



DÁIL ÉIREANN

AN BILLE UM CHÚRAM LEANAÍ (LEASÚ) 2006 CHILD CARE (AMENDMENT) BILL 2006

LEASUITHE A RINNE AN DÁIL AMENDMENTS MADE BY THE DÁIL

*The page and line references in this list of amendments
are to the text of the Bill as passed by Seanad Éireann.*

DÁIL ÉIREANN

AN BILLE UM CHÚRAM LEANAÍ (LEASÚ) 2006 [BILLE SEANAD ARNA LEASÚ AG AN DÁIL]

CHILD CARE (AMENDMENT) BILL 2006 [SEANAD BILL AMENDED BY THE DÁIL]

*Leasuithe a rinne an Dáil
Amendments made by the Dáil*

SECTION 1

1. In page 3, between lines 12 and 13, the following new section inserted:

“PART 1

PRELIMINARY

Short title,
collective citation
and commencement.

1.—(1) This Act may be cited as the Child Care (Amendment) Act 2007.

(2) The Child Care Acts 1991 and 2001, section 75 of the Health Act 2004 (in so far as it amends the Child Care Acts 1991 and 2001), *Part 2, section 19* (in so far as it amends the Child Care Acts 1991 and 2001) and this subsection may be cited together as the Child Care Acts 1991 to 2007.

(3) The Children Act 2001, section 75 of the Health Act 2004 (in so far as it amends the Children Act 2001), *Part 12 of the Criminal Justice Act 2006, Part 3* (except *section 19*) and this subsection may be cited together as the Children Acts 2001 to 2007.

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

2. In page 3, lines 13 to 15 deleted.

SECTION 2

3. In page 3, between lines 15 and 16, the following new section inserted:

“PART 2

AMENDMENT OF CHILD CARE ACT 1991

Definition of
“Principal Act”.

2.—In this Part, “Principal Act” means the Child Care Act 1991.”

4. In page 3, between lines 15 and 16, the following new section inserted:

“Amendment of
section 29 of
Principal Act.

3.—Section 29 of the Principal Act is amended by inserting the following subsections after subsection (4):

[No. 40a of 2006]

[30 April, 2007]

“(5) Nothing contained in this section shall operate to prohibit—

(a) the preparation of a report of proceedings under Part III, IV or VI by—

(i) a barrister or a solicitor,

(ii) subject to subsection (6), a person falling within a class of persons representing, and authorised in writing by, the Board, within the meaning of section 225(1) (as amended by *section 16 of the Child Care (Amendment) Act 2007*) of the Children Act 2001, for the purposes of this subsection, or

(iii) a person falling within any other class of persons specified in regulations made under subsection (7) for the purposes of this subsection,

(b) the publication of a report prepared in accordance with paragraph (a), or

(c) the publication of the decision of any court in such proceedings,

in accordance with rules of court, provided that the report or decision does not contain any information which would enable the parties to the proceedings or any child to which the proceedings relate to be identified and, accordingly, unless in the special circumstances of the matter the court, for reasons which shall be specified in the direction, otherwise directs, a person referred to in paragraph (a) may, for the purposes of preparing such a report

(i) attend the proceedings, and

(ii) have access to any relevant court documents,

subject to any directions the court may give in that behalf.

(6) The Board referred to in subsection (5)(a)(ii) shall consult with the Minister before authorising a class of persons for the purposes of subsection (5).

(7) The Minister may, after consultation with the Minister for Justice, Equality and Law Reform, make regulations specifying a class of persons for the purposes of subsection (5) if the Minister is satisfied that the publication of reports prepared in accordance with subsection (5)(a) by persons falling within that class is likely to provide information which will assist in the better operation of this Act, in particular in relation to the care and protection of children.

(8) Nothing contained in this section shall be construed to prejudice the generality of—

(a) any other provision of this Act (including this Act as amended by the *Child Care (Amendment) Act 2007*) or any thing which may be done under any such provision, or

(b) section 267(2) of the Children Act 2001.

(9) In subsection (5), “proceedings” include proceedings commenced but not completed before the commencement of that subsection.”.”

5. In page 6, line 28, “concerned.”deleted and “concerned;” substituted.

6. In page 6, between lines 28 and 29, the following inserted:

“(e) a person who, in the opinion of the court, has a *bona fide* interest in the child concerned.”.

