.</i></p> <p><i>(iii) The vulnerability assessment is an ongoing process to identify whether applicants may fall under Subsection (1) (b), (c) and (d) categories to enable factors that become apparent at a later stage to be considered by the Minister in the procedure for international protection</i></p>	
Section 28(6), Vulnerability	A preliminary vulnerability assessment and a preliminary health assessment under section 27 may,	Delete phrase “or the entirety of” from Section 28(6).	Deletion suggested to reflect vulnerability assessment as an

Assessment P.38 L.35-38	where appropriate, form part of, or the entirety of, the assessment under Article 25 of the Reception Conditions Directive or Article 20 of the Asylum Procedures Regulation.		ongoing process per new Subsection 2(a), referenced above.
Section 28, Vulnerability Assessment, P.38, L.7.	No reference in Section to consent.	Insert new Subsection 2(b) “An applicant may refuse to undergo a preliminary vulnerability assessment or, at any point during the conduct of the preliminary vulnerability assessment, request that the preliminary vulnerability assessment cease, and in either case the preliminary vulnerability assessment shall not be carried out or shall cease unless an officer or agent of the Minister who has received specialised training in the conduct of such assessments believes, on reasonable grounds, that it is necessary for the purposes of Subsection (1).”	The consent of applicants is not currently sought for preliminary vulnerability assessment. Subsection (3) states the results of the preliminary vulnerability assessment may be transmitted to Determining Authority where the applicant so consents.
Section 129(1) P.102, L.21	No reference in Section to appeals against decisions under Section 28.	Insert additional category under Section 129(1) to permit appeals to	Section 28 contains no appeal mechanism to challenge the outcome of the preliminary

		the Tribunal against decisions under Section 28.	vulnerability assessment where an applicant has not been deemed vulnerable and thus ineligible for special reception needs and special procedural guarantees.
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Preliminary Health Assessment:

Section 27(12), Preliminary Health Assessment, P.38, L.5	N/A	Insert new Subsection 2(a): <i>“The qualified medical professional referred to in Subsection (1) shall be selected from a panel of registered medical practitioners who, in the opinion of the Minister, possess the qualifications and experience necessary for the performance of the functions outlined under Section 27.”</i>	No requirement currently to establish a panel of registered medical practitioners.
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Preliminary Health and Vulnerability Assessment (Cross Cutting):

<p>Section 33(2) Termination of Screening P.43 L.14-16</p>	<p>Nothing in subsection (1) shall operate to prevent the Minister or any other person from performing a function under this Part after the expiry of the period referred to in subsection (1).</p>	<p>Include additional sentence: 32(2) Nothing in subsection (1) shall operate to prevent the Minister or any other person from performing a function under this Part after the expiry of the period referred to in subsection (1). <i>(i) Until functions under Section 27 and Section 28 are performed the applicant cannot proceed to an accelerated examination procedure under Section 115.</i></p>	<p>It remains unclear, if screening takes longer than 7 days, whether that will preclude allocation to the Asylum Border Procedure. Where special reception/procedural needs remain unclear, and applicants should not be referred to Border Procedures. Further, the use of accelerated procedures are not suitable in circumstances involving vulnerable categories of persons.</p>
<p>Section 125 P.100, L25 Exceptions to asylum border procedure</p>	<p>Exception not included in Section.</p>	<p>Insert the following new Subsection 3(c) under Section 125: <i>“The preliminary health assessment under Section 27 or preliminary vulnerability assessment Section 28 have not been completed in full under Part 2.”</i></p>	

<p>s.30 Search of applicant p.39, L.31;</p> <p>L.7</p>	<p>(2) A member of An Garda Síochána, an immigration officer or an officer of the Minister may search an applicant and any luggage belonging to the applicant or under the applicant’s control with a view to ascertaining whether the applicant is carrying or conveying any documents where— (</p> <p>a) it is reasonably necessary to do so for reasons of national security,</p> <p>(b) it is necessary and duly justified to do so for the purpose of examining an application for international protection, including for the purpose of informing the applicant of the procedure under which the application shall be examined under Part 5 or for the purpose of verifying the identity or nationality of the applicant, or</p>	<p>30. (2) Delete “<i>an immigration officer or an officer of the Minister</i>”</p> <p>Insert: 30 (2) (d) “<i>Any powers of search should respect the principles of necessity and proportionality</i>”.</p>	<p>Powers of search should be limited to Gardai, who have appropriate training and oversight to carry out this task.</p> <p>Searches should respect the principles of necessity and proportionality.</p>
<p>s.35 Application on</p>	<p>Application on behalf of minor 35. (1) Subject to subsection (2), an</p>	<p>Amend:</p>	<p>To respect the evolving capacity of the child (Convention on the Rights of the</p>

<p>behalf of minor, p.44, L.25.</p>	<p>application on behalf of a minor who is at the frontier of the State or who is in the State (whether lawfully or unlawfully) shall be made by the minor’s parent or such other adult who has responsibility for the care and protection of the minor (in this section referred to as the “person responsible”).</p>	<p>(1) Subject to subsection (2), an application on behalf of a minor who is at the frontier of the State or who is in the State (whether lawfully or unlawfully) shall be made by the minor’s parent or such other adult who has responsibility for the care and protection of the minor (in this section referred to as the “person responsible”), or independently by the minor .</p>	<p>Child), and in line with A.33 Applications of unaccompanied minors.</p> <p>Article 33 Applications of unaccompanied minors</p> <p>1. An unaccompanied minor shall have the right to lodge an application in his or her own name if he or she has legal capacity in accordance with the national law of the Member State concerned. To that effect, the unaccompanied minor shall be informed of the age of legal capacity in the Member State responsible for examining his or her application for international protection. Where the unaccompanied minor does not have legal capacity in accordance with the national law of the Member State concerned a representative or a person as referred to in Article 23(2), point (a), shall lodge the application on his or her behalf. The first subparagraph of this paragraph shall apply without prejudice to</p>
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			<p>unaccompanied minors' right to legal counselling and to legal assistance and representation in accordance with Articles 15 and 16.</p> <p>2. In the case of an unaccompanied minor who does not have legal capacity in accordance with the national law of the Member State concerned, the application shall be lodged within the time limit set out in Article 28(1), taking into account the best interests of the child.</p> <p>3. Where the representative of an unaccompanied minor or a person as referred to in Article 23(2), point (a), lodges the application on behalf of the minor, the minor shall be present for the lodging of the application, except where there are justified reasons for which the minor is unable or unfit to be present or, where such a possibility is provided for in national law, the application is lodged by means of a form</p>
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Part 3 Application for International Protection

Chapter 1: Making, registration and lodgement of application

Section	Bill text (current wording)	Suggested amended text	Explanation / Rationale
Section 39 (3) Submission of elements and documents P. 49 L. 1 - 4	An applicant shall endeavour to submit any additional elements and documents relevant to the examination of his or her application within the period ending 5 days after the day on which the applicant's substantive interview takes place in accordance with <i>section 106</i> .	An applicant shall endeavour to submit any additional elements and documents relevant to the examination of his or her application within the period ending 5-10 days after the day on which the applicant's substantive interview takes place in accordance with <i>section 106</i> .	Maximum time frames should be used to make systems practicable.

Chapter 3: Assessments to determine age of applicant

Section, page and line	Bill text (current wording)	Suggested amended text	Explanation / Rationale
52(1) Age assessments P57, L.2	Where, at any point following the making of an application and arising from one or more of the matters referred to in subsection (2), there are doubts in relation to the age of an applicant, the	Amend: Where, at any point following the making of an	In line with Fundamental Rights Agency guidance, an age assessment should only be arranged where there are serious

	Determining Authority may arrange for an age assessment to be carried out...	application and arising from one or more of the matters referred to in subsection (2), there are serious doubts in relation to the age of an applicant, the Determining Authority may arrange for an age assessment to be carried out...	doubts as to the age of the applicant.
Section 52(2)(c), P.57,L.16	any other matter that gives rise to a doubt as to the age of an applicant that a person referred to in paragraph (a) considers relevant.	Amend: Any relevant matter that gives rise to a serious doubt as to the age of an applicant that comes to the attention of a person referred to in paragraph (a) considers relevant .	This section is overly broad, allowing for matters that are not relevant or do not give rise to serious doubts.
S. 53 Multi-disciplinary assessment, P. 58, L.	Multi-disciplinary assessment 53. (1) A multi-disciplinary assessment shall include— (a) a psycho-social assessment, (b) an assessment of any relevant statements made by the	Insert: The assessment will be carried out by qualified professionals from relevant disciplines	In the absence of the implementing regulations it is completely unclear if the assessment be truly ‘multi-disciplinary’ or who will carry out ‘multi-disciplinary’ assessment and what qualifications or training.

