



DÁIL ÉIREANN

AN BILLE UM CHÚRAM LEANAÍ (LEASÚ) 2009 CHILD CARE (AMENDMENT) BILL 2009

LEASUITHE TUARASCÁLA REPORT AMENDMENTS

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AN BILLE UM CHÚRAM LEANAÍ (LEASÚ) 2009 —AN TUARASCÁIL

CHILD CARE (AMENDMENT) BILL 2009 —REPORT

Leasuithe Amendments

1. In page 5, line 8, after “2001” to insert “; THE HEALTH ACT 2004”.
—An tAire Leanaí agus Gnóthaí Óige.
2. In page 5, lines 12 and 13, to delete “AND CHILDREN”.
—An tAire Leanaí agus Gnóthaí Óige.
3. In page 5, line 22, after “31,” to insert “ 33*,”.
—An tAire Leanaí agus Gnóthaí Óige.

[*Note: This is a reference to the section proposed to be inserted by amendment 16.]

4. In page 5, line 22, to delete “42 and 44” and substitute “42, 44 and 46”.
—An tAire Leanaí agus Gnóthaí Óige.
5. In page 5, line 26, to delete “2009 and section” and substitute “2010 and sections 33* and”.
—An tAire Leanaí agus Gnóthaí Óige.

[*Note: This is a reference to the section proposed to be inserted by amendment 16.]

6. In page 5, between lines 27 and 28, to insert the following:

“(5) The Adoption Act 2010 and section 46 may be cited together as the Adoption Acts 2010 and 2011.”.

—An tAire Leanaí agus Gnóthaí Óige.

7. In page 6, line 5, to delete “and Children”.
—An tAire Leanaí agus Gnóthaí Óige.

8. In page 6, between lines 28 and 29, to insert the following:

4.—Section 3 of the Principal Act is amended by deleting subsection (4).”.

—An tAire Leanaí agus Gnóthaí Óige.

9. In page 8, line 35, to delete “detention” and substitute “placement”.
—Caoimhghín Ó Caoláin.

10. In page 45, between lines 42 and 43, to insert the following:

“(2) The Health Service Executive shall have regard to the views of the child, taking into consideration the child’s age and understanding. Prior to taking steps under this section, the court shall give such directions as are appropriate where the Health Service Executive proposes to take steps to which the child does not consent.”.

“Amendment of
section 3 of
Principal Act.

—Caoimhghín Ó Caoláin.

11. In page 62, line 16, to delete “a fine not exceeding €3,000” and substitute “a class B fine”.

—An tAire Leanaí agus Gnóthaí Óige.

12. In page 62, line 45, to delete “a fine not exceeding €3,000” and substitute “a class B fine”.

—An tAire Leanaí agus Gnóthaí Óige.

13. In page 64, to delete lines 1 to 8 and substitute the following:

“(a) the guardian *ad litem* appointed may appoint a solicitor to represent them in respect of those proceedings and give directions as to the performance of the solicitor of his or her duties, which may include, if necessary, having regard to the circumstances of the case, directions in relation to the instruction of counsel, and”.

—Caoimhghín Ó Caoláin.

14. In page 67, between lines 25 and 26, to insert the following:

“22.—Section 45 (as amended by the Act of 2004) of the Principal Act is amended by substituting the following section for section 45—

“45.—(1) (a) Where a child leaves the care of the Health Service Executive, the Executive shall, in accordance with subsection (2), assist him or her for so long as the Executive is satisfied as to his or her need for assistance and, subject to paragraph (b), he or she has not attained the age of 21 years.

(b) Where that person attains the age of 21 years, the Executive shall continue to provide such assistance until the completion of the course of education in which he or she is engaged.

(2) (a) The Health Service Executive shall assist a person under this section in one or more of the following ways—

(i) by causing him or her to be visited or assisted;

(ii) by arranging for the completion of his or her education and by contributing towards his or her maintenance while he or she is completing his or her education;

(iii) by placing him or her in a suitable trade, calling or business and paying such fee or sum as may be requisite for that purpose;

(iv) by providing a residential aftercare programme for him or her;

(v) by co-operating with housing authorities in planning accommodation for children leaving care on reaching the age of 18 years;

(vi) by arranging for any existing or emerging health care needs to be addressed by appropriate qualified persons.

(b) For the purposes of this section, the Minister shall prescribe the manner in which aftercare may be provided.

(3) In providing assistance under this section, the Executive shall comply with any general directions given by the Minister.

(4) For the purposes of this section, the reference in subsection (1)(a) to the care of the Health Service Executive includes special care provided under Part IVA (as amended by the *Child Care (Amendment) Act 2011*).”.”.

—Caoimhghín Ó Caoláin.

15. In page 67, between lines 40 and 41, to insert the following:

“Amendment of section 69 of Principal Act.

25.—Section 69 of the Principal Act is amended—

- (a) in subsection (2) (amended by section 75 of the Health Act 2004), by substituting “maintained by the Health Service Executive, or by a person who is taking care of a child on behalf of the Health Service Executive, under this Act, or by a person referred to in section 23B(4) (inserted by section 9 of the *Child Care (Amendment) Act 2011*)” for “maintained by the Health Service Executive under this Act”,
- (b) in subsection (4)(a) (amended by section 75 of the Health Act 2004), by substituting “maintained by the Health Service Executive, or by a person who is taking care of a child on behalf of the Health Service Executive, under this Act, or by a person referred to in section 23B(4) (inserted by section 9 of the *Child Care (Amendment) Act 2011*)” for “maintained by the Health Service Executive under this Act”, and
- (c) in subsection (4)(b) (amended by section 75 of the Health Act 2004), by substituting “employees of the Health Service Executive or of a person referred to in paragraph (a)” for “employees of the Health Service Executive”.”.