SECTION 3

7. In page 7, between lines 7 and 8, the following new section inserted:

“Substitution of section 49 of Principal Act.

3.—Section 49 (as amended by item 54 of Part 6 of Schedule 7 to the Health Act 2004) of the Principal Act is repealed and the following section substituted:

“Definitions for Part VII. 49.—In this Part—

‘authorised person’ means a person appointed under section 54 to be an authorised person for the purposes of this Part;

‘pre-school child’ means a child—

(a) who has not attained the age of six years, and

(b) who is not attending—

(i) a school, or

(ii) an establishment which provides an education programme similar to that provided by a school;

‘pre-school service’ means any pre-school, play group, day nursery, crèche, day-care or other similar service which caters for pre-school children, including those grant-aided by the Health Service Executive;

‘school’ means an establishment which provides—

(a) primary education to its students,

(b) early childhood education, or

(c) both primary education to its students and early childhood education;

‘school age child’ means a child who is attending a school age service;

‘school age service’ means a childcare service—

(a) provided on a regular basis for children (or a class of children) who attend—

(i) a school, or

(ii) an establishment which provides an educational programme similar to that provided by a school,

(b) provided outside of normal school hours, and

(c) the basis of access to which is made publicly known to the parents and guardians of children referred to in paragraph (a).”.

8. In page 7, between lines 7 and 8, the following new section inserted:

“Amendment of section 50 of Principal Act.

4.—Section 50 (as amended by item 55 of Part 6 of Schedule 7 to the Health Act 2004) of the Principal Act is amended—

- (a) in subsection (1), by inserting “or school age children” after “services”,
- (b) in subsections (2)(a) and (c) and (3)(a), (b) and (c), by inserting “or school age services” after “services”, and
- (c) by inserting the following subsection after subsection (3):

“(3A) On and after the commencement of *section 11* of the *Child Care (Amendment) Act 2007*, regulations may be made under this section to apply to persons falling within section 58(2) (as inserted by such *section 11*).”.

9. In page 7, between lines 7 and 8, the following new section inserted:

“Amendment of section 51 of Principal Act.

5.—Section 51 (as substituted by item 56 of Part 6 of Schedule 7 to the Health Act 2004) of the Principal Act is amended by inserting the following subsections after subsection (2):

“(3) A person carrying on a school age service on the commencement of this subsection shall give notice to the Health Service Executive in the prescribed manner.

“(4) A person who, after the commencement of subsection (3), proposes to carry on a school age service shall give notice to the Health Service Executive in the prescribed manner.”.

10. In page 7, between lines 7 and 8, the following new section inserted:

“Amendment of section 52 of Principal Act.

6.—Section 52 of the Principal Act is amended—

- (a) by inserting “or school age service” after “pre-school service”, and
- (b) by deleting “the service” and substituting “the pre-school service or school age children attending the school age service, as the case may be,”.

11. In page 7, between lines 7 and 8, the following new section inserted:

“Amendment of section 53 of Principal Act.

7.—Section 53 (as amended by item 57 of Part 6 of Schedule 7 to the Health Act 2004) of the Principal Act is amended by inserting “or school age service” after “pre-school service”.

12. In page 7, between lines 7 and 8, the following new section inserted:

“Amendment of section 55 of Principal Act.

8.—Section 55 (as amended by item 59 of Part 6 of Schedule 7 to the Health Act 2004) of the Principal Act is amended—

- (a) in subsections (1) and (2), by inserting “or school age service” after “service”, and
- (b) in subsection (3), by inserting “or school age children” after “children”.

13. In page 7, between lines 7 and 8, the following new section inserted:

“Amendment of section 56 of Principal Act.

9.—Section 56 (as amended by item 60 of Part 6 of Schedule 7 to the Health Act 2004) of the Principal Act is amended—

(a) in subsections (1) and (2), by inserting “or school age services” after “services”, and

(b) in subsection (3), by inserting “or school age services” after “pre-school services”.”.

14. In page 7, between lines 7 and 8, the following new section inserted:

“Amendment of section 57 of Principal Act.

10.—Section 57(2) of the Principal Act is amended by inserting “or school age service, or both” after “service”.”.

