



DÁIL ÉIREANN

AN BILLE FÁN NGNÍOMHAIREACHT UM LEANAÍ AGUS AN TEAGHLACH, 2013 CHILD AND FAMILY AGENCY BILL 2013

LEASUITHE COISTE COMMITTEE AMENDMENTS

DÁIL ÉIREANN

AN BILLE FÁN NGNÍOMHAIREACHT UM LEANAÍ AGUS AN TEAGHLACH, 2013 —ROGHFHOCHOISTE

CHILD AND FAMILY AGENCY BILL 2013 —SELECT SUB-COMMITTEE

Leasuithe Amendments

[Note: The page and line references in this list of amendments refer to the line numbers as printed in the Bill.]

SECTION 2

1. In page 10, between lines 1 and 2, to insert the following:

“ “child” means a person under the age of 18 years other than a person who is or has been married;”.

—An tAire Leanaí agus Gnóthaí Óige.

SECTION 8

2. In page 12, subsection (1)(b), line 9, after “the” to insert “educational welfare,”.

—Caoimhghín Ó Caoláin, Robert Troy.

3. In page 12, subsection (1)(b), line 10, after “children” to insert the following:

“by ensuring all services engage in prevention and early intervention practice”.

—Robert Troy.

4. In page 12, subsection (1)(c), line 12, to delete “families” and substitute the following:

“all families and the role of parents or guardians therein as integral to the achievement of *paragraph (b)* above”.

—Caoimhghín Ó Caoláin, Robert Troy.

5. In page 12, subsection (1)(d), line 14, after “communities” to insert “or aftercare”.

—Robert Troy.

6. In page 12, subsection (1), between lines 25 and 26, to insert the following:

“(h) ensure the prevention of harm to a child from all forms of neglect and abuse.”.

—Caoimhghín Ó Caoláin.

7. In page 12, lines 30 to 33, to delete subsection (3) and substitute the following:

[SECTION 8]

“(3) Without prejudice to the generality of *subsection (1)*, in supporting and encouraging the effective functioning of families pursuant to *subsection (1)(c)*, the Agency shall provide—

- (a) preventative family support services aimed at promoting the welfare of children,
- (b) care and protection for victims of domestic, sexual or gender-based violence, whether in the context of the family or otherwise, and
- (c) services relating to the psychological welfare of children and their families.”.

—An tAire Leanaí agus Gnóthaí Óige.

8. In page 12, subsection (4), to delete lines 34 to 36 and substitute the following:

“(4) The services referred to in *subsection (3)(c)** do not include—”.

—An tAire Leanaí agus Gnóthaí Óige.

[*This is a reference to the subsection proposed to be inserted by amendment 7.]

9. In page 12, subsection (4), line 36, to delete “but do not include the provision of” and substitute the following:

“and include the provision of all of these services”.

—Robert Troy.

10. In page 13, subsection (5), lines 5 and 6, to delete “and accountability” and substitute “, accountability and consistency”.

—Caoimhghín Ó Caoláin, Robert Troy.

11. In page 13, between lines 6 and 7, to insert the following subsection:

“(6) In the performance of its functions, the Agency shall have regard to the principles of equality and non-discrimination.”.

—Caoimhghín Ó Caoláin, Robert Troy.

12. In page 13, subsection (8), line 12, after “shall” to insert “facilitate and”.

—Robert Troy.

13. In page 13, subsection (8), line 12, after “inter-agency” to insert “and intra-agency”.

—Caoimhghín Ó Caoláin, Robert Troy.

14. In page 13, subsection (11), line 21, to delete “The” and substitute “Subject to this Act, the”.

—An tAire Leanaí agus Gnóthaí Óige.

SECTION 9

15. In page 13, lines 26 to 28, to delete subsection (1) and substitute the following:

“9.—(1) The Agency shall, in performing its functions under *section 8(1)(a)*, *(b)* or *(c)* in respect of an individual child or family, regard the best interests of the child as a primary consideration.”.

[SECTION 9]

—Caoimhghín Ó Caoláin, Robert Troy.

16. In page 13, subsection (2), line 31, after “2010,” to insert the following:

“whether in proceedings before a court or otherwise”.

—Caoimhghín Ó Caoláin, Robert Troy.

17. In page 13, lines 33 to 36, to delete subsection (3) and substitute the following:

“(3) The Agency shall consult when planning and reviewing the provision of services in connection with the performance of functions under *section 8(1)(a), (b) or (c)* where relevant, and ensure that due consideration is given to the views of children as part of any consultation processes undertaken.”.

