



An Bille um Chúram Leanaí (Leasú), 2015
Child Care (Amendment) Bill 2015

Meabhrán Mínitheach
Explanatory Memorandum



**AN BILLE UM CHÚRAM LEANAÍ (LEASÚ), 2015
CHILD CARE (AMENDMENT) BILL 2015**

EXPLANATORY MEMORANDUM

Purpose of Bill

The Bill contains three distinct elements relating to:

1. Aftercare,
2. Early years services, and
3. Technical amendments on foot of the Child and Family Agency Act 2013.

1. Aftercare

The legislative provisions regarding aftercare are being strengthened which will involve imposing a statutory duty on the Child and Family Agency (the Agency) to prepare an aftercare plan for an eligible child or eligible adult. The aim is to create an explicit, as opposed to implicit, statement of the Agency's duty to satisfy itself as to the child's or adult's need for assistance by preparing a plan that identifies those needs for aftercare supports.

The general outline of the aftercare provisions of the Bill allow for the -

- (i) preparation of an aftercare plan for an eligible child before they reach the age of 18,
- (ii) preparation of an aftercare plan, on request, for an eligible adult aged 18, 19 or 20, and
- (iii) review of the operation of an aftercare plan where there has been a change in that adult's circumstances or additional needs have arisen.

2. Early years services

The early years services related provisions of the Bill enable the Agency to visit the premises where it is proposed to carry on an early years service, prior to the registration of the premises as an early years service provider, in order to confirm that the premises complies with the requirements under Part VIIA of the Child Care Act 1991.

3. Technical amendments on foot of the Child and Family Agency Act 2013

Following the enactment of the Child and Family Agency Act 2013, a number of amendments, of a technical nature, were identified as being required to a number of Acts amended by the Act of 2013.

Main provisions of Bill

Section 1 - Definition

This section provides for the definitions required in this Bill – defining the “Principal Act” as the Child Care Act 1991 and the “Act of 2011” as the Child Care (Amendment) Act 2011.

Section 2 – Amendment of section 2 of Principal Act

This section of the Bill amends section 2 of the Child Care Act 1991 to provide for additional definitions within that Act of those eligible for an aftercare plan. A child, who has spent 12 months in the care of the State (with either the Child and Family Agency or the HSE), in the 5 years between the ages of 13 and (up to) 18 years old, will be eligible for a statutory aftercare plan.

The criteria employed to determine the eligibility for an adult (i.e. a person aged 18, 19 or 20) for the purposes of an aftercare plan requires such a person to have spent 12 months in the care of the State (with the Child and Family Agency or the HSE) between the ages of 13 and 18.

Furthermore, where a child or adult has been in care (for any period of time between the ages of 13 and 18) and has *also* been accommodated, between the ages of 13 and 18, under section 5 of the Child Care Act 1991, then any periods of time spent in accommodation under Section 5 and that spent in care can be combined to meet the 12 month threshold stipulated.

Finally, and for the avoidance of doubt, references to care also include periods spent in special care under Part IVA of the Child Care Act 1991.

Definitions linking “aftercare plan” and “assessment of need” to their governing provisions within the Bill are also provided.

Section 3 – Amendment of section 23J of Principal Act

This section provides for removal of a reference to section 45 in section 23J of the Child Care Act 1991. This reference is no longer valid on foot of the new aftercare related provisions.

Section 4 - Amendment of section 23NO of Principal Act

This section provides for an amendment to section 23NO (inserted by section 10 of the Child Care (Amendment) Act 2011) of the Child Care Act 1991. The Child and Family Agency, under this provision, will be obliged to produce guidance in relation to the assistance that may be provided in accordance with an aftercare plan, in instances where the person to whom the plan relates has been the subject of an interim special care order or a special care order and is an eligible child or eligible adult.

Section 5 – Amendment of section 45 of Principal Act

This section provides that the Agency shall prepare an aftercare plan for the eligible cohorts of children and adults, detailing the assistance that may be provided, once such a person has reached 18 years of age.

The core age range for such support is 18 to 21, other than in the case of education where the Agency may continue to provide assistance until the completion of the course in which the young person is engaged or until the end of the academic year in which they reach the age of 23, whichever is the earlier.

This section incorporates elements of the current section 45 of the Child Care Act 1991 and provides that implementation is subject to resources.

Section 6 – Section 45A (assessment of need)

This section provides that an assessment of need will be carried out in order to identify the supports and services appropriate to an aftercare plan and sets out the domains to be considered in such an assessment.

Section 7 – Section 45B (aftercare plan – eligible child)

This section provides for an aftercare plan for (i) an eligible child who is in the care of the Agency or (ii) an eligible child who is no longer in the care of the Agency and sets out what an aftercare plan will contain.