	<p>applicant in relation to his or her application, and (c) one or more than one of the following, as the Determining Authority considers necessary: (i) with due regard for the applicant’s dignity and right to privacy, a visual assessment based on the applicant’s physical appearance; (ii) an assessment of any available documentation, which shall be considered genuine unless there is evidence to the contrary; (iii) an assessment of any relevant statements made by the applicant to a public body and communicated to the Determining Authority; (iv) an assessment of any relevant information provided by another Member State; (v) such</p>	<p>53. (1) A multi-disciplinary assessment shall be carried out by qualified professionals from relevant disciplines and shall include—</p>	
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	other assessments as may be prescribed by the Minister under section 60.		
Section 53(3) P.59 L. 1 - 7 and	Each Subsection is silent on need to notify legal representative.	Amend Section 53(3) and Section 56(7) to require notification of an applicant's legal representative.	
S.54(3)(d), P60,L.6	(3) A medical examination to determine an applicant's age shall be— [...] (d) carried out by a designated healthcare professional who has the training and qualifications as prescribed under section 60(2)(b).	Preferred amendment: Delete reference to medical examination as bone and dental examinations have wide margins of error, are not in a child's best interests and can be traumatic for a child. Alternatively, Amend: (d) carried out by a designated healthcare professional, with experience and expertise in age estimation , and who has the training and qualifications as prescribed under section 60(2)(b).	Amend to correctly transpose Article 25(3) of Asylum Procedures Regulation.

<p>Section 54(4)(b) P. 60 L. 13</p>	<p>... may give rise to a rebuttable presumption that the applicant is not a minor.</p>	<p>Delete Section 54(4)(b).</p> <p>Insert: alternative appropriate consequences.</p> <p>CONSEQUENCES OF REFUSAL Checklist from EUAA Handbook:</p> <p><i>The applicant has the opportunity to refuse the process and the reasons for refusing are explored.</i></p> <p><i>The refusal is supported by the guardian/legal representative.</i></p> <p><i>It has been clearly established that a decision to reject an application for asylum/international protection is not</i></p>	<p>Remove rebuttable presumption that the applicant is not a minor if he/she refuses to consent to undergoing a medical examination. Although this language is contained in the Pact, the Coalition considers it to be contrary to the best interests of the child.</p> <p>Include, in the alternative, recommendations from 2nd edition of the EUAA handbook</p>
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		<p><i>based solely on the applicant's refusal to undergo age assessment.</i></p> <p><i>The refusal does not lead to an automatic assumption of adulthood.</i></p>	
S.54(8). P.61, L.3	<p>(8) In this section, a “designated healthcare professional” means...</p> <p>(c) a registered nurse or registered midwife within the meaning of the Nurses and Midwives Act 2011, or</p> <p>(d) a member of one or more of the following designated professions within the meaning of the Health and Social Care Professionals Act 2005, namely: (i) psychologist; (ii) social care worker; (iii) social worker; (iv) such other designated profession, within the meaning of section 3 of that Act, as the Minister, following consultation with the Minister for Health, may prescribe.</p>	<p>Delete:</p> <p>(c) a registered nurse or registered midwife within the meaning of the Nurses and Midwives Act 2011, or</p> <p>(d) a member of one or more of the following designated professions within the meaning of the Health and Social Care Professionals Act 2005, namely: (i) psychologist; (ii) social care worker; (iii) social worker; (iv) such other designated profession, within the</p>	<p>Inappropriate to include registered midwife, social care worker, social worker and “such other designated profession as the Minister may prescribe” within the meaning of a “designated healthcare professional” who can carry out a medical examination. A social worker or social care worker is not a healthcare professional. The inclusion of midwife implies examinations involving nudity or observation of intimate body parts; this is unethical for the purpose of age determination and against Fundamental Rights Agency guidelines. Medical examinations</p>

		<p>meaning of section 3 of that Act, as the Minister, following consultation with the Minister for Health, may prescribe.</p> <p>(d) psychologist</p>	<p>including nudity are also against EUAA guidelines.</p>
<p>Section 55 (a) P.61, L.18</p>	<p>The Determining Authority— (a) may determine the age of an applicant on the basis of an age assessment that was carried out in a Member State other than the State in accordance with the law of the European Union, and</p>	<p>The Determining Authority— (a) may determine the have regard to the age of an applicant arrived at on the basis of an age assessment that was carried out in a Member State other than the State in accordance with the law of the European Union, and shall consider additional relevant information and documents which may not have been available at the time of the age assessment carried out in the other Member State.</p>	<p>Reliance on previous age assessment risks a child being incorrectly assessed as an adult, and unaccompanied children are often advised by smugglers not to disclose their correct ages until they have reached their final destination. New information as to a person’s correct age must therefore be taken into account. Otherwise, an incorrect assessment could perpetuate one State’s failure to recognise a child as such, by the absence of a fresh assessment.</p>

<p>Section 55 (b), P.61, L.25</p>	<p>(b) shall notify the applicant and, if applicable, the applicant’s parent, an adult responsible for the applicant, a provisional representative person designated or appointed in respect of the applicant, or a representative person appointed in respect of the applicant—</p>	<p>Amend:</p> <p>(b) shall notify the applicant and, if applicable, the applicant’s parent, an adult responsible for the applicant, a provisional representative person designated or appointed in respect of the applicant, or a representative person appointed in respect of the applicant, and the applicant’s legal representative—</p>	<p>The applicant’s legal representative should be notified of any decision taken in respect of an age determination.</p>
<p>Section 55, P.61, L.28</p>	<p>N/A</p>	<p>Insert:</p> <p>(c) Shall furnish the applicant with a copy of any records related to the age assessment, including any written decision or record numbers, received from the Member State in accordance with subsection (a).</p>	<p>Applicants have a right to the information on which the Determining Authority is making their decision. Information being made available may remove the need for, or expediate, a subject access request made by an applicant or their representative to another Member State and thereby</p>

			delaying the age determination process.
Section 56 (2) L. 37- 38 P.61	<p>(1) An applicant may request a further age assessment following a determination referred to in section 53(2)(a), 53(2)(b), 53(2)(c), 54(5)(a), 54(5)(b), 54(5)(c) or 55(a) and the effect of the determination concerned shall be suspended until the Determining Authority makes a determination under subsection (6)</p> <p>A request under subsection (1) shall be made in writing in accordance with subsection (9) and within 10 working days of the notification referred to-</p>	<p>Clarify that this provision refers to an independent appeal mechanism to be requested within 10 working days, which is in addition to a free-standing provision to request a further age assessment which is not time-bound.</p> <p><i>An applicant may appeal an age assessment</i> following a determination referred to in section 53(2)(a), 53(2)(b), 53(2)(c), 54(5)(a), 54(5)(b), 54(5)(c) or 55(a) and the effect of the determination concerned shall be suspended until the Determining Authority makes a determination under subsection (6).</p>	<p>The Bill does not set out an appeal process for age assessment decisions. Given the gravity of an incorrect age determination, including loss of family reunification, education, care and aftercare rights, there should both be an independent appeals mechanism within a designated timeframe and an opportunity to request a further age assessment based on presentation of new information, which is not time-bound. An appeal process is essential to the right to an effective remedy. The EUAA Guidance on Age Assessment sets out:</p> <p>While the APR does not provide for the right to appeal an age assessment decision independently from the international protection decision, it does not preclude Member States</p>

		<p>A request under subsection (1) shall be made in writing in accordance with subsection (9) and within 10 30 working days of the notification referred to...</p>	<p>from doing so under national law. Where national legislation allows for a standalone appeal of the age assessment, the right to effective remedy established by the APR and the Charter remains relevant. In all cases, applicants, (temporary) guardians and the legal counsellors/advisers should be provided with clear information on the available options to appeal the decision, on the procedures and the applicable timelines, as well as with the relevant information that was at the basis of the decision made on the age. Free legal counselling and legal representation should be accessible where an applicant wishes to appeal or challenge a decision on age, either as part of the appeal against the decision on the application for international protection or as a separate act under a national procedure.</p>
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<p>Section 56, P.61, L.33</p>	<p>Request by applicant for further age assessment</p>	<p>Insert: (1) An applicant may request a further age assessment following a determination referred to in section 53(2)(a), 53(2)(b), 53(2)(c), 54(5)(a), 54(5)(b), 54(5)(c) or 55(a) and the effect of the determination concerned shall be suspended until the Determining Authority makes a determination under subsection (6).</p> <p>(2) A request under subsection (1) shall be made in writing in accordance with subsection (9) and within 10 working days of the notification referred to-</p>	<p>Need for opportunity for young person to request further age assessment if they succeed in obtaining information in respect of their age eg. Contact with family members who can furnish them with birth certificates.</p>
<p>Section 56 (3), p.62, L. 6</p>	<p>(3) A request under subsection (1) may include submissions of the applicant, the applicant’s parent, an adult responsible for the applicant, a provisional representative person designated or appointed in respect of the applicant or a representative person appointed in respect of the applicant that are relevant to the request for an appeal or further age assessment.</p>	<p>Insert: “submissions by legal representative”.</p> <p>(3) A request under subsection (1) may include submissions of the applicant, the applicant’s legal representative, the applicant’s parent, an adult</p>	<p>Given the gravity of an incorrect age determination, it is essential that legal submissions are made in respect of a child’s age.</p>