—Caoimhghín Ó Caoláin.

18. In page 13, subsection (3), line 33, after “shall,” to insert “consult,”.

—Robert Troy.

19. In page 13, subsection (3), to delete lines 35 and 36 and substitute the following:

“*section 8(1)*, to ensure that due consideration is given to the views of children as part of any consultation processes undertaken.”.

—Robert Troy.

20. In page 13, subsection (3), line 36, to delete “as part of any consultation processes undertaken”.

—An tAire Leanaí agus Gnóthaí Óige.

21. In page 13, lines 37 to 42, to delete subsection (4) and substitute the following:

“(4) The Agency shall, in performing its functions in respect of an individual child under *section 8* ensure that the views of that individual child, where that child is capable of forming his or her own views, be ascertained and given due weight with regard to the age and maturity of the child.”.

—Caoimhghín Ó Caoláin.

22. In page 13, subsection (4), lines 38 to 42, to delete all words from and including “under” in line 38 down to and including “child” in line 42 and substitute the following:

“under *section 8(1)(a), (b) or (c)*, whether in proceedings before a court or otherwise ensure that the views of that individual child, where that child is capable of forming and expressing his or her own views, be ascertained and given due weight in accordance to the age and maturity of the child”.

—Robert Troy.

23. In page 13, subsection (4), lines 38 and 39, to delete “or the Adoption Act 2010” and substitute the following:

“, the Education (Welfare) Act 2000, the Adoption Act 2010 or *section 8(1)(c) or 8(3)**”.

—An tAire Leanaí agus Gnóthaí Óige.

[SECTION 9]

[*This is a reference to the subsection proposed to be inserted by amendment 7.]

SECTION 13

24. In page 15, subsection (2)(f), lines 31 and 32, to delete all words from and including “the” where it secondly occurs in line 31 down to and including “Skills” in line 32 and substitute “any Minister”.

—Caoimhghín Ó Caoláin, Robert Troy.

SECTION 16

25. In page 17, subsection (3), line 34, to delete “sections” and substitute “section”.

—An tAire Leanaí agus Gnóthaí Óige.

SECTION 19

26. In page 18, between lines 16 and 17, to insert the following subsection:

“(5) The Board shall always include three individuals with experience or knowledge of the legal environment as it pertains to children and families; the disciplines of child protection, psychology, family support and therapeutic services.”.

—Caoimhghín Ó Caoláin, Robert Troy.

SECTION 22

27. In page 21, subsection (6), line 17, to delete “5 ordinary” and substitute “4 ordinary”.

—An tAire Leanaí agus Gnóthaí Óige.

28. In page 21, subsection (6), line 18, to delete “of whom one shall be” and substitute “and”.

—An tAire Leanaí agus Gnóthaí Óige.

SECTION 40

29. In page 31, subsection (2), line 30, to delete “subsection (2)” and substitute “subsection (1)”.

—An tAire Leanaí agus Gnóthaí Óige.

SECTION 41

30. In page 32, subsection (3), lines 12 and 13, to delete all words from and including “the” where it firstly occurs in line 12 down to and including “Skills” in line 13 and substitute “any Minister”.

—Caoimhghín Ó Caoláin, Robert Troy.

SECTION 46

31. In page 35, subsection (8), line 13, to delete “chief executive officer” and substitute “chairperson”.

—An tAire Leanaí agus Gnóthaí Óige.

[SECTION 47]

SECTION 47

32. In page 35, subsection (1), line 23, after “to” where it firstly occurs to insert “the Board of”.

—Caoimhghín Ó Caoláin, Robert Troy.

33. In page 35, subsection (2), line 30, after “section” to insert “insofar as practicable”.

—Robert Troy.

34. In page 35, subsection (4), line 36, to delete “chief executive officer” and substitute “chairperson”.

—An tAire Leanaí agus Gnóthai Óige, Robert Troy.

35. In page 35, subsection (4), line 36, to delete “chief executive officer” and substitute “Chairperson of the Board”.

—Caoimhghín Ó Caoláin.

36. In page 35, subsection (5), line 41, after “functions” to insert the following:

“and must be in accordance with *section 8* and *section 9*.”

—Caoimhghín Ó Caoláin.

37. In page 35, after line 46, to insert the following subsection:

“(7) Any direction under this section must be in accordance with *sections 8* and *9* of this Act.”

—Robert Troy.

SECTION 48

38. In page 36, between lines 10 and 11, to insert the following subsection:

“(4) A direction given by the Minister under *subsection (1)* shall not interfere with the exercise of professional judgement in a particular case in the performance by the Agency of its functions and must be in accordance with *section 8* and *section 9*.”