—An tAire Leanaí agus Gnóthaí Óige.

16. In page 69, between lines 26 and 27, to insert the following:

“PART 4

AMENDMENT OF ACT OF 2004

Amendment of Part 7A of Act of 2004.

33.—Part 7A (inserted by section 1 of the Health (Amendment) Act 2010) of the Act of 2004 is amended—

(a) in section 40B—

- (i) in subsection (1)(a), by substituting “functions,” for “functions, and”,
- (ii) in subsection (1)(b)(ii), by substituting “Minister,” for “Minister.”,
- (iii) by inserting the following after subsection (1)(b):

“and

(c) without delay, furnish the Minister for Children and Youth Affairs with information regarding—

- (i) any such occurrence or development that, in the opinion of the Executive, that Minister is likely to consider significant for the performance of his or her functions, or

- (ii) any other occurrence or development that falls within a class of occurrences or developments of public interest or concern that has been specified in writing by that Minister”,

and

- (iv) in subsection (2), by inserting “, in consultation with the Minister for Children and Youth Affairs,” after “Minister may”,

(b) in section 40C—

- (i) by inserting the following subsection after subsection (1):

“(1A) The Minister for Children and Youth Affairs may, where he or she considers it necessary in the public interest to do so for the performance of his or her functions, require the Executive to furnish him or her with such information or documents as he or she may specify that are in the Executive’s procurement, possession or control, and the Executive shall do so within any period that that Minister may specify and, in any event, without delay.”,

- (ii) in subsection (2), by inserting “or the Minister for Children and Youth Affairs” after “furnish the Minister”,
- (iii) in subsection (3), by inserting “or the Minister for Children and Youth Affairs” after “furnishing the Minister”, and
- (iv) in subsection (4)(a), by inserting “or the Minister for Children and Youth Affairs” after “furnishing the Minister”,

(c) in section 40D—

- (i) in subsection (1), by inserting “to him or her” after “has been furnished”,

- (ii) by inserting the following subsection after subsection (1):

“(1A) Where the Minister for Children and Youth Affairs has appointed a person to examine or inquire into any matter, and considers that any information or document that has been furnished to him or her under section 40B or 40C may be relevant to that examination or inquiry, that Minister may furnish that information or document to the person, and that person may receive that information or document.”,

- (iii) in subsection (2), by substituting “the Minister or the Minister for Children and Youth Affairs to furnish a person referred to in subsection (1) or, as the case may be, subsection (1A), with information” for “the Minister to furnish a person referred to in subsection (1) with information”,
- (iv) in subsection (3), by substituting “the Minister or the Minister for Children and Youth Affairs from furnishing a person referred to in subsection (1) or, as the case may be, subsection (1A), with information” for “the Minister from furnishing a person referred to in subsection (1) with information”, and

(v) in subsection (4)(a), by substituting “the Minister or the Minister for Children and Youth Affairs from furnishing a person referred to in subsection (1) or, as the case may be, subsection (1A), with information” for “the Minister from furnishing a person referred to in subsection (1) with information”,

(d) in section 40E—

(i) in subsection (1), by inserting “to him or her” after “documents furnished”, and

(ii) by inserting the following subsection after subsection (1):

“(1A) Subject to subsection (2), the Minister for Children and Youth Affairs may use information and documents furnished to him or her under this Part as he or she requires for the performance of his or her functions.”,

and

(e) in section 40F—

(i) by substituting “any power of the Minister or the Minister for Children and Youth Affairs” for “any power of the Minister”, and

(ii) to substitute “the functions of the Executive, the Minister or the Minister for Children and Youth Affairs” for “the functions of the Executive or the Minister”.”.

—An tAire Leanaí agus Gnóthaí Óige.

17. In page 70, to delete lines 23 and 24 and substitute the following:

“(5) Section 75 of the Act of 2007 is amended—

(a) in subsection (2)(a), by substituting “registered provider or designated centre” for “registered provider, designated centre or special care unit”,

(b) in subsection (2)(b)(iii), by deleting “or (d)”.”.

—An tAire Leanaí agus Gnóthaí Óige.

18. In page 72, line 33, to delete “Minister for Finance” and substitute “Minister for Public Expenditure and Reform”.

—An tAire Leanaí agus Gnóthaí Óige.

19. In page 73, line 13, to delete “for Finance” and substitute “for Public Expenditure and Reform”.

—An tAire Leanaí agus Gnóthaí Óige.

20. In page 73, to delete lines 14 to 20 and substitute the following:

“Amendment of
Principal Act.

43.—(1) The Principal Act is amended in—

(a) section 23A(2) (as amended by the Child Care (Amendment) Act 2007) by deleting paragraph (b),

(b) section 23A by deleting subsection (5) (inserted by the Act of 2004),

and

(c) section 23B(1) (as amended by the Child Care (Amendment) Act 2007) by deleting “and having taken into account the views of the Children Acts Advisory Board referred to in section 23A(2)(b),”.

(2) Section 29 (as amended by the Child Care (Amendment) Act 2007) of the Principal Act is amended—

(a) in subsection (5)—

(i) in paragraph (a)(i) by inserting “or” after “solicitor,”,

(ii) by deleting paragraph (a)(ii),

and

(b) by deleting subsection (6).”.

—An tAire Leanaí agus Gnóthaí Óige.

21. In page 75, to delete lines 1 to 5 and substitute the following:

““relevant date” means the date on which *section 33* comes into operation;”.

—An tAire Leanaí agus Gnóthaí Óige.