15. In page 7, between lines 7 and 8, the following new section inserted:

“Substitution of section 58 of Principal Act.

11.—Section 58 of the Principal Act is repealed and the following section substituted:

“Exemptions. 58.—(1) Regulations under section 50 and sections 51 to 57 shall not apply to—

(a) the care of one or more children undertaken by a relative of the child or children or the spouse of such relative, or

(b) a person taking care of one or more children of the same family and no other children (other than that person’s own children) in that person’s home.

(2) Sections 51 to 57 shall not apply to a person taking care of not more than 5 children, of whom not more than 3 may be pre-school children, of different families (but excluding that person’s own children) in that person’s home.

(3) In this section, ‘child’ means a person who has not attained the age of 18 years.”.”.

16. In page 7, between lines 7 and 8, the following new section inserted:

“PART 3

CONSEQUENTIAL AND OTHER AMENDMENTS TO CHILDREN ACT 2001

Definition of “Act of 2001”.

12.—In this Part, “Act of 2001” means the Children Act 2001.”.

17. In page 7, between lines 7 and 8, the following new section inserted:

“Amendment of section 16 of Act of 2001.

13.—Section 16 of the Act of 2001 is amended by repealing it only to the extent that it provides for the insertion of section 23D, as set out in such section 16, into the Child Care Act 1991.”.

18. In page 7, between lines 7 and 8, the following new section inserted:

“Amendment of section 76A of Act of 2001. 14.—Section 76A(1)(c) (inserted by section 132 of the Criminal Justice Act 2006) of the Act of 2001 is amended by deleting “and, pending its outcome, to make an emergency care order or a supervision order under the Act of 1991 in respect of the child”.”.

19. In page 7, between lines 7 and 8, the following new section inserted:

“Amendment of section 77 of Act of 2001. 15.—Section 77(1) (as amended by item 13 of Part 11 of Schedule 7 to the Health Act 2004) of the Act of 2001 is amended—

(a) in paragraph (a), by deleting “, and” and substituting “if in the Court’s view it is practicable for the Health Service Executive to hold such a conference having regard to the age of the child and his or her family and other circumstances,”, and

(b) by deleting paragraph (b).”.

20. In page 7, between lines 7 and 8, the following new section inserted:

“Amendment of section 225 of Act of 2001. 16.—Section 225(1) of the Act of 2001 is amended, in the definition of “Board”, by inserting “and known, after the commencement of section 226A, as the Children Acts Advisory Board” after “section 226”.”.

21. In page 7, between lines 7 and 8, the following new section inserted:

“New section 226A in Act of 2001. 17.—The following section is inserted in the Act of 2001 after section 226:

“Change of name of Board. 226A.—On the commencement of this section, the Board shall be known as the Children Acts Advisory Board, or in the Irish language An Bord Comhairleach um Achtanna na Leanaí.”.”.

22. In page 7, between lines 7 and 8, the following new section inserted:

“Substitution of section 227 of Act of 2001. 18.—Section 227 (as amended by item 17 of Part 11 of Schedule 7 to the Health Act 2004 and section 156 of the Criminal Justice Act 2006) of the Act of 2001 is repealed and the following section substituted:

“Functions of Board. 227.—(1) The Board shall—

(a) on request advise the Ministers on policy issues relating to the coordinated delivery of services under this Act and the Act of 1991 (including residential accommodation and support services to children detained in children detention schools and special care units),

(b) publish guidance on the qualifications, criteria for appointment, training and role of any guardian *ad litem* appointed for children in proceedings under the Act of 1991,

(c) in consultation with the Health Service Executive, prepare and publish criteria for the admission to and discharge from special care units of children subject to special care and interim special care orders,

- (d) subject to subsection (6) of section 29 (as amended by section 3 of the *Child Care (Amendment) Act 2007*) of the Act of 1991, authorise in writing a class or classes of persons representing the Board to prepare reports referred to in, and for the purposes of, subsection (5) of that section 29,
- (e) give its views on any proposal of the Health Service Executive, pursuant to section 23A(2)(b) (inserted by section 16 of this Act), to apply for a special care order under Part IVA of the Act of 1991,
- (f) using published sources, report on the level and nature of residential accommodation and support services to children detained in children detention schools and special care units,
- (g) promote enhanced inter-agency co-operation (including the sharing of information) under this Act and the Act of 1991,
- (h) promote, organise or take part in meetings, seminars, conferences, lectures or demonstrations (whether in the State or elsewhere) in relation to its functions set out in paragraphs (a) to (g), and
- (i) conduct or commission research, and collect, maintain, research and evaluate statistics and other data, relating to its functions set out in paragraphs (a) to (h).