—Caoimhghín Ó Caoláin.

39. In page 36, between lines 10 and 11, to insert the following subsection:

“(4) A direction given by the Minister under *subsection (1)* shall not interfere with the exercise of professional judgment in a particular case in the performance by the Agency of its functions.”

—Robert Troy.

40. In page 36, between lines 10 and 11, to insert the following subsection:

“(4) Any direction under this section must be in accordance with *sections 8* and *9* of this Act.”

—Robert Troy.

SECTION 54

41. In page 39, subsection (1)(a), line 5, to delete “*sections*” and substitute “*section*”.

—An tAire Leanaí agus Gnóthai Óige.

[SECTION 56]

SECTION 56

42. In page 41, subsection (1), line 3, after “services” to insert the following:

“or services provided pursuant to *section 8(3)(b)**”.

—An tAire Leanaí agus Gnóthaí Óige.

[*This is a reference to the subsection proposed to be inserted by amendment 7.]

43. In page 42, between lines 25 and 26, to insert the following subsection:

“(16) A service provider shall operate in compliance with *section 9* where applicable.”.

—Caoimhghín Ó Caoláin, Robert Troy.

44. In page 42, between lines 25 and 26, to insert the following subsection:

“(16) In performing its functions under this section the Agency may not interfere with the independence or general business of a voluntary body.”.

—Robert Troy.

45. In page 42, between lines 25 and 26, to insert the following subsection:

“(16) The criteria used by the Agency to guide its decisions in relation to the development, expansion or reduction of services, whether provided by a voluntary body or service provider, shall be based on the needs of the children concerned. In the interests of transparency they should also be made public. In the event of the closure of a service, a child shall be transferred to another appropriate service prior to the closure.”.

—Robert Troy.

SECTION 57

46. In page 43, between lines 7 and 8, to insert the following subsection:

“(7) A service provider shall operate in compliance with *section 9* where applicable.”.

—Caoimhghín Ó Caoláin, Robert Troy.

SECTION 58

47. In page 44, between lines 2 and 3, to insert the following subsection:

“(11) A service provider shall operate in compliance with *section 9* where applicable.”.

—Caoimhghín Ó Caoláin, Robert Troy.

SECTION 59

48. In page 44, subsection (1), lines 5 and 6, to delete “voluntary body” and substitute “person”.

—An tAire Leanaí agus Gnóthaí Óige.

49. In page 44, subsection (1), line 6, after “provide” to insert “, otherwise than for profit,”.

—An tAire Leanaí agus Gnóthaí Óige.

[SECTION 59]

50. In page 44, subsection (4), to delete lines 15 to 17 and substitute the following:

“(4) The Agency may make arrangements, decided by an independent panel established by the Agency in accordance with specified criteria, including the imposition of requirements on a voluntary body, as it considers appropriate to monitor—”.

—Robert Troy.

51. In page 44, subsection (4), line 16, to delete “voluntary body” and substitute “person”.

—An tAire Leanaí agus Gnóthaí Óige.

52. In page 44, subsection (4)(b), to delete lines 19 to 20, and substitute the following:

“(b) where the person provides services directly to a child or family, the provision of those services by the person concerned.”.

—An tAire Leanaí agus Gnóthaí Óige.

53. In page 44, subsection (5), line 21, to delete “voluntary body” and substitute “person”.

—An tAire Leanaí agus Gnóthaí Óige.

54. In page 44, subsection (6), line 24, to delete “voluntary body” and substitute “person”.

—An tAire Leanaí agus Gnóthaí Óige.

55. In page 44, subsection (7), line 27, to delete “voluntary body” and substitute “person”.

—An tAire Leanaí agus Gnóthaí Óige.

56. In page 44, subsection (7), line 29, to delete “voluntary body” and substitute “person”.

—An tAire Leanaí agus Gnóthaí Óige.

57. In page 44, subsection (8), to delete lines 31 to 36 and substitute the following:

“(8) In this section “service supplemental to services provided by the Agency” means—

(a) the provision of a community development resource to promote child and family support services, or

(b) activities which are ancillary to child and family support services provided by the Agency or by a service provider on its behalf.”.

—An tAire Leanaí agus Gnóthaí Óige.

58. In page 44, between lines 36 and 37, to insert the following subsection:

“(9) A service provider shall operate in compliance with *section 9* where applicable.”.

—Caoimhghín Ó Caoláin, Robert Troy.