			<p>responsible for the applicant, a provisional representative person designated or appointed in respect of the applicant or a representative person appointed in respect of the applicant that are relevant to the request for a further age assessment.</p>	
<p>Section 56(7) L 27 – 32 P. 62</p>	<p>Silent on need to notify legal representative.</p>	<p>(7) The Determining Authority shall notify the applicant and the applicant's legal representative, and if applicable, the applicant's parent, an adult responsible for the applicant, a provisional representative person designated for the applicant or a representative person appointed for the applicant, in a language that the applicant and, if</p>	<p>Amend Section 56(7) to require notification of an applicant's legal representative.</p>	

		applicable, the parent or person, understands or is reasonably supposed to understand, of the determination under subsection (6).	
Section 57, p.63, L1, Decision by Determining Authority in respect of Age	There is no provision around the communication of the decision reached to the applicant.	Insert: The decision reached on the age assessment shall be documented in writing and provided to the individual concerned and to their guardian in a timely manner, and include details of access of legal representation, appeal mechanisms and opportunities to access further age assessment, where further documents or information become available.	The APR and the RCD (2024) require that any decision on the applicant's status, including determinations affecting access to safeguards (e.g. appointment of a guardian), be reasoned, subject to the right of the applicant to be heard, and open to effective remedy."
Section 57, Decision by Determining Authority to arrange further age	Following a determination that an applicant is a minor under paragraph (a) or (c) of section 53(2), paragraph (a) or (c) of section 54(5), paragraph (a) of section 55 or paragraph (a) or (c) of section 56(6), the Determining Authority may arrange for a further age assessment to be carried out in accordance with this Chapter to determine the age of an applicant	Amend: Following a determination that an applicant is a minor under paragraph (a), (b) or (c) of section 53(2), paragraph (a), (b) or (c) of section 54(5), paragraph (a) of section 55 or paragraph	Include (b) subsections of sections 53(2), 54(5) and 56(6) to also allow for reassessment where applicant is found to be an adult. Where an authority has power to request/recommend a further age assessment, it should be allowable

<p>assessment P.63, L.2</p>	<p>where— (a) the Child and Family Agency has reasonable grounds for believing that the applicant is not a minor and that accommodating the applicant in reception facilities appropriate for minors may give rise to child safeguarding concerns, or (b) an Appeals Officer, within the meaning of Part 11, has reasonable grounds for believing that the applicant is not a minor where the determination concerned was made prior to a decision being taken by the Determining Authority at first instance.</p>	<p>(a), (b) or (c) of section 56(6), the Determining Authority may arrange for a further age assessment to be carried out in accordance with this Chapter to determine the age of an applicant where—</p> <p>(a) the Child and Family Agency has reasonable grounds for believing that the applicant is not a minor and that accommodating the applicant in reception facilities appropriate for minors may give rise to child safeguarding concerns, or</p> <p>(b) an Appeals Officer, within the meaning of Part 11, has reasonable grounds for believing that the applicant is not a minor where the determination concerned was made prior to a decision being taken by the Determining Authority at first instance.</p> <p>(b) New information is brought forward by an applicant, their parent,</p>	<p>in all cases, not only those where the applicant has been found to be a minor.</p> <p>Remove S.57(b), an Appeals officer, who may have no training or expertise in age estimation, should not have power to request/recommend a further assessment. A child must have certainty regarding their age and benefit of the doubt must apply.</p> <p>Insert subsection which allows a further age assessment where new information is submitted, which indicated the applicant may be a child.</p>
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		<i>guardian, representative, non-governmental organisation supporting the applicant or legal representative which casts doubt on a determination made under paragraph (b) of section 53(2), paragraph (b) of section 54(5), paragraph (a) of section 55 or paragraph (b) of section 56(6).</i>	
Section 58			
s.67 Implicit Withdrawal of application (2) p.68, L. 9.	(2) Where the Determining Authority is of the opinion that any of the grounds in subsection (1) exist, it shall make a declaration that the application has been implicitly withdrawn.	Insert: <i>“Before issuing a declaration that an application has been implicitly withdrawn, the Determining Authority will inform the applicant of the proposal to issue such decision, and provide the applicant with an opportunity to respond”.</i>	A.41 (4) Asylum Procedures Regulation. The competent authority may suspend the procedure in order to give the applicant the possibility to justify or rectify omissions or actions as set out in paragraph 1 before a decision declaring the application as implicitly withdrawn is made.
Section 125(2) P. 100 L. 27- 28	Where there is doubt as to the applicant’s age, the competent authorities shall promptly carry out an age assessment in accordance with Chapter 3 of Part 3.	Insert: <i>“The Determining Authority shall not, or shall cease to, apply the asylum border procedure until an age</i>	

		assessment and further age assessment, if requested by the applicant, is carried out and considered conclusive.”	
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Part 4: Asylum and Migration Management

Chapter 1: Preliminary and General

Section	Bill text (current wording)	Suggested amended text	Explanation / Rationale
s.69, P.69, L.34	(3) A reference in this Part to a numbered Article is a reference to the Article so numbered of the Asylum and Migration Management Regulation.	Insert (4): <i>This Part will be interpreted in line with the Guarantees for minors set out in Article 23 AMMR.</i>	
s71. P.70, L.19	71. (1) The Minister shall provide the applicant with information on the application of the Asylum and Migration Management Regulation, in accordance with Articles 19 and 20, on his or her rights pursuant to that Regulation and on his or her obligations set out in Article 17 as	Insert: <i>(3) Where the applicant is a minor, information should be provided in a child-friendly manner by appropriately trained staff and in the presence of the applicant’s representative.</i>	Required by A.20 AMMR It is not adequate that information is provided only to adults.

	<p>well as the consequences of non-compliance set out in Article 18 in either electronic or paper format as soon as possible and in any event by the date when an application for international protection is registered in the State.</p> <p>(2) Without prejudice to subsection (1), an applicant, and where the applicant is a minor, the parent or representative of the minor, may request information regarding the progress of the procedure and the Minister shall comply with such a request.</p>		
S.82 Appeal against transfer decision, p. 74, L.11.	(1) Where the Minister takes a transfer decision under section 80, the person concerned may appeal to the Tribunal against the decision by notice in writing within a period of one week from the date of receipt of the notification of the decision under section 81.	Delete: <i>one week</i> . Insert: <i>3 weeks</i> .	One week is the minimum time permissible under the Pact, and is impractical and places undue burden on applicants and their legal representatives. Three weeks is the maximum time permissible.
S.82 Appeal against		Insert: <i>The person seeking international protection shall be</i>	A.43 (5) AMMR

<p>transfer decision (12) p. 75, L14.</p>		<p><i>informed of their right to access legal assistance and representative, and have effective access to legal representation within the appeal notice period.</i></p>	
<p>s.83, Request to remain in State pending appeal, p.75, L. 17</p>	<p>(1) A person who appeals a transfer decision under section 82 (referred to in this section as the “person concerned”) may within the period of one week referred to in that section and in accordance with regulations (if any) under section 140, submit a request in writing to the Tribunal to be allowed to remain in the State (in this Part referred to as a “request to remain”) pending the outcome of his or her appeal.</p>	<p>Delete: one week. Insert: 3 weeks.</p>	<p>The removal of automatic suspensive effect is a very significant change to previous protections provided to international protection applicants and risks undermining access to an effective remedy. Given the impact of non-suspensive effect, all deadlines for appeal should be set at the maximum allowed by APR.</p> <p>Given the administrative burden and practical difficulties this creates, Ireland should adopt national law which allows all applicants to remain while the Appeal is heard.</p>
<p>S.87 (1) Arrest and detention of applicant subject of</p>	<p>(1) Where the Minister takes a decision under section 80 to transfer an applicant to the Member State responsible or the Member State of</p>	<p>Delete all references to “immigration officer” and “officer” in order to ensure that only members of An Garda Siochana carry out this role.</p>	<p>The coalition is concerned about the warrantless powers of arrest and detention proposed in the bill, granted to both members of An Garda Siochana</p>