In relation to a child who is *in the care of the Agency*, following an assessment of need, the Agency shall prepare an aftercare plan setting out the assistance required to meet the needs identified in the assessment, upon the child turning 18. Such assistance will comprise the supports and services that may be provided directly by the Agency in addition to assistance in accessing other supports and services to which the person may be eligible. An aftercare plan will be prepared six months in advance of the child attaining the age of 18 years or within 3 months of that child becoming an eligible child, whichever is the later.

An eligible child *no longer in the care of the Agency* or a person acting on that child's behalf (parent, guardian or person acting in loco parentis) may request an aftercare plan from the Agency. Upon receipt of such a request, and following an assessment of need, the Agency shall prepare an aftercare plan setting out the assistance required to meet the needs identified in the assessment, upon the child turning 18. Such assistance will comprise the supports and services that may be provided directly by the Agency in addition to assistance in accessing other supports and services to which the person may be eligible.

In the case of an eligible child who is no longer in the care of the Agency an aftercare plan will be prepared within 3 months of receiving a request, or at least six months in advance of the child attaining the age of 18 years, whichever is the later.

The child or young person will also play a central role in the development of the aftercare plan. The Agency shall also consult, in preparing an aftercare plan, with all relevant bodies playing a role in the provision of services and supports required for the aftercare plan. As part of this process, the Agency must have regard to resources available to it in implementing an aftercare plan.

Where the Agency cannot ascertain the views of the eligible child, an aftercare plan shall still be prepared by the Agency. The Agency shall consult with specific people (i.e. mainly those in loco parentis) in preparing an aftercare plan, other than in such circumstances as the Agency deems it not in the best interest of the child to do so.

It should also be noted that, in conducting such consultation the Agency may have recourse to a person who has a close personal or professional relationship with the child in question.

The terms “guardian”, “public body” and “service” are also defined for the purposes of this section.

Section 8 – Section 45C (aftercare plan – eligible adult)

This section provides that the Agency shall prepare an aftercare plan for an eligible adult where none had been previously prepared and sets out what an aftercare plan will contain.

The Agency shall, following a request from an eligible adult or a person authorised by that adult, carry out an assessment of need for the eligible adult and prepare an aftercare plan setting out the assistance required to meet the needs identified in the assessment. Such assistance will comprise the supports and services that may be provided directly by the Agency in addition to assistance in accessing other supports and services to which the person may be eligible.

The aftercare plan for an eligible adult will be prepared within 3 months of a request for such a plan and the Agency shall consult, in preparing an aftercare plan, with all relevant bodies playing a role in the provision of services and supports required for the aftercare plan. The Agency must also have regard to resources available to it in implementing an aftercare plan.

The Agency may consult with all people whom, in the view of the Agency, would be of assistance in preparing an aftercare plan for the eligible adult. Such consultation can only take place with the consent of the adult concerned.

For the avoidance of doubt, where the Agency is providing assistance to a person under the original section 45, they will continue to do so as if that section had not been amended. Also, if that person satisfies the eligibility criteria for an “eligible adult”, they may request an aftercare plan.

Section 9 – Section 45D (review of aftercare plan)

This section provides that the Agency shall conduct a review of the operation of an aftercare plan on request by a young person or someone acting on their behalf if any of the following conditions are met:

- (i) there has been a significant change in the circumstances of the young person,
- (ii) the assistance being provided under the aftercare plan does not meet the need identified, or
- (iii) additional support requirements for the young person have arisen.

Such reviews are to be conducted within 3 months of receipt of a request.

The Agency will, in conducting any reviews, have regard to those service providers for whom any such review would have relevance and consult accordingly.

The Agency may also, with the consent of the young person, consult with individuals who the Agency considers may be of assistance in reviewing the plan.

Aftercare plans may be updated following a review. Any such updating shall have due regard to the resources available to the Agency to implement the updated plan.

Section 10 – Amendment of section 58D of Principal Act

This section provides that proposed providers who refuse permission to an authorised person to enter a premises for a pre-registration visit can be refused registration.

Section 11 – Amendment of section 58H of Principal Act

This section provides that the Agency may cause to be visited the premises where it is proposed to carry on an early years service to ascertain if the premises complies with Part VIIA of the Child Care Act 1991.

Section 12 – Amendment of section 58J of Principal Act

This section provides that an authorised person may visit a premises where it is proposed to carry on an early years service in order to ascertain if the premises, by carrying out such examinations into the condition of the premises as are necessary, complies with Part VIIA of the Child Care Act 1991.

Section 13 and Schedule 1 Part 1 – Miscellaneous amendments to Principal Act

This section provides for technical amendments to the Child Care Act 1991 on foot of the commencement of the Child and Family Agency Act 2013.

Section 14 and Schedule 1 Part 2 – Amendments of other Acts

This section provides for technical amendments to a number of Acts on foot of the commencement of the Child and Family Agency Act 2013.

Section 15 and Schedule 2 – Repeals

This section provides for a small number of repeals.

Section 16 – Short title, collective citation and commencement

This is a standard citation and commencement provision.

An Roinn Leanaí agus Gnóthaí Óige,

Deireadh Fomhair, 2015.