59. In page 44, between lines 36 and 37, to insert the following subsection:

[SECTION 59]

“(9) Where a decision has been made not to give further assistance to a voluntary body under *subsections (6) and (7)*, they shall be entitled to appeal that decision to a Sub-Committee of the Board constituted for this purpose.”.

—Robert Troy.

SECTION 69

60. In page 49, subsection (1), line 43, after “Children” to insert “or the Health Information and Quality Authority”.

—Robert Troy.

61. In page 50, between lines 5 and 6, to insert the following subsection:

“(3) The Health Information and Quality Authority shall have an oversight role in the performance of the Agency and its functions as set out in *section 8* of this Act.”.

—Robert Troy.

SECTION 72

62. In page 50, subsection (1), lines 34 and 35, to delete “*subsections (2) and (3)*” and substitute “*subsection (2)**”.

—An tAire Leanaí agus Gnóthaí Óige.

[*This is the appropriate reference if amendment 63 is accepted.]

63. In page 50, lines 36 to 39, to delete subsection (2).

—An tAire Leanaí agus Gnóthaí Óige.

SECTION 81

64. In page 52, lines 43 to 45, to delete all words from and including “, insofar” in lines 43 and 44 down to and including “*section 72,*” in line 45.

—An tAire Leanaí agus Gnóthaí Óige.

SECTION 83

65. In page 53, subsection (1), line 13, after “day” to insert “or days”.

—An tAire Leanaí agus Gnóthaí Óige.

SECTION 89

66. In page 54, before section 89, to insert the following new section:

“Continuation of delegations and sub-delegations made under Health Act 2004.

89.—(1) A delegation or a sub-delegation made under the Health Act 2004 (amended by the Health Service Executive (Governance) Act 2013), which relates to a function transferred to the Agency under this Act, shall continue to have effect where the employee to whom the function was delegated or sub-delegated is transferred to and becomes a member of staff of the Agency under *section 83*.

(2) The Agency may amend or revoke a delegation or sub-delegation referred to in *subsection (1)*.”.

—An tAire Leanaí agus Gnóthaí Óige.

[SECTION 91]

SECTION 91

67. In page 54, before section 91, but in Part 11, to insert the following new section:

“PART 12

AMENDMENT OF CHILD CARE ACT 1991

Amendment of
Child Care Act
1991.

91.—The Child Care Act 1991 is amended by the insertion of the following after Part VII:

“PART VIIA

SUPERVISION OF EARLY YEARS SERVICES

Definitions for
this Part.

58A.—In this Part—

‘Agency’ has the same meaning as it has in the *Child and Family Agency Act 2013*;

‘arts’ has the same meaning as it has in the Arts Act 2003;

‘authorised person’ means a person appointed under section 58I to be an authorised person for the purposes of this Part;

‘competitive sport’ has the same meaning as it has in the Irish Sports Council Act 1999;

‘early years service’ means a service providing—

(a) a pre-school service, or

(b) a school age service;

‘pre-school child’ means a child who has not attained the age of six years, and who is not attending a recognised 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;

‘recognised school’ has the same meaning as it has in the Education Act 1998;

‘recreational sport’ has the same meaning as it has in the Irish Sports Council Act 1999;

‘register’ means the register established and maintained in accordance with section 58C;

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

‘school age service’ means any early years service, play group, day nursery, crèche, day-care or other similar service which—

[SECTION 91]

- (a) caters for children enrolled in a recognised school providing primary education,
- (b) provides a range of activities that are developmental, educational and recreational in manner and which take place outside of school hours, and
- (c) the basis for access to which is made publicly known to the parents and guardians of the children referred to in paragraph (a) of this definition,

but excludes those services—

- (i) solely providing activities relating to—

- (I) the Arts,

- (II) youth work,

- (III) competitive or recreational sport, or

- (IV) tuition,

or

- (ii) for whom statutory provision for inspection exists, prior to the commencement of this section;

‘youth work’ has the same meaning as it has in the Youth Work Act 2001.

Regulations.

58B.—(1) The Minister shall, after consultation with the Minister for Education and Skills and the Minister for the Environment, Community and Local Government, make regulations for the purpose of securing the health, safety and welfare and promoting the development of children attending early years services.

(2) Without prejudice to the generality of subsection (1), regulations may—

- (a) prescribe any matter or thing referred to in this Part as prescribed or to be prescribed,
- (b) prescribe requirements as to the heating, lighting, ventilation, cleanliness, repair and maintenance of premises in which early years services are carried on and as to the equipment and facilities to be provided,
- (c) provide for the enforcement and execution of the regulations by the Agency,
- (d) prescribe the fees to be paid to the Agency by persons carrying on prescribed early years services towards the cost of inspections under this Part,

[SECTION 91]

- (e) prescribe the minimum level of qualifications for any class or classes of persons working in an early years service, and
- (f) prescribe any additional particulars and details required in relation to the register.

