



**SEANAD ÉIREANN**

---

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

**LEASUITHE COISTE  
COMMITTEE AMENDMENTS**

---



# SEANAD ÉIREANN

---

## AN BILLE UM CHÚRAM LEANAÍ (LEASÚ) 2009 —AN COISTE

### CHILD CARE (AMENDMENT) BILL 2009 —COMMITTEE STAGE

---

*Leasuithe  
Amendments*

---

#### SECTION 1

1. In page 5, subsection (4), line 25, to delete “2008” and substitute “2009”.  
—*Senators Alex White, Michael McCarthy, Brendan Ryan, Phil Prendergast, Ivana Bacik, Dominic Hannigan.*

#### SECTION 3

2. In page 6, before section 3, but in Part 2, to insert the following new section:

“3.—The Minister shall within three months of the commencement of this Act, publish a report on the provision of secure care under this Act which shall include consideration of how such provision compares with best practice internationally.”

—*Senator Frances Fitzgerald.*

#### SECTION 5

3. In page 6, before section 5, to insert the following new section:

5.—The following is substituted for section 5 of the Principal Act—

“5.—(1) Where it appears to the Health Service Executive that a child in its area is homeless, the Executive shall enquire into the child’s circumstances, and if the Executive is satisfied that there is no suitable and appropriate accommodation available to him or her which he or she can reasonably occupy, unless the child is received into the care of the Executive under the provisions of this Act, the Executive shall take such steps as are necessary to make available suitable accommodation for him or her.

(2) For the purposes of this Act suitable accommodation shall include:

- (a) a room for each child,
- (b) adequate and suitable furniture,
- (c) a sufficient number of lavatories, wash basins, baths and showers,
- (d) adequate facilities for laundry,
- (e) adequate light, heat and ventilation,
- (f) sufficiently clean premises, appropriately decorated and maintained in good structural order,

“Amendment of  
section 5 of  
Principal Act.

[ SECTION 5 ]

- (g) adequate recreation facilities,
- (h) an appropriate and adequate level of security.

(3) All accommodation provided by the Executive shall be appropriate to the age and support needs of the child who is homeless.

(4) The Executive shall further seek to provide a child who is homeless with appropriate long term accommodation and care.”.”.  
—*Senators Alex White, Michael McCarthy, Brendan Ryan, Phil Prendergast, Ivana Bacik, Dominic Hannigan.*

SECTION 9

4. In page 8, line 31, to delete “detention” and substitute “rehabilitation”.  
—*Senators Alex White, Michael McCarthy, Brendan Ryan, Phil Prendergast, Ivana Bacik, Dominic Hannigan.*

\* 5. In page 10, line 10, after “set” to insert “out”.

\* 6. In page 10, to delete lines 30 to 49 and in page 11, to delete lines 1 to 24, and substitute the following:

“(b) the Health Service Executive, in relation to an arrangement referred to in subsection (4), shall—

- (i) supervise and monitor the special care unit provided, maintained and administered under the arrangement and the provision of special care in that unit, and
  - (ii) establish procedures for the notification to it of the release of a child pursuant to and in accordance with section 23NF(9),
- (c) where a child, in respect of whom a special care order or an interim special care order has been made —
- (i) is, without lawful authority or the consent or the knowledge of the Health Service Executive or the person with whom such arrangement is entered into, removed from a special care unit provided pursuant to such arrangement,
  - (ii) absconds from a special care unit provided pursuant to such arrangement,
  - (iii) fails to return, or is prevented from returning, to a special care unit provided pursuant to such arrangement, or
  - (iv) is missing or is otherwise absent, without the consent or knowledge of the Health Service Executive or the person with whom such arrangement has been entered into, from a special care unit provided pursuant to such arrangement or place to which he or she has been released in accordance with section 23NF or 23NG,

the person with whom such arrangement has been entered into shall forthwith inform the Health Service Executive,

[ SECTION 9 ]

- (d) guidelines prepared and published by the Health Service Executive under section 23NO in respect of the procedures referred to in paragraphs (a) and (c) of that section shall apply to a person with whom such arrangement has been entered into, and
- (e) nothing in that arrangement or this Act shall be construed as permitting the person, with whom the arrangement referred to in subsection (4) was entered into, to apply for—
  - (i) a special care order or an interim special care order,
  - (ii) an extension, discharge or variation of such order, or
  - (iii) the release of the child under section 23NF(1) or 23NG,  
or to make an application to the High Court in respect of proceedings under or pursuant to this Part.

(6) The provisions referred to in subsection (5)(a) are—

- (a) subsections (1), (2) and (3),
- (b) subsections (1) and (5) of section 23D,
- (c) section 23E(6),
- (d) paragraphs (b) and (f) of subsection (1) of section 23ND, and
- (e) paragraphs (a) and (b) of subsection (9) of section 23NF.”.