<p>transfer decision, p.77, L.11, 17, 22</p>	<p>relocation and an immigration officer or a member of An Garda Síochána considers on the basis of an individual assessment of the individual case— (a) that specific reasons or circumstances exist to believe that there is a serious risk that the person might abscond, or (b) that the protection of national security or public order so requires, the officer or member (in this section referred to as the “arresting officer or member”) may, in order to ensure transfer procedures in accordance with the Asylum and Migration Management Regulation and only in so far as detention is proportional and other less coercive alternative measures cannot be applied effectively, arrest and detain the person concerned in accordance with this section without warrant.</p>	<p>Delete “without warrant”. Insert “further to a warrant”.</p>	<p>and immigration officers. Such police powers must align with human rights law and standards. Interferences with rights to liberty and freedom of movement, privacy and bodily integrity must be prescribed by law, necessary in a democratic society and proportionate to a legitimate aim.</p> <p>There is no reason that a warrant could not be sought in advance of arrest and detention.</p> <p>Furthermore, it is unclear what recourse an applicant has to complain about the conduct of an immigration officer in relation to the use of search, arrest and detention powers. This is in contrast to the conduct of Gardai, over which the Fiosrú has oversight.</p>
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<p>S.87 (1) Arrest and detention of applicant subject of transfer decision, p.77, L.</p>	<p>(4) For the purpose of arresting a person under subsection (1), an immigration officer or member of An Garda Síochána may enter (if necessary by use of reasonable force) and search any premises (including a dwelling) where the person is or where the immigration officer or member, with reasonable cause, suspects the person to be,.</p> <p>(5) Where the premises where the person is, or where the immigration officer or member suspects the person to be, is a dwelling the immigration officer or member shall not, unless acting with the consent of an occupier of the dwelling or other person who appears to the immigration officer or member to be in charge of the dwelling, enter that dwelling unless— (a) the person ordinarily resides at the dwelling, or (b) the immigration officer or member believes on reasonable</p>	<p>Delete: “<i>immigration officer</i>”</p> <p>Insert: “<i>under warrant of the arresting member</i>”.</p> <p>(4) For the purpose of arresting a person under subsection (1), an immigration officer or member of An Garda Síochána may <u><i>under warrant of the arresting member</i></u> enter (if necessary by use of reasonable force) and search any premises (including a dwelling) where the person is or where the immigration officer or member, with reasonable cause, suspects the person to be.</p> <p>(5) Where the premises where the person is, or where the immigration officer or member suspects the person to be, is a dwelling the immigration officer or member shall not, unless acting with the consent of an occupier of the dwelling or other person who appears to the immigration officer or member to be</p>	<p>To protect the right to privacy, including of people other than the applicant who may reside in such a dwelling, a warrant should be required before a dwelling is searched. This would ensure that that Gardai have the evidence needed to justify a search and ensure the reasons for such a search are not abused.</p>
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	grounds that the person is within the dwelling.	in charge of the dwelling, enter that dwelling unless— (a) the person ordinarily resides at the dwelling, or (b) the immigration officer or member believes on reasonable grounds that the person is within the dwelling, <i>and the member has obtained a search warrant.</i>	
87 (5) Arrest and detention of applicant subject of transfer decision,	(5) The matters to which an arresting officer or member referred to in subsection (1)(a)(i) may have regard, in considering whether there is a risk of the person absconding, include the following: (a) whether the person has misrepresented or omitted facts, whether or not by the use of false documents, in the process	Insert: <i>Where a person subject to arrest and detention having been deemed at risk of absconding due to having “misrepresented or omitted facts, whether or not by the use of false documents”, that person shall, be afforded the opportunity to demonstrate good cause for the misrepresentation or omission before that applicant is subject to arrest and detention.</i>	
S.87 (8), p. 78, L.20 Arrest and detention of applicant subject of	(8) If and for so long as the immigration officer or member of An Garda Síochána concerned has reasonable grounds for believing that the person subject to the transfer procedure is not under the	If and for so long as the immigration officer or member of An Garda Síochána concerned has reasonable grounds for believing that the person subject to the transfer procedure is not under the age of 18 years, the	Where a person states that they are under the age of 18 years, the benefit of the doubt shall apply. Where required, an age assessment shall take place before a person is arrested and detained, or without undue delay after arrest has taken place.

transfer decision,	age of 18 years, the provisions of subsections (1) and (3) shall apply as if he or she had attained the age of 18 years.	<p>provisions of subsections (1) and (3) shall apply as if he or she had attained the age of 18 years.</p> <p>Insert: the person will be referred to the age determination procedures, and the transfer procedure will be suspended until such time as the age determination procedure has concluded.</p>	
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Part 5: Examination of Applications for International Protection

Section	Bill text (current wording)	Suggested amended text	Explanation / Rationale
s.92 Prioritization P.83 L. 14 – 40 P.84 L. 1-3	<p>The Determining Authority may prioritise the examination of an application for international protection in particular where—</p> <p>...</p>	<p>Delete (g), (h), (i), (j), (k), (l), (m), (o), (p) and (q).</p>	<p>Prioritisation should be used for the rapid examination of manifestly founded cases, and persons with special procedural needs and special reception needs. Over-inclusion of categories risks dilution and therefore de-prioritisation of the matters set out in paragraphs (a) to (e), which correspond to A.34 (5) APR.</p>

<p>s.93 Requirement to give applicant opportunity of personal interview</p>		<p>Insert: S.93(9): In the case of an application by a minor, subject to subsection (4)(e), the Determining Authority shall give the minor an opportunity of a personal interview, including where the application is made on his or her own behalf in accordance with Articles 32 and 33 of the Asylum Procedures Regulation.</p> <p>S.93(10): Where a minor is interviewed pursuant to subsection (9), the Designated Authority shall ensure that the interview is conducted in a child-sensitive and context-appropriate manner, taking into consideration the age and maturity of the child, by a person competent to take account of the personal and general circumstances surrounding the application, including their age, vulnerability and special procedural needs, in accordance with Articles 13 and 22</p>	

		<p>of the Asylum Procedures Regulation.</p> <p>S.93(11): Where, pursuant to subsection (4)(e), a person carrying out an assessment under section 28(7) has assessed that a personal interview would not be in the best interests of the minor, that person shall furnish reasons to the minor, their parent or such other adult who has responsibility for their care or protection, or, in the case of an unaccompanied minor, their provisional representative person or representative person, explaining why they decided not to give the minor an opportunity for a personal interview.</p> <p>S.93(12): Where a personal interview is conducted with a minor pursuant to section 93(9), the interview shall be conducted by a person with the necessary qualification, training or expertise in the needs of minors, and</p>	
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		shall be conducted in a child-sensitive and context-appropriate manner, taking into consideration the age and maturity of the child.	
s.94 (8) P.85 L. 39 - 43 Requirements for Personal Interview	(8) The Determining Authority shall ensure that the person conducting the interview is competent to take account of the personal and general circumstances surrounding the application, including the situation prevailing in the applicant’s country of origin, and the applicant’s cultural origin, age, gender, gender identity, sexual orientation, vulnerability and special procedural needs.	Insert: <i>Applicants who are identified as being in need of special procedural guarantees pursuant to Regulation (EU) 2024/1348, shall be provided with adequate support in order to create the conditions necessary for effectively presenting all elements allowing for the determination of the Member State responsible. Staff interviewing applicants shall also have acquired general knowledge of factors which could adversely affect the applicant’s ability to be interviewed, such as indications that the person has been tortured in the past or has been a victim of trafficking in human beings.</i>	These are important protections contained in A.22 AMMR. They should be transposed correctly.
s.95 P.86	(1) The following may be present at a substantive interview:	Insert	Interpreters (where necessary) will need to attend interviews also.