(3) Regulations under this section may—

- (a) make different provision for different classes of early years services,
- (b) prescribe different requirements for different classes of early years services,
- (c) provide for exemptions from any provision or provisions of the regulations for a specified class or classes of early years services.

Register.

58C.—(1) The Agency shall establish and maintain a register to be known as the register of prescribed early years services (the ‘register’).

(2) The register shall contain the names of persons who provide prescribed early years services (‘registered providers’), the addresses of the premises on which those services are provided, the number of children each service can accommodate, the date of registration and any other details required by regulations made under section 58B.

(3) The register may be established and maintained in paper or electronic form.

(4) The register shall be available for inspection by members of the public, free of charge, at such times and in such manner as may be prescribed.

Registration.

58D.—(1) A person shall not provide a prescribed early years service unless his or her name is entered in the register as a provider of that service.

(2) The provider of a prescribed early years service or a person who proposes to provide a prescribed early years service shall make an application to the Agency to be registered in the register.

(3) An application under subsection (2) shall be in such form as may be prescribed and accompanied by such fee as may be prescribed.

(4) The period of a registration shall be 3 years from the date of registration.

(5) The Agency may, on application to it in that behalf by a person who is providing or proposes to provide a prescribed early years service—

- (a) register the provider concerned,

[SECTION 91]

(b) register that provider with a condition or conditions attached to that registration,

(c) refuse to register that provider or proposed provider.

(6) The Agency may remove a registered provider from the register.

(7) Where the Agency becomes aware that any particular entered in the register is incorrect it may amend the register to correct the matter.

(8) The Agency shall attach a condition to a registration, refuse a registration, or remove a registered provider from the register where it is satisfied that—

(a) the premises in which the prescribed early years service is, or is proposed to be, provided do not comply with regulations made under this Part, or

(b) the carrying on of the prescribed early years service concerned is not, or will not be, in compliance with such regulations.

(9) The Agency shall refuse to register an applicant and shall remove from the register a registered provider—

(a) who has been convicted of—

(i) an offence under this Part, or

(ii) any offence that in the Agency's opinion renders such person unfit to carry on or be in charge of such service,

(b) who has failed to furnish, within 21 days or such further period as the Agency considers reasonable in the circumstances, the Agency with information the Agency has reasonably required for the performance of its functions under this Part, or has knowingly furnished the Agency with information that is false or misleading in a material particular, or

(c) who has, within the 12 months preceding the date on which registration or removal from the register would take effect, contravened a condition attached to the registration concerned.

(10) The registered provider, not less than 2 months before the expiry of the period of registration concerned, shall apply to the Agency in accordance with subsection (2) to be registered and, where the Agency does not propose to refuse to register or to attach a condition to the registration of the prescribed early years service concerned, it shall renew the registration and the date of registration shall be the day following the day of expiry of the previous registration.

[SECTION 91]

(11) Where the Agency proposes to refuse to register an applicant, to remove a registered provider from the register, to attach a condition to, or amend or revoke a condition attached to, a registration, it shall notify in writing the applicant or the registered provider, as the case may be, of its proposal and of the reasons for it.

(12) A notification under subsection (11) shall include a statement that the person concerned may, within 21 days of the receipt by him of the notification—

- (a) make representations to the Agency, or
- (b) appeal to the District Court under section 58F against the decision.

(13) A person who has been notified of a proposal under subsection (11) may, within 21 days of the receipt of the notification, make representations in writing to the Agency and the Agency shall—

- (a) before deciding the matter, take into consideration any representations duly made to it by that person, and
- (b) notify the person in writing of its decision within 21 days of the receipt of any representations made to it and of the reasons for it.

(14) Where a registered provider ceases to provide a prescribed early years service that provider shall inform the Agency in writing as soon as reasonably practicable of that cessation.

Notice to Health
Service
Executive.

58E.—A person who, before the amendment of this Part by the *Child and Family Agency Act 2013*, gave notice to the Health Service Executive in the manner prescribed under section 51 of the Child Care Act 1991 shall be deemed for the purposes of this Part to be a registered provider for a period of 3 years from the date of commencement of this section.

Appeals to
District Court.