\* 7. In page 14, line 45, to delete “of, those proceedings” and substitute “of those proceedings”.

8. In page 24, to delete lines 22 to 32 .

—*Senator Frances Fitzgerald.*

\* 9. In page 30, line 9, to delete “23ND(3)” and substitute “23ND(4)”.

\* 10. In page 30, line 38, to delete “section 23ND(3)” and substitute “section 23ND (4)”.

\* 11. In page 44, line 29, to delete “such assent, examination” and substitute “such assessment, examination”.

12. In page 44, between lines 39 and 40, to insert the following subsections:

“(2) Regard shall be had to the views of the child, having regard to the child’s age and understanding, prior to taking steps under this section.

(3) Regard shall be had to the views of any parent of the child prior to taking steps under this section, and save where such steps are urgent, the court shall give such directions as are appropriate where the Health Service Executive proposes to take steps to which the parents do not consent.”.

—*Senators Alex White, Michael McCarthy, Brendan Ryan, Phil Prendergast, Ivana Bacik, Dominic Hannigan.*

13. In page 44, line 42, after “shall” to insert the following:

[ SECTION 9 ]

“with the consent of either the child’s parent or guardian, a person acting *in loco parentis* or the child’s Guardian Ad Litem.”

—*Senator Frances Fitzgerald.*

\* 14. In page 44, between lines 46 and 47, to insert the following:

“(3) Nothing in subsection (1)(d) or (2) shall be construed as making ineffective any consent which would have been effective if those provisions had not been enacted.”

\* 15. In page 44, line 47, to delete “(3) Where a child” and substitute “(4) Where a child”.

16. In page 44, line 47, to delete “detained” and substitute “housed”.

—*Senator Frances Fitzgerald.*

\* 17. In page 45, line 18, to delete “(4) The Health” and substitute “(5) The Health”.

\* 18. In page 45, line 22, to delete “(5) The Health” and substitute “(6) The Health”.

\* 19. In page 45, line 25, to delete “(6) Where the” and substitute “(7) Where the”.

\* 20. In page 46, line 1, to delete “(7) The Health” and substitute “(8) The Health”.

\* 21. In page 46, line 2, to delete “subsection (6)” and substitute “subsection (7)”.

\* 22. In page 46, line 4, to delete “subsection (6)” and substitute “subsection (7)”.

SECTION 12

23. In page 61, between lines 37 and 38, to insert the following:

“(b) in subsection (1) by the substitution of “shall” for “may, if it is satisfied that it is necessary in the interests of the child and in the interests of justice to do so”.”

—*Senator Frances Fitzgerald.*

SECTION 13

24. In page 63, to delete lines 5 to 9.

—*Senator Frances Fitzgerald.*

SECTION 22

25. In page 66, before section 22, to insert the following new section:

“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 for so long as the Executive is satisfied as to his need for assistance and, subject to paragraph (b), he has not attained the age of 21 years.

[ SECTION 22 ]

(b) Where the Health Service Executive is assisting a person in accordance with subsection (2)(b), and 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 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 to be visited or assisted;

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

(iii) by placing him 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;

(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 is to be provided by regulation.

(3) Any arrangement made by a health board under section 55(4) or (5) of the Health Act, 1953, in force immediately before the commencement of this section shall continue in force as if made under this section.

(4) In providing assistance under this section, a health board shall comply with any general directions given by the Minister.

(5) 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 2010).”.”.

—*Senators Alex White, Michael McCarthy, Brendan Ryan, Phil Prendergast, Ivana Bacik, Dominic Hannigan.*

*Section opposed.*

—*Senators Alex White, Michael McCarthy, Brendan Ryan, Phil Prendergast, Ivana Bacik, Dominic Hannigan.*

**26.** In page 66, line 2, after “amended” to insert the following:

“in subsection (1) the substitution of “shall” for “may” and,”.

—*Senator Frances Fitzgerald.*

SECTION 35

*Section opposed.*

—*Senators Alex White, Michael McCarthy, Brendan Ryan, Phil Prendergast, Ivana Bacik, Dominic Hannigan.*

[ SECTION 45 ]

SECTION 45

27. In page 72, before section 45, but in Part 6, to insert the following new section:

“Amendment of the  
Child Care Act  
1991.

45.—Section 45 of the Child Care Act 1991 is amended—

- (a) in subsection (1)(a), by substituting “may” with “shall”,
- (b) in subsection (1)(b), by substituting “the board may continue” with “the board shall continue”,
- (c) in subsection (2), by substituting “a health board may assist” with “a health board shall assist”.

—*Senator David Norris.*