<p>L.1-13 Conduct of personal interview</p>	<p>(a) the High Commissioner, whenever he or she so requests;</p> <p>(b) in the case of an unaccompanied minor, the provisional representative person or representative person;</p> <p>(c) the applicant’s legal representative or, with the consent of the applicant, a person nominated by that legal representative;</p> <p>(d) a cultural mediator</p>	<p>“(e) interpreter.”</p>	
<p>s.96 P.86 L.17- 18 Legal assistance at personal interview</p>	<p>(2) Where a legal adviser participates in the personal interview, the legal adviser may only intervene at the end of the personal interview:</p>	<p>Insert: “(2) Where a legal adviser participates in the personal interview, it shall not be the role of the legal adviser to provide testimony on behalf of an applicant.”</p>	<p>This confinement of the legal adviser’s intervention is an arbitrary restriction and could hinder effective access to justice. It may be necessary and more practical for a legal adviser to provide information such as in relation to the applicants’ special procedural needs, difficulties arising due to interpretation, which would be more appropriately received at an earlier point in the interview.</p> <p>The limitation does not appear to be in line with s.14 Regulation</p>

			<p>2024/1348 (APR): <i>“The applicant should be given sufficient time to prepare and consult with his or her legal adviser or other counsellor admitted or permitted as such under national law to provide legal advice(the ‘legal adviser’) or a person entrusted with providing legal counselling. During the interview, the applicant should be allowed to be assisted by the legal adviser”.</i></p> <p>Or with s.13 APR. An applicant shall be allowed to be assisted by a legal adviser in the personal interview, including when it is held by video conference.</p> <p>While the Regulation allows for a MS to confine intervention to the end of the personal interview, it is recommended that this step limits the effectiveness and utility of the presence of the legal representative and should not be included.</p>
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<p>s.97 P.86</p> <p>L.22-29</p> <p>Report and Recording of personal interviews</p>	<p>(1) The Minister shall by regulations require the Determining Authority or any other authority or experts assisting the Determining Authority in accordance with section 94(7) with conducting the personal interviews to produce, in such form as the Minister shall prescribe— (a) a thorough and factual report containing all the main elements of the personal interview, (b) a transcript of the interview, or (c) a transcript of the recording of such an interview.</p>	<p>Delete: (a) a thorough and factual report containing all the main elements of the personal interview;</p>	<p>There is a risk that a “report containing the main elements of the personal interview” would omit information which is ultimately crucial to the international protection claim. It is therefore recommended that the document produced in in the form of a full transcript of the interview.</p>
<p>s.99 (2) P.89</p> <p>L.5-12</p> <p>Assessment of admissibility of application</p>	<p>(2) The Determining Authority shall reject an application as inadmissible where— (a) the application is a subsequent application, and (b) no new relevant elements as referred to in Article 55 of the Asylum Procedures Regulation relating to— (i) the examination of whether the applicant qualifies as a beneficiary of international protection in accordance with the Qualification Regulation, or (ii) the inadmissibility</p>	<p>Delete: “shall”. Insert “may”</p> <p>(2) The Determining Authority shall may reject an application as inadmissible where...</p> <p>Insert: 99 (4) (i). The Determining Authority may assess the merits of an application even if the conditions for regarding it as inadmissible are met, if the</p>	<p>Recital (48) APR underlines that: <i>“Member States retain the right to assess the merits of an application even if the conditions for regarding it as inadmissible are met, in particular when they are compelled to do so pursuant to their national obligations”.</i></p> <p>This right should be set out clearly in the Bill, and both first instance decision-makers and the SIB should</p>

	ground previously applied, have arisen or have been presented by the applicant.	<i>interests of justice and fairness so require.</i>	be empowered to make such decisions.
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Chapter 6, Asylum Border Procedure

Section, page and line	Bill text (current wording)	Suggested amended text	Explanation / Rationale
s.120, P.99, L.5	At any point during the administrative procedure, an applicant who is deemed a national security risk shall be placed in the asylum border procedure regardless of whether his or her application was being examined under a different procedure in accordance with this Act.	Remove this section	S.117(1) allows the Minister to apply the border procedure “ <i>provided that the applicant has not yet been authorised to enter the State [and] where that applicant is an applicant who does not fulfil the conditions for entry to the State</i> ”. If an applicant has been granted permission to enter the State, the Minister cannot later apply the Border Procedure, as this would require removing the applicant from the territory of the State.
S.125 (2) P.100 L.27-28	(2) Where there is doubt as to the applicant’s age, the competent authorities shall promptly carry out	Insert: (2) Where there is doubt as to the applicant’s age, the competent authorities shall promptly carry out	Application of the presumption of minority and best interests of the child.

<p>Exceptions to asylum border procedure</p>	<p>an age assessment in accordance with Chapter 3 of Part 3</p>	<p>an age assessment in accordance with Chapter 3 of Part 3, <i>and will treat the person as a child until the conclusion of such age assessment process.</i></p>	
<p>S.126 (1) P.101 L.13-16 Restrictions on freedom of movement during asylum border procedure</p>	<p>126. (1) During the examination of an application subject to the asylum border procedure, applicants shall be required, in accordance with the Reception Conditions Directive, to reside in designated locations within the State fully taking into account the State’s specific geographical circumstances.</p>	<p>Delete “shall”. Replace with “may”.</p> <p>Insert:.. “with due regard to the principle of proportionality and where no other less intrusive methods are possible”.</p> <p>Insert: “Such restriction of freedom of movement may be permitted where there is a verifiable risk that an applicant may abscond, following an individual assessment of the circumstances of the case, and where it is established that no less coercive alternative measures cannot be effectively applied.”</p> <p>Insert: (21) “All decisions restricting an applicant’s freedom of movement should take into account relevant aspects of the individual situation of the applicant, including the special</p>	<p><i>Restrictions on freedom of movement must ‘be proportionate’, however, the Bill has not introduced a proportionality test.</i></p> <p><i>Such restriction is liable to amount to deprivation of liberty for the purposes of Article 5 ECHR if the applicant is not allowed to freely leave that designated place.</i></p> <p><i>Restrictions on Freedom of Movement must be proportionate and ought not constitute de facto detention. It is recommended that any such proportionality test examine whether the restrictions on freedom of movement are necessary following an individual assessment of the circumstances in each case and detention ought to apply only if</i></p>

		reception needs of that applicant, and the principles of necessity and proportionality. Applicants should be duly informed of such decisions, of the procedures for challenging them and of the consequences of non-compliance".	<p><i>less coercive alternative measures cannot be effectively applied.</i></p> <p><i>Amend in line with A.9 Reception Conditions</i></p> <p><i>Issue individual decision</i></p> <p><i>Review rights / Appeal rights.</i></p>
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Part 6 Appeals to Tribunal

Section, page and line	Bill text (current wording)	Suggested amended text	Explanation / Rationale
S 129 Appeals (1) (f)		Insert: <i>“(f) a decision to examine an application under Section 115 or Section 117”</i>	Creates an appealable decision
	Reinstate Head 48 General Scheme, on role of UNHCR	UNHCR should have a role in making submissions at interview stage.	

<p>Section 133 Oral Hearing (2)</p> <p>P. 106 L33</p>	<p>The Tribunal may hold an oral hearing for the purposes of making a decision under section 137 in respect of an appeal where, having had regard to the guidelines issued under section 182(2), the Appeals Officer to whom the appeal is assigned is of the opinion that a full and ex-nunc examination of both facts and points of law cannot be achieved without an oral hearing.</p>	<p>Delete existing section and Insert:</p> <p>“The Tribunal shall hold an oral hearing for the purpose of an appeal where:</p> <p style="padding-left: 40px;">(a) the applicant has requested one or</p> <p style="padding-left: 40px;">(b) it is of the opinion that it is in the interests of justice to do so.”</p>	<p>Provide right for applicant to request oral hearing as per the current provision in the International Protection Act 2015.</p>
<p>s.135 (3) P.109 L.3-10</p> <p>Examination by Tribunal</p>	<p>(3) During an examination under subsection (1) the Tribunal may refuse to take into account any documents that— (a) are not submitted within— (i) the period of time specified for the appeal under section 129(2), (3), (4) or (5), as the case may be, or (ii) such period as may be specified under section 132(5), or (b) are not translated in accordance with this Act</p>	<p>Insert:</p> <p><i>“The Tribunal may take such documents into account where it is in the interests of justice and fairness to do so, and where reasonable reasons were provided as to why it was not possible to provided documents in manner required”.</i></p>	
<p>s.136 P. 109 L.15-19</p> <p>Withdrawal</p>	<p>(2) Where an applicant fails to attend an oral hearing at the date and time fixed for the hearing then, unless the</p>	<p>Delete “3 days”. Insert “10 days”.</p> <p>Delete “shall”. Insert “may”.</p>	<p><i>The withdrawal of an appeal should not be automatic. If reason such as illness, hospitalisation or failure to</i></p>