58F.—(1) A registered provider or an applicant, may, within 21 days of the receipt of the notification of a decision under section 58D, appeal to the District Court against a decision of the Agency to—

- (a) refuse to register the applicant under section 58D,
- (b) remove the registered provider from the register, or
- (c) attach a condition, or amend or revoke a condition attached, to that registration.

(2) The court may, if it so thinks proper, confirm the decision of the Agency under section 58D or direct the Agency, as may be appropriate, to register an applicant, to restore the registration of a registered provider, to attach or withdraw a condition or amend or revoke a condition, of the registration concerned.

[SECTION 91]

(3) The jurisdiction conferred on the District Court by this section shall be exercised by the judge of the District Court for the time being assigned to the district court district in which the premises in which the registered provider provides the prescribed early years service, or the premises in which it is proposed that an applicant shall provide a prescribed early years service, is situated.

(4) A decision of the District Court under this section on a question of fact shall be final.

Duty of person providing early years service.

58G.—It shall be the duty of every person providing an early years service to take all reasonable measures to safeguard the health, safety and welfare of children attending the service and to comply with regulations made by the Minister under this Part.

Supervision of early years services.

58H.—The Agency shall cause to be visited from time to time each prescribed early years service in order to ensure that the person carrying on the service is complying with this Part.

Authorised persons.

58I.—(1) The Agency shall appoint such and so many persons as it thinks fit to be authorised persons for the purposes of this Part.

(2) Every authorised person shall be furnished with a warrant of his or her appointment as an authorised person, and, when exercising any power conferred on an authorised person under this Part, shall, if requested by any person affected, produce the warrant to that person.

Inspection by authorised persons.

58J.—(1) An authorised person may, at all reasonable times, enter any premises in which a registered provider is providing a prescribed early years service for the purpose of ensuring compliance with this Part.

(2) A judge of the District Court may, if satisfied on information on oath that there are reasonable grounds for believing that a prescribed early years service is being provided in any premises (including a private dwelling) by a person who is not a registered provider, issue a warrant authorising an authorised person to enter and inspect the premises.

(3) An authorised person who enters any premises in accordance with subsection (1) or (2) may make such examination into the condition of the premises and the care and attention which the children are receiving in those premises as may be necessary for the purposes of this Part.

(4) A warrant under subsection (2) may be issued by a judge of the District Court for the time being assigned to the district court district where the premises, in which the prescribed early years service is being provided, are situated.

Offences under Part VIIA.

58K.—(1) A person who—

[SECTION 91]

- (a) refuses to allow an authorised person to enter any premises in accordance with subsection (1) or (2) of section 58J or who obstructs or impedes an authorised person in the exercise of any of his powers under subsection (3) of that section,
- (b) contravenes a condition of registration under section 58D, or
- (c) contravenes the requirements of this Part or of any regulations made thereunder,

shall be guilty of an offence and shall be liable on summary conviction to a Class A fine.

(2) Where a person is convicted of an offence under this Part the court may, either in addition to or in substitution for the imposition of a fine, by order declare that the person shall be prohibited for such period as may be specified in the order from carrying on an early years service.

(3) A person who contravenes an order made under subsection (2) shall be guilty of an offence and shall be liable on summary conviction to a Class A fine or to imprisonment for a term not exceeding 12 months or both.

Exemptions
from provisions
of this Part.

58L.—For the avoidance of doubt it is hereby declared that the provisions of this Part 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,
- (b) a person taking care of one or more children of the same family and no other such children (other than that person's own such children) in that person's home,
- (c) a person taking care of not more than 3 children of different families (other than that person's own such children) in that person's home.”.”.

—An tAire Leanaí agus Gnóthaí Óige.

Amendments to Amendment No.67

1. In the third line, after “by”, to insert “the deletion of section 58(b) and (c) and”.

—Robert Troy.

2. In the proposed new section 58L, to delete paragraphs (b) and (c).

—Robert Troy.

68. In page 54, before section 91, but in Part 12, to insert the following new section:

“Continuation of appointments, designations and authorisations.

91.—Any person who is, immediately before enactment—

[SECTION 91]

- (a) appointed an educational welfare officer or an authorised person or designated a liaison officer under the Education (Welfare) Act 2000;
- (b) a person authorised to carry out functions under section 12 of the Adoption Act 2010;
- (c) appointed a coordinator under the Children Act 2001;
- (d) a designated officer under the Protections for Persons Reporting Child Abuse Act 1998;
- (e) appointed an authorised person or an authorised officer under the Child Care Act 1991,

continues to hold that appointment, designation or authorisation until it is revoked or amended by the Agency.”.

—An tAire Leanaí agus Gnóthaí Óige.

