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**CIVIL LIABILITY (CHILD SEXUAL ABUSE PROCEEDINGS AGAINST  
UNINCORPORATED BODIES OF PERSONS) BILL 2024**

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Statutes of Limitations

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**CIVIL LIABILITY (CHILD SEXUAL ABUSE PROCEEDINGS AGAINST  
UNINCORPORATED BODIES OF PERSONS) BILL 2024**

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# Bill

*entitled*

An Act to facilitate the bringing of child sexual abuse proceedings against unincorporated bodies of persons, to enable such a body to pay damages arising from such proceedings from the assets of an associated trust in certain circumstances, to extend the limitation period provided for by the Statute of Limitations 1957 in respect of certain civil proceedings arising from claims of child sexual abuse, and to provide for connected matters.

**Be it enacted by the Oireachtas as follows:**

## PART 1

### Preliminary and General

#### **Short title and commencement**

1. (1) This Act may be cited as the Civil Liability (Child Sexual Abuse Proceedings against Unincorporated Bodies of Persons) Act 2024.
- (2) This Act comes into operation on its passing.

#### **Interpretation**

2. In this Act –

“management member”, in relation to an unincorporated body, means an officer of or other person who is concerned with, or takes part in, the management of the body;

“relevant proceedings” has the meaning assigned to it by *section 3 (3)*;

“unincorporated body” means a unincorporated body of persons which, or a branch of which –

- (a) is established in the State, and
- (b) the activities, administration and control of which is governed by a constitution or other such document or other written rules.

## PART 2

### Proceedings against Unincorporated Body

### Application of Act

3. (1) This Part applies to civil proceedings against an unincorporated body, whether the cause of action concerned accrued before or after the passing of this Act (including proceedings pending at such passing), that are founded on tort and that seek to have the body held –

- (a) directly liable for negligence or breach of duty,
- (b) vicariously liable for the wrongs of one of its members, or
- (c) both directly and vicariously liable,

where the damages claimed consist of or include damages in respect of personal injuries caused by an act of sexual abuse committed against the plaintiff at a time when –

- (i) the wrongdoer was a member of the body concerned, and
- (ii) the plaintiff had not yet reached full age.

(2) In *subsection (1)* –

“act of sexual abuse” includes –

- (a) any act of causing, inducing or coercing a person to participate in any sexual activity,
- (b) any act of causing, inducing or coercing the person to observe any other person engaging in any sexual activity, or
- (c) any act committed against, or in the presence of, a person that any reasonable person would, in all the circumstances, regard as misconduct of a sexual nature,

where the doing or commission of the act concerned is recognised by law as giving rise to a cause of action;

“full age” means –

- (a) in relation to a person against whom an act of sexual abuse was committed before the commencement of the Age of Majority Act 1985, 21 years, and
- (b) in relation to a person against whom an act of sexual abuse was committed after such commencement, full age within the meaning of that Act.

(3) Proceedings to which this Part applies are referred to as relevant proceedings.

(4) Nothing in this Part prevents a defendant from disputing the existence of liability, including vicarious liability, in the circumstances of a particular case.

### **Relevant proceedings may be commenced against unincorporated body**

4. (1) Relevant proceedings may be brought or may be continued against an unincorporated body in the name of the body or in a name reasonably sufficient to identify the body as if the body were a legal person.
- (2) For the purposes of facilitating the conduct of the defence of relevant proceedings –
  - (a) any changes in the membership of an unincorporated body between the time when an act of sexual abuse giving rise to civil proceedings is claimed to have been committed and the time when those proceedings are instituted, or are heard and determined, shall be disregarded,
  - (b) a function that falls to be performed by an unincorporated body may be performed by a management member of the body,
  - (c) a court may make such orders and directions as it sees fit, including orders directing one or more management members of an unincorporated body to perform a specified function of the body.

### **Unincorporated body may appoint proper defendant**

5. (1) An unincorporated body may appoint one or more suitable legal or natural persons (including the trustees of a trust) as proper defendant in relevant proceedings.
- (2) For the purposes of this *subsection (1)*, a person is suitable to be appointed as proper defendant for an unincorporated body if –
  - (a) the person can be sued in the State, and
  - (b) the person (or, if the person is a trustee of a trust, the trust) has sufficient assets in the State to satisfy any judgment or order that may arise out of relevant proceedings against the body.
- (3) If more than one proper defendant is appointed, the proper defendants shall conduct the defence of the proceedings as a single defendant.