<p>and Deemed Withdrawal of Appeal</p>	<p>applicant, not later than 3 days from that date, furnishes the Tribunal with an explanation for not attending the oral hearing which the Tribunal considers reasonable in the circumstances, his or her appeal shall be deemed to be withdrawn.</p>	<p>Insert:</p> <p><i>“Where, in the opinion of the Tribunal, an applicant had reasonable grounds for not attending the scheduled oral hearing, and for failing to furnish the Tribunal with an explanation within the required timeframe, the Tribunal may consider an application not to have been withdrawn”</i></p>	<p><i>receive notification of appeal arise for an individual resulting in their inability to attend a hearing without informing the Tribunal, it is likely that they will not be in a position to inform the Tribunal of this within 3 working days of the scheduled Hearing. The Tribunal should have authority to consider information received within a longer waiting period of time to ensure effective access to justice. The implicit withdrawal should not commence after 3 working days.</i></p> <p><i>41(4) APR:</i></p> <p><i>“The competent authority may suspend the procedure in order to give the applicant the possibility to justify or rectify omissions or actions as set out in paragraph 1 before a decision declaring the application as implicitly withdrawn is made.”</i></p> <p><i>The Regulation does not therefore require such a limited timelines for</i></p>
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			<i>justification of failure to attend, and should be extended.”</i>
s.138 P.111 L.37-39 Effect of Judicial Review on the Right to Remain in the State	Effect of judicial review on right to remain in State 138. Where a person brings an application for judicial review under Order 84 of the Rules of the Superior Courts in respect of a decision of the Tribunal under section 137, he or she shall not be entitled to remain in the State solely by virtue of such an application.	Insert: “ <u>The types of relief available to the Presiding Judge hearing Judicial Review cases shall remain at the discretion of the judge.</u> ”	<i>Judicial independence.</i>
s.140 P.112 L.27-31 Procedures for appeals and requests to remain	140. The Minister may, in consultation with the Chief Appeals Officer and having regard to the need to observe fair procedures, prescribe procedures for and in relation to appeals and requests to remain, including the holding of oral hearings and, in doing so, may prescribe different procedures in respect of different classes of appeals and different classes of requests to remain.	Delete: <i>“140. The Minister may, in consultation with The Chief Appeals Officer and having regard to the need to observe fair procedures, prescribe procedures for and in relation to appeals and requests to remain, including the holding of oral hearings and, in doing so, may prescribe different procedures in respect of different classes of appeals and different classes of requests to remain.”</i>	Section 178 (2) (b) states that The Tribunal shall be independent in the performance of its functions. The minister being able to prescribe procedures is inconsistent with the Tribunal’s independence.

<p>S.143 P.113 L.27-31</p> <p>Right to Information</p>	<p>A beneficiary of international protection shall be entitled to be provided with information on the application of the Qualification Regulation, in accordance with Article 22 of that Regulation, on his or her rights and obligations specified in Annex I to that Regulation, in either electronic or paper format as soon as practicable after becoming a beneficiary of international protection.</p>	<p>Insert: A beneficiary of international protection shall be entitled to be provided with information on the application of the Qualification Regulation, <i>in a language that the beneficiary can understand or is reasonably supposed to understand.</i></p> <p><i>Information provided should make explicit references to the consequences of not complying with the obligations provided for in Article 27 on movement within the Union.</i></p>	<p>Required by Art.19 AMM/ Art.22 QR</p>
<p>S.144 P. 114, L.13</p> <p>Extension to beneficiaries of rights</p>	<p>Without prejudice to section 142, a beneficiary of international protection shall be entitled....</p>	<p>Insert:</p> <p><i>“(g) Beneficiaries of international protection who have special needs, such as pregnant women, persons with a disability, persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence or minors who have been victims of any form of abuse, neglect, exploitation,</i></p>	<p>Required by Article 32 Qualification Regulation.</p> <p>Required by Article 33 QR re unaccompanied minors, appointing a guardian.</p>

		<p><i>torture, or cruel, inhuman and degrading treatment, or who have suffered from armed conflict shall be provided with adequate healthcare, including treatment of mental disorders when needed, under the same eligibility conditions as nationals of the Member State that granted them international protection”</i></p> <p><i>“(h). As soon as possible after international protection is granted in respect of an unaccompanied minor, the Guardian ad Litem National Service shall take the necessary measures, under national law, to appoint a guardian.</i></p>	
<p>S.145 (2) (B) Permission for beneficiaries of international protection to reside in the</p>	<p>(1) A beneficiary of international protection shall be given a permission to reside in the State. (2) A permission given under this section shall— (a) where the beneficiary of international protection was granted refugee status, be for a specified period of at</p>	<p>Amend:</p> <p>(1) A beneficiary of international protection shall be given a permission to reside in the State. (2) A permission given under this section shall— (a) where the beneficiary of international protection was granted refugee</p>	<p>Permission to reside given to a beneficiary of international protection, both refugee status and subsidiary protection, given 3 years permission to reside.</p>

<p>State P.114 L.22</p>	<p>least 3 years, and (b) where the beneficiary of international protection was granted subsidiary protection status, be for a specified period of at least 1 year</p>	<p>status, be for a specified period of at least 3 years, and (b) where the beneficiary of international protection was granted subsidiary protection status, be for a specified period of at least 1 year 3 years.</p>	<p>Amendment keeps the residency period in line with Section 54 of the International Protection Bill 2015.</p>
<p>S.145 (1) (2) P.114 L.17-23 Permission to reside</p>	<p>(1) A beneficiary of international protection shall be given a permission to reside in the State. (2) A permission given under this section shall— (a) where the beneficiary of international protection was granted refugee status, be for a specified period of at least 3 years, and (b) where the beneficiary of international protection was granted subsidiary protection status, be for a specified period of at least 1 year</p>	<p>Insert: “2. A residence permit shall be issued as soon as possible after refugee status or subsidiary protection status has been granted, and at the latest 90 days from the notification of the decision to grant international protection, using the uniform format laid down in Regulation (EC) No 1030/2002”.</p> <p>Insert: “A residence permit shall be issued free of charge”</p> <p>Insert: <i>“Where a residence permit is not issued to a beneficiary of international protection within 15 days of the granting of international protection, the Member State</i></p>	<p>To bring in line with Art.20 and 24 Qualifications Regulation.</p>

		<i>concerned shall take provisional measures, such as registration or the issuance of a document, to ensure that the beneficiary has effective access to the rights laid down in Chapter VII, with the exception of those laid down in Articles 25 and 27, until such time as a residence permit is issued.</i>	
S.146, P.115(3) Travel Document	N/A	Insert: “ (6) Travel documents shall be valid for more than one year. ”	A.25 QR

Voluntary return and withdrawal of international protection

Section, page and line	Bill text (current wording)	Suggested amended text	Explanation / Rationale
S.151. (2) Option to voluntarily return, p.118, L. 29	(2) The notice issued with the return decision under section 154(3) or section 156(3) to a person who is subject to this section shall include information regarding voluntary return and the person subject to that	Delete “5 days”. Insert “15 days days”.	It is impracticable to receive information and advice, and set in train the process for voluntary return within 5 days from the date of notice of application.

	<p>notice shall have 5 days from the date on which the notice is sent to comply with subsection (4).</p>		<p>5. Without prejudice to the possibility for them to return voluntarily at any time, persons as referred to in paragraph 1 shall be granted a period for voluntary departure unless there is a risk of absconding, or if their application in the context of the asylum border procedure has been rejected as manifestly unfounded, or if the person concerned is a risk to public policy, public security or the national security of the Member States. The period for voluntary departure shall be granted only upon request and it shall neither exceed 15 days nor confer a right to enter the territory of the Member State concerned. For the purposes of this paragraph, such persons shall surrender any valid travel document in their possession to the competent authorities for as long as necessary to prevent absconding.</p>
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<p>s.154 (1) P.124 , L.23</p> <p>Return Decision Where Application is Inadmissible on Certain Grounds, Unfounded, Manifestly Unfounded or Withdrawn</p>		<p>Insert: <i>(5) Before deciding to issue a return decision in respect of an unaccompanied minor, assistance by appropriate bodies other than the authorities enforcing return shall be granted with due consideration being given to the best interests of the child.</i></p> <p><i>(6) Before removing an unaccompanied minor from the territory of a Member State, the authorities of that Member state shall be satisfied that he or she will be returned to a member of his or her family, a nominated guardian or adequate reception facilities in the State of return.”</i></p>	<p>The Returns Directive notes in Article 5 that “Member States shall take due account of: (a) the best interests of the child; (b) family life; (c) the state of health of the third-country national concerned,” when implementing the Directive. As provided for in Article 4(3) of the Returns Regulation, this continues to apply. Reference should be made to include these considerations in the Bill.</p> <p>Article 4(3) of the Returns Regulation further notes that Article 10 of the Returns Directive applies. This provides that “1. Before deciding to issue a return decision in respect of an unaccompanied minor, assistance by appropriate bodies other than the authorities enforcing return shall be granted with due consideration being given to the best interests of the child. 2. Before removing an unaccompanied minor from the territory of a Member State, the authorities of that Member state</p>
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			<p><i>shall be satisfied that he or she will be returned to a member of his or her family, a nominated guardian or adequate reception facilities in the State of return.”</i></p> <p>This should be inserted.</p>
<p>s.161 P.129-130</p> <p>L.2</p> <p>Arrest and detention</p>	<p>161. (1) An immigration officer or a member of An Garda Síochána (in this section referred to as an “arresting officer or member”) may arrest without warrant a person the subject of a return decision under this Chapter that has come into effect under section 158 and detain the person in accordance with subsection (2)— (a) where the arresting officer or member, with reasonable cause, suspects— (i) having regard to the matters referred to in subsection (5), that there is a risk of the person absconding, (ii) that the person is avoiding or intends to avoid the removal of the person from the State or the return, or is frustrating or intends to frustrate the</p>	<p>L.2 Delete: “without warrant”</p> <p>Insert: “<i>further to a warrant of the arresting officer</i>”</p> <p>Insert: “<i>Detention may be imposed only as a measure of last resort if it proves necessary on the basis of an individual assessment of each case and if other less coercive measures cannot be applied effectively.</i>”</p> <p><i>5(4) Detention shall be maintained for as short a period as possible, and for only as long as a reasonable prospect of removal exists, and while arrangements therefor are in progress and are executed with due diligence. The period of detention shall not</i></p>	<p>The warrantless powers of arrest and detention proposed in the bill, granted to both members of An Garda Síochána and immigration officers, are extremely concerning. Such police powers must align with human rights law and standards. Interference with rights to liberty and freedom of movement, privacy and bodily integrity must be prescribed by law, necessary in a democratic society and proportionate to a legitimate aim.</p> <p>Arrest without warrant should only occur whereby there is a reasonable suspicion of an individual having committed an arrestable offence and not for the purpose of identification of an applicant, to</p>