[Acceptance of this amendment involves the deletion of section 91 of the Bill.]

NEW SECTIONS

69. In page 55, after line 20, to insert the following new section:

“Amendment of the Taxes Consolidation Act 1997. 94.—The Taxes Consolidation Act 1997 is amended by the insertion of the following after section 896B (inserted by the Finance Act 2010):

“896C.—(1) In this section—

‘Acts’ has the meaning assigned to it by section 1078(1);

‘Agency’ means the Child and Family Agency.

(2) The Agency shall, at such intervals as are specified by the Revenue Commissioners, supply to the Revenue Commissioners such information held by the Agency for the purposes of Part VIIA of the Child Care Act 1991 as may be required for the performance of the functions of the Revenue Commissioners under the Acts.”.

—An tAire Leanaí agus Gnóthaí Óige.

70. In page 55, after line 20, to insert the following new section:

“Consequential amendments of other Acts. 95.—The enactments specified in *Schedule 2* are amended as indicated in that Schedule.”.

—An tAire Leanaí agus Gnóthaí Óige.

71. In page 55, after line 20, to insert the following new section:

“94.—(1) At the commencement of this Act section 45 of the Child Care Act 1991 as amended shall now read:

45.—(1) (a) Where a child is subject to a care order, the Child and Family Agency shall, in preparation for that child leaving care and in accordance with subsection (2), work with that child to assess

[*NEW SECTIONS*]

their support needs and develop a support plan with a view to their needs when they leave care. Subject to paragraph (b), the supports that are outlined in the plan as developed and reviewed under subsection (2) shall be available to that child at least until they have attained the age of 21 years.

(b) Where the Agency is assisting a person in accordance with subsection (2)(b), and that person attains the age of 21 years, the board may continue to provide such assistance until it is assessed that the young person no longer requires support, has completed their education and successfully transitioned from care.

(2) (a) Subject to paragraph (b) for each child in the care of the Agency that has reached the age of 16 years, the Agency shall ensure that as soon as practicable, but not later than 6 months after the child reaching the age of 16 years an assessment of the needs of that child is completed, with a view to determining what advice, assistance and support is appropriate for the Agency to provide to that child—

(i) while still in the care of the Agency, and

(ii) when the child has left the care of the Agency,

and shall then prepare a leaving care plan and an aftercare plan for that child.

(b) At the commencement of the *Child and Family Agency Act 2013* any child who has attained the age of 16 years 3 months prior to the commencement of the Act but has not yet attained the age of 18 years or attains the age of 16 years 3 months in the 3 months following the commencement of the Act, the Agency shall ensure that an assessment and pathway plan in accordance with subsection (2) is completed within 6 months of the commencement of the Act but in all cases before the child has reached the age of 18 years.

(3) The Agency shall in line with best practice keep the aftercare plan under regular review.

(4) The Minister may by regulations make provision as to assessments for the purposes of subsection (2).

(5) The regulations may in particular make provision for—

(i) who is to be consulted,

(ii) the way in which an assessment is to be carried out, by whom and when,

(iii) the recording of the results of an assessment,

(iv) the considerations that the Agency is to have regard to in carrying out the assessment.

[*NEW SECTIONS*]

(6) The Agency shall arrange for each young person, subject to this section, to have an aftercare worker until such time as the mutually agreed assessment finds that this support is no longer required.

(7) Subject to the needs assessment, preparation for leaving care plan and the after care plan being agreed as per subsections (2) to (5) the Agency shall make the necessary arrangement, provide appropriate funding and staffing levels to ensure that the needs outlined are met.

(8) Where it appears to the Agency that any state body could, by taking any specified action, help in the exercise of any of the Authority's functions under this Part, the Authority may request the help of that body, specifying the action.

(9) A body whose help is so requested shall comply with the request if it is compatible with that body's own statutory or other duties and obligations and does not unduly prejudice the discharge of any of its functions.

(10) The Minister as soon as practicable but not later than 3 months from the commencement of this Act shall with due reference to subsections (8) and (9) by regulation make all necessary provision for subsections (6) and (7) to be met including but not limited to the provision of—

- (i) benefits, financial support,
- (ii) accommodation,
- (iii) health care,
- (iv) employment, education and training,
- (v) information,
- (vi) advice and assistance,
- (vii) mechanisms to allow representations including complaints from those subject to this section,

and these regulations shall be subject to annual review and reported by the Agency in the annual review as per section 13 of this Act.

(11) In the development of the regulations as per subsection (10) and in the execution of any duty of the Agency under this section the Minister may consult with any Minister where matters relate to the functions of those Ministers.