### **Court may appoint proper defendant**

6. (1) This section applies if –
  - (a) relevant proceedings are brought against an unincorporated body and no suitable proper defendant is appointed for the body by the end of 120 days after the body (or a management member of the body) is served with notice of the proceedings, or
  - (b) after that time, the proper defendant appointed ceases to be a suitable proper defendant.
- (2) The court in which the proceedings are brought may, on the application of the plaintiff and if it is satisfied that they are suitable to be appointed, appoint as proper defendant the trustees of one or more of –

- (a) an associated trust of the body,
  - (b) a trust that was formerly an associated trust of the body, if the court considers that the trust ceased to be an associated trust in an attempt to avoid trust property being applied to satisfy any liability that may be incurred in relevant proceedings and that it would be unjust not to appoint the trustees of the trust.
- (3) A trust is an associated trust of an unincorporated body if –
- (a) the body has, either directly or indirectly, the power to control the application of the income, or the distribution of the property, of the trust,
  - (b) the body has the power to obtain the beneficial enjoyment of the property or income of the trust, with or without the consent of another person,
  - (c) the body has, either directly or indirectly, the power to appoint or remove the trustee or trustees of the trust,
  - (d) the body has, either directly or indirectly, the power to appoint or remove beneficiaries of the trust,
  - (e) the trustee of the trust is accustomed or under an obligation, whether formal or informal, to act according to the directions, instructions or wishes of the body,
  - (f) the body has, either directly or indirectly, the power to determine the outcome of any other decisions about the trust’s operations, or
  - (g) a member of the body or a management member of the body has, under the trust deed applicable to the trust, a power of a kind referred to in paragraphs (a) to (f), but only if the trust has been established or used for the activities of the body or for the benefit of the body.
- (4) On the making of an application by a plaintiff under this section, the unincorporated body shall, within 28 days after the application is made, identify to the court any associated trusts of the body, including by identifying the financial capacity of those trusts.

**Effect of appointment of proper defendant**

7. On the appointment of a proper defendant for an unincorporated body in relevant proceedings –
- (a) the proper defendant is taken to be the defendant in the proceedings on behalf of the body and is responsible for conducting the proceedings as the defendant,
  - (b) anything done by the unincorporated body is taken to have been done by the proper defendant and a duty or obligation of the unincorporated body in relation to the proceedings is a duty or obligation owed by the proper defendant,

- (c) the unincorporated body shall continue to participate in the proceedings and a court may make orders or directions in respect of the body as if the body were a legal person,
- (d) a court may make substantive findings in the proceedings against unincorporated body as if the body were a legal person,
- (e) the proper defendant incurs any liability in the proceedings on behalf of the body that the body would have incurred if the body were a legal person (including any costs awarded),
- (f) the proper defendant may rely on any defence or immunity that would be available to the body as a defendant in the proceedings if the body were a legal person, and
- (g) any right of the unincorporated body to be indemnified (including under a policy of insurance) in respect of damages awarded in a claim in the proceedings extends to, and indemnifies, the proper defendant.

**Special provisions applying when trustees of associated trust appointed**

8. (1) Notwithstanding any enactment or rule of law or any instrument (including any trust deed), the trustees of an associated trust of an unincorporated body may do one or more of the following—
- (a) consent to be appointed by the body as a proper defendant,
  - (b) supply any information about the trust that may be required under this Act, including identifying the financial capacity of the trust,
  - (c) apply trust property to satisfy any liability incurred by the trustee as a proper defendant in relevant proceedings.
- (2) The liability of a trustee of an associated trust incurred by the trustee as a proper defendant in relevant proceedings is limited to the value of the trust property.
- (3) The satisfaction of any liability incurred by a trustee of an associated trust as a proper defendant in relevant proceedings is a proper expense for which the trustee may be indemnified out of the trust property, irrespective of any limitation on any right of indemnity a trustee may have.
- (4) A trustee of an associated trust is not liable for a breach of trust only because of doing anything authorised by this section.
- (6) In this section, liability incurred by the trustee as a proper defendant in relevant proceedings includes any unpaid judgment debt arising from the proceedings, any amount paid in settlement of the proceedings and any costs associated with the proceedings.

## PART 3

### Extension of limitation period for relevant proceedings

#### **Extension of limitation period for relevant proceedings**

9. Notwithstanding anything in the Statutes of Limitations, relevant proceedings that could not, by virtue of those Acts, be brought, may be brought not later than one year after the passing of this Act.

#### **Saver in relation to court's power to dismiss on ground of delay**

10. Nothing in *section 9* affects the power of a court to dismiss civil proceedings on the ground of there being such delay between the accrual of the cause of action and the bringing of the proceedings as, in the circumstances of the case and in the interests of justice, requires their dismissal.