	<p>removal or return, (iii) that the person poses a threat to public policy, public order or national security, or (iv) that the person is failing to comply with a requirement under section 160, (b) where the person is serving a term of imprisonment in a prison or place of detention, immediately on completion by the person of the term of imprisonment, or (c) for the purpose of facilitating or effecting the removal from the State or return of the person.</p>	<p><i>exceed the period referred to in Article 4(2) of Returns Regulation and, where a consecutive detention is issued immediately following a period of detention as provided for under this Article, that period of detention shall be included in calculating the maximum periods of detention set out in Article 15(5) and (6) of Directive 2008/116/EC.</i></p> <p><i>Where a person subject to arrest and detention having been deemed at risk of absconding due to having “misrepresented or omitted facts, whether or not by the use of false documents”, that person shall, as per Head 63(1)(a), be afforded the opportunity to demonstrate good cause for the misrepresentation or omission and State authorities shall demonstrate an applicant’s “bad faith” before that applicant is subject to arrest and detention.</i></p>	<p>determine the elements on which the application for international protection is based etc.</p> <p>Detention should only be utilised as a last resort, particularly in respect of applicants who are vulnerable and have special reception needs.</p> <p>Whereby individuals are detained, detention in the general prison population is not appropriate.</p> <p>Reporting and electronic systems should comply with the right to privacy.”</p> <p>It is unclear what avenue an applicant has to complain about the conduct of an immigration officer in relation to the use of search, arrest and detention powers. This is in contrast to the conduct of Gardai, of which the Office of the Police Ombudsman has oversight.</p> <p><i>s.161(9) Increases the maximum time for detention for returns from 7 days- under s51B(4) of the Act of</i></p>
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			<p><i>2015- to 12 weeks. This represents an excessive and disproportionate length of time to detain someone for the purpose of removal from the State.</i></p> <p><i>To protect the right to privacy, including of people other than the applicant who may reside in such a dwelling, a warrant should be required. This would ensure that Gardai, or an immigration officer, have the evidence needed to justify a search and ensure the reasons for such a search under Head 45(1) are not abused.</i></p>
<p>s.161 P.129 L.2-19 Arrest and detention (Part 9)</p>	<p>An immigration officer or a member of An Garda Síochána (in this section referred to as an “arresting officer or member”) may arrest without warrant a person the subject of a return decision under this Chapter that has come into effect under section 158 and detain the person in accordance with subsection (2)— (a) where the arresting officer or</p>	<p>Delete: (7) If and for so long as the arresting officer or member has reasonable grounds for believing that a person is not under the age of 18 years, the provisions of subsections (1) and (2) shall apply as if the person had attained the age of 18 years.</p> <p>Insert: (7) If, following exhaustion of an age assessment determination, and appeal process, a</p>	<p>While it is understood that there will be further provisions around detention, the provisions currently in the Pact around arrest and detention give rise to concern, and do not appear to implement relevant Pact provisions:</p> <p>Pact Art 5 (Return Border Procedure Regulation)</p>

<p>L.14-16</p>	<p>member, with reasonable cause, suspects— (i) having regard to the matters referred to in subsection (5), that there is a risk of the person absconding, (ii) that the person is avoiding or intends to avoid the removal of the person from the State or the return, or is frustrating or intends to frustrate the removal or return, (iii) that the person poses a threat to public policy, public order or national security, or (iv) that the person is failing to comply with a requirement under section 160, (b) where the person is serving a term of imprisonment in a prison or place of detention, immediately on completion by the person of the term of imprisonment, or (c) for the purpose of facilitating or effecting the removal from the State or return of the person.</p> <p>(7) If and for so long as the arresting officer or member has reasonable grounds for believing that a person is not under the age of 18 years, the</p>	<p>determination has been reached that a person is not under the age of 18 years, the provisions of subsections (1) and (2) shall apply as if the person had attained the age of 18 years.</p> <p>Insert: “<i>Where a person states that they are under the age of 18 years, the benefit of the doubt shall apply. Where required, an age assessment shall take place before a person is arrested and detained, or without undue delay after arrest has taken place.</i>”</p> <p>Insert: “<i>Detention may be imposed only as a measure of last resort if it proves necessary on the basis of an individual assessment of each case and if other less coercive measures cannot be applied effectively.</i>”</p> <p>Insert: “<i>Detention shall be maintained for as short a period as possible, and for only as long as a reasonable prospect of removal</i></p>	<p>5(1) Detention may be imposed only as a measure of last resort if it proves necessary on the basis of an individual assessment of each case and if other less coercive measures cannot be applied effectively.</p> <p>5(4) Detention shall be maintained for as short a period as possible, and for only as long as a reasonable prospect of removal exists, and while arrangements therefor are in progress and are executed with due diligence. The period of detention shall not exceed the period referred to in Article 4(2) of this Regulation and, where a consecutive detention is issued immediately following a period of detention as provided for under this Article, that period of detention shall be included in calculating the maximum periods of detention set out in Article 15(5) and (6) of Directive 2008/116/EC.</p>
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	<p>provisions of subsections (1) and (2) shall apply as if the person had attained the age of 18 years.</p>	<p><i>exists, and while arrangements therefor are in progress and are executed with due diligence. The period of detention shall not exceed the period referred to in Article 4(2) of this Regulation and, where a consecutive detention is issued immediately following a period of detention as provided for under this Article, that period of detention shall be included in calculating the maximum periods of detention set out in Article 15(5) and (6) of Directive 2008/116/EC.”</i></p> <p>Insert: The Minister shall ensure that family members, legal advisers or counsellors and persons representing relevant non-governmental organisations have the possibility to communicate with and visit applicants in conditions that respect privacy. Limits to access to the detention facility may be imposed only where, by virtue of national law, they are objectively necessary for security, public order</p>	
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		or the administrative management of the detention facility, provided that access is not thereby severely restricted or rendered impossible.	
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Chapter 3, Miscellaneous

Section, page and line	Bill text (current wording)	Suggested amended text	Explanation / Rationale
S.172, P.135, L.22	(1) A person who is detained under section 161 or 168 for more than 4 weeks may request, in writing, a review of the detention for the purposes of determining whether the grounds on which the person is detained under section 161 or 168 continue to apply.	Amend 172(1): A person who is detained under section 161 or 168 for more than 4 weeks will be entitled to an automatic review of the detention for the purposes of determining whether the grounds on which the person is detained under section 161 or 168 continue to apply.	Given the deprivation of liberty, the internal administrative review of detention should be automatic after four weeks.