45A.—(1) The Agency shall take reasonable steps to maintain contact with all children who have been subject to a care order and are no longer in the care of the agency.

(2) Once identified these children referred to in subsection (1) shall be assigned an aftercare worker and be assessed and supported as per section 45.”.

—Caoimhghín Ó Caoláin.

72. In page 55, after line 20, to insert the following new section:

[*NEW SECTIONS*]

“94.—Section 45(1) of the Childcare Act 1991 is amended by the insertion of the following paragraph after paragraph (b):

“(c) where a child is the subject of a care order, the child and family agency shall, in preparation for that child leaving care, work with that child to assess their support needs and develop a support plan with a view to their needs when they leave care.”.”

—Caoimhghín Ó Caoláin.

SCHEDULE 2

73. In page 61, lines 44 to 58, to delete items 16 and 17.

—An tAire Leanaí agus Gnóthaí Óige.

74. In page 73, lines 44 to 56 and in page 74, lines 1 to 12 to delete items 3 and 4 and substitute the following:

“

| | | |
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| 3. | Section 9 | <p>(a) in subsection (1), substitute the following for paragraph (b):</p> <p>“(b) the risk may be the result of any act, failure to act or negligence on the part of—</p> <p>(i) the Executive,</p> <p>(ii) the Agency,</p> <p>(iii) a service provider to which paragraphs (a) or (b) of the definition of service provider applies,</p> <p>(iv) a service provider to which paragraph (c) of the definition of service provider applies,</p> <p>(v) the registered provider of a designated centre to which paragraphs (a)(ii), (iii) or (c) of the definition of designated centre applies,</p> <p>(vi) the registered provider of a designated centre to which paragraphs (a)(i) or (b) of the definition of designated centre applies,</p> <p>(vii) the person in charge of a designated centre referred to in subparagraph (v), if other than its registered provider,</p> |
|----|-----------|--|

[SCHEDULE 2]

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| | | <p>(viii) the person in charge of a designated centre referred to in subparagraph (vi) if other than its registered provider.”,</p> <p>(b) Substitute the following for subsection (2):</p> <p>“(2) The Minister may, if he or she believes on reasonable grounds that—</p> <p>(a) there is a serious risk of the kind mentioned in paragraph (a) of subsection (1), and</p> <p>(b) the risk may be the result of any act, failure or negligence of the kind mentioned in paragraph (b)(i), (iii), (v) or (vii) of subsection (1),</p> <p>require the Authority to undertake an investigation in accordance with this section.</p> <p>(2A) The Minister for Children and Youth Affairs may, if he or she believes on reasonable grounds that—</p> <p>(a) there is a serious risk of the kind mentioned in paragraph (a)(i) of subsection (1), and</p> <p>(b) the risk may be the result of any act, failure or negligence mentioned in paragraph (b)(ii), (iv), (vi) or (viii) of subsection (1),</p> <p>require the Authority to undertake an investigation in accordance with this section.”.</p> |
| 4. | Section 10 | <p>In subsection (2), substitute “it shall submit the proposed standards to the Minister for approval and, where the standards relate to services provided under the <i>Child and Family Agency Act 2013</i>, the Minister shall not approve the proposed standards without the consent of the Minister for Children and Youth Affairs” for “it shall submit the proposed standards to the Minister for approval”.</p> |

—An tAire Leanaí agus Gnóthaí Óige.

SCHEDULE 3

75. In page 76, line 6, column 3, after “Section 10” to insert “and Part VII”

—An tAire Leanaí agus Gnóthaí Óige.

[SCHEDULE 3]

76. In page 76, after line 11 to insert the following:

“

| | | |
|----------------|---|------------------|
| No. 26 of 2007 | The Child Care (Amendment) Act 2007 | Sections 5 to 13 |
|----------------|---|------------------|

”

—An tAire Leanaí agus Gnóthaí Óige.

TITLE

77. In page 9, lines 10 and 11, to delete “AND THE TRANSFER OF THE FUNCTIONS OF THOSE BODIES” and substitute the following:

“; TO PROVIDE FOR THE TRANSFER OF THE FUNCTIONS OF THE NATIONAL EDUCATIONAL WELFARE BOARD”.

—An tAire Leanaí agus Gnóthaí Óige.

78. In page 9, line 15, after “AGENCY” to insert the following:

“; TO AMEND THE CHILD CARE ACT 1991 TO PROVIDE FOR REGISTRATION OF EARLY YEARS SERVICES”.

—An tAire Leanaí agus Gnóthaí Óige.