(2) The Board, in performing its functions, shall have regard to the policies and objectives of the Government or any Minister of the Government in so far as they may affect or relate to those functions.

(3) The Board shall have all such powers as are necessary or expedient for the exercise of its functions.”.”.

23. In page 7, between lines 7 and 8, the following new section inserted:

“Amendment of other Acts and of statutory instruments to change name of Special Residential Services Board to Children Acts Advisory Board.

19.—(1) The Acts specified in *Part 1* of the *Schedule* are amended as indicated in that Part.

(2) The statutory instruments specified in *Part 2* of the *Schedule* are amended as indicated in that Part.”.

24. In page 7, lines 8 to 16 deleted.

NEW SCHEDULE

25. In page 7, after line 16, the following inserted:

SCHEDULE

AMENDMENT OF ACTS AND STATUTORY INSTRUMENTS TO CHANGE NAME OF SPECIAL RESIDENTIAL SERVICES BOARD TO CHILDREN ACTS ADVISORY BOARD

PART 1

AMENDMENT OF ACTS TO CHANGE NAME OF SPECIAL RESIDENTIAL SERVICES BOARD TO CHILDREN ACTS ADVISORY BOARD

Item	Provision affected	Amendment
1.	Section 23A(2)(b) (as inserted by section 16 of the Children Act 2001 and amended by section 75 of the Health Act 2004) of the Child Care Act 1991	Delete “Special Residential Services Board” and substitute “Children Acts Advisory Board”.
2.	Section 23B(1) (as inserted by section 16 of the Children Act 2001 and amended by section 75 of the Health Act 2004) of the Child Care Act 1991	Delete “Special Residential Services Board” and substitute “Children Acts Advisory Board”.
3.	Paragraph 143 (inserted by section 5(e) of the Finance Act 2004) of the Taxes Consolidation Act 1997	Delete “Special Residential Services Board” and substitute “Children Acts Advisory Board”.

PART 2

AMENDMENT OF STATUTORY INSTRUMENTS TO CHANGE NAME OF SPECIAL NAME OF SPECIAL RESIDENTIAL SERVICES BOARD TO CHILDREN ACTS ADVISORY BOARD

Item	Provision affected	Amendment
1.	Regulation 3 of the Child Care (Special Care) Regulations 2004 (S.I. No. 550 of 2004)	(a) Insert the following after the definition of “authorised officer”: “ “ Children Acts Advisory Board” means the Board within the meaning of section 225 (1) (as amended by <i>section 16 of the Child Care (Amendment) Act 2007</i>) of the Children Act 2001;”.
		(b) Delete the definition of “Special Residential Services Board”.
2.	Regulation 25 (2)(o) of the Child Care (Special Care) Regulations 2004	Delete “Special Residential Services Board” and substitute “Children Acts Advisory Board”.

3.	Regulation 26 of the Child Care (Special Care) Regulations 2004	(a) In paragraph (3)(b)(iv), delete “Special Residential Services Board” and substitute “Children Acts Advisory Board”.
		(b) In paragraph (9), delete “Special Residential Services Board” and substitute “Children Acts Advisory Board”.
4.	Schedule to the Ethics in Public Office (Prescribed Public Bodies, Designated Directorships of Public Bodies and Designated Positions in Public Bodies) Regulations 2004	In column (2), opposite reference number 182, delete “Special Residential Services Board” and substitute “Children Acts Advisory Board”.
5.	Schedule to the Freedom of Information Act 1997 (Prescribed Bodies) Regulations 2006	Delete “Special Residential Services Board” and substitute “Children Acts Advisory Board”.

”

TITLE

26. In page 3, lines 5 to 11 deleted and the following substituted:

“AN ACT TO AMEND THE CHILD CARE ACT 1991 AND TO MAKE CONSEQUENTIAL AND OTHER AMENDMENTS TO THE CHILDREN ACT 2001; AND TO PROVIDE FOR RELATED MATTERS.”.