Part 11 Tribunal, Chapter 1:

<u>Section, Page and Line Number</u>	<u>Bill text (current wording)</u>	<u>Suggested amended text</u>	<u>Explanation / Rationale</u>
S 182 (4) (a) (b)	(4) The Chief Appeals Officer shall accord priority to an appeal or a request to remain— (a) upon a request by the Minister under section 217, (b) where the appeal or request is in respect of an application to which the asylum border procedure under Chapter 6 of Part 5 applied, or (c) when he or she is of the opinion that it is in the interests of justice to do so.	The Bill should be amended so that the Tribunal alone can prioritise appeals. Delete 182 (4)	Section 178 (2) (b) states that The Tribunal shall be independent in the performance of its functions. The minister being able to prioritise appeals is inconsistent with the Tribunal’s independence. In addition, the timelines required of each procedure are sufficiently fast.
S 186, P 149, L1	186. (1) The Minister shall appoint a person to be the Director of the Tribunal (in this Part referred to as the “Director”).	Delete Minister and replace with Government: 186. (1) The Minister Government shall appoint a person to be the Director of the Tribunal (in this Part referred to as the “Director”).	Ensures government, rather than just minister has power to appoint the Director. This is consistent with other appointments including the Chief Inspector.

Part 12 – Chief Inspector of Asylum Border Procedures

<u>Section, Page and Line Number</u>	<u>Bill text (current wording)</u>	<u>Suggested amended text</u>	<u>Explanation / Rationale</u>
S.193, P153, L.12	N/A	Include: The Minister shall equip the Chief Inspector with appropriate financial means to carry out its functions.	As per Fundamental Rights Agency guidance. No provision currently exists in the Bill.
S.196(d), P.154, L.36-37	the removal of the person from office would, in the opinion of the Government, be in the best interests of the State.	Delete	Section is overly broad, and not in line with similar provisions for other Ombudsman offices. Undermines the independence of the body, as per Fundamental Rights Agency Guidance.
S.198(1)(a) P.155, L35	(1) The functions of the Chief Inspector are as follows: (a) to monitor asylum border procedures and compliance with European Union and international law, including the Charter, in designated asylum border facilities, in line with the independent monitoring mechanism provided for by the Screening Regulation and referred to in Article 43 of the Asylum Procedures Regulation;	Amend to accurately reflect text in the Screening Regulation: (a) monitor compliance with Union and international law, including the Charter, in particular as regards access to the asylum procedure, the principle of non-refoulement, the best interest of the child and the relevant rules on detention, including relevant provisions on detention in	Clarify the mandate of the Chief Inspector by directly transposing the text of the Screening Regulation.

		national law, during the screening process and in designated asylum border facilities, in line with the independent monitoring mechanism provided for by the Screening Regulation and referred to in Article 43 of the Asylum Procedures Regulation	
S.202(2), P.159, L.23-30	Each of the following shall, ex officio, be a member of the Board (in this section referred to as an “ex officio member of the Board”):	Include: “(G) The National Preventive Mechanism under OPCAT (H) An NGO working in asylum and migration”	The NPM under OPCAT was included in this section in the Heads of Bill. There will be a clear relevance and overlap between the bodies when OPCAT is ratified. An NGO working on the ground could provide vital information and insight to the inspectorate. This is in line with Fundamental Rights Agency guidance.
S 205 (1), p 161, L10	205. (1) The Chief Inspector shall, not later than 3 months after the end of each year, or before a date as may be specified by the Minister, submit to the Minister an annual report on the performance of the Chief Inspector’s functions and on such other related matters	Replace Minister with Houses of the Oireachtas 205. (1) The Chief Inspector shall, not later than 3 months after the end of each year, or before a date as may be specified by the Minister, submit to the Minister Houses	

	during the previous year.	of the Oireachtas an annual report on the performance of the Chief Inspector’s functions and on such other related matters during the previous year.	
s.207 (10) p. 163, L37	The Minister shall, not later than 3 years after the coming into operation of this section and at such further intervals as he or she considers appropriate, review the operation of this section in so far as it requires the referral to the Chief Inspector 163 5 10 15 20 25 30 35 under subsection (7) of complaints concerning allegations of breaches of fundamental rights within a designated asylum border facility.	Delete “The Minister” Insert: “An independent body”.	This function should be carried out by an independent body, rather than the Minister, for independence.
S.209(1) P.164, L.25	Where a formal investigation is determined to be necessary by the Chief Inspector under section 207, or section 208, the Chief Inspector shall undertake an investigation in accordance with this Part.	Include section in italics: Where a formal investigation is determined to be necessary by the Chief Inspector under section 207, or section 208, <i>or in the case of incidents of death or serious harm in the Screening Process, Border Procedure or Return Border Procedure</i> , the Chief Inspector	The Bill contains no statutory obligation for the Chief Inspector to investigate incidents of death or serious harm in the border procedure or other areas where IPAs will be held/deprived of their liberty. This is contrary to the State obligation under Arts 2 and 3 of the ECHR to investigate any loss of life or acts of torture or

		shall undertake an investigation in accordance with this Part.	ill-treatment. There is such investigatory powers in these cases for other Ombudsman bodies, such as the Fiosru (Office of the Police Ombudsman). A provision should be added to reflect this
S.210, P.166, L.20	N/A	Include: The Chief Inspector shall have the power to make its investigative reports and recommendations public.	The body should have this power in the interest of independence and the public good.
S.210, P.166, L.20	N/A	Include: If there is an instance of multiple, serious criminal offences, Chief Inspector should inform a guard of a certain rank (e.g., superintendent).	
Section 215 (5) (a) insert (vii)		Insert <i>“(vii) human rights organisations”</i>	Ensure that human rights organisations, such as Amnesty International, are considered in designation process.

Part 13 Miscellaneous Provisions

Section, Page and Line Number	Bill text (current wording)	Suggested amended text	Explanation / Rationale
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<p>S 217, P 172, L 32</p>	<p>Prioritisation by of certain appeals and requests to remain 217. (1) Subject to the need for fairness and efficiency, the Minister may, where he or she considers it necessary or expedient to do so, having consulted with the Chief Appeals Officer, request the Chief Appeals Officer to accord priority to an appeal (within the meaning of Part 6), an appeal under section 82, a request to remain (including such requests within the meaning of Part 4). (2) The Minister may, in making a request under subsection (1), have regard to the matters referred to in any of the paragraphs of section 92 subject to the modification that references in paragraph (q) of that section to applications shall be construed as references to appeals.</p>	<p>Delete</p> <p>Prioritisation by Tribunal of certain appeals and requests to remain 217. (1) Subject to the need for fairness and efficiency, the Minister may, where he or she considers it necessary or expedient to do so, having consulted with the Chief Appeals Officer, request the Chief Appeals Officer to accord priority to an appeal (within the meaning of Part 6); an appeal under section 82, a request to remain (including such requests within the meaning of Part 4). (2) The Minister may, in making a request under subsection (1), have regard to the matters referred to in any of the paragraphs of section 92 subject to the modification that references in paragraph (q) of that section to applications shall be construed as references to appeals.</p>	<p>Section 178 (2) (b) states that The Tribunal shall be independent in the performance of its functions. The minister being able to prioritise appeals is inconsistent with the Tribunal’s independence.</p> <p>In addition the timelines required of each procedure are sufficiently fast.</p>
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Part 15 – Amendments to Other Acts of the Oireachtas

Section, Page and Line Number	Bill text (current wording)	Suggested amended text	Explanation / Rationale
Amendment of the Immigration Act 2004	<p>11.— (1) Every person (other than a person under the age of 16 years) landing in the State shall be in possession of a valid passport or other equivalent document, issued by or on behalf of an authority recognised by the Government, which establishes his or her identity and nationality.</p> <p>(2) Every person landing in or embarking from the State shall furnish to an immigration officer, when requested to do so by that officer—</p> <p style="padding-left: 40px;">(a) the passport or other equivalent document referred to in subsection (1), and</p> <p style="padding-left: 40px;">(b) such information in such manner as the immigration officer may reasonably require for the purposes of the performance of his or her functions.</p>	<p>Insert:</p> <p><i>“(4) Notwithstanding subsection (3), a person shall not commit an offence under this section where the person—</i></p> <p style="padding-left: 20px;"><i>(a) is an applicant for international protection or otherwise seeks protection in the State,</i></p> <p style="padding-left: 20px;"><i>(b) presents himself or herself to the authorities without delay, and</i></p> <p style="padding-left: 20px;"><i>(c) shows good cause for his or her entry into or presence in the State without a valid passport or other equivalent document, including circumstances where such entry or presence is attributable to a well-founded fear of persecution, serious harm or threats to life or freedom.”</i></p>	

	<p>(3) (a) A person who contravenes this section shall be guilty of an offence.</p> <p>(b) In proceedings brought against a person for an offence under this section, it shall be a defence for the person to prove that, at the time of the alleged offence, he or she had reasonable cause for not complying with the requirements of this section to which the offence relates.</p>		
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