Changes to Legislation: as of 11 November 2026, this Act is up to date with all changes known to be in force.

Number 17 *of* 1991

CHILD CARE ACT 1991

REVISED

Updated to 21 July 2026

This Revised Act is an administrative consolidation of the *Child Care Act 1991*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including the *Guardianship of Infants and Child Care (Amendment) Act 2026* (30/2026), enacted 21 July 2026, and all statutory instruments up to and including the *European Union (Restrictive Measures against Cyber-attacks threatening the Union or its Member States) (No. 3) Regulations 2026* (S.I. No. 365 of 2026), made 21 July 2026, were considered in the preparation of this Revised Act.

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CHILD CARE ACT 1991

REVISED

Updated to 21 July 2026

AN ACT TO PROVIDE FOR THE CARE AND PROTECTION OF CHILDREN AND FOR RELATED MATTERS. [10*th July*, 1991]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

Preliminary

Short title and commencement.

1.—(1) This Act may be cited as the Child Care Act, 1991.

(2) This Act shall come into operation on such day or days as, by order or orders made by the Minister under this section, may be fixed either generally or with reference to any particular purpose or provision, and different days may be so fixed for different purposes and different provisions.

Interpretation.

2.—(1) In this Act, except where the context otherwise requires—

F1**[**"Act of 2001" means the Children Act 2001;**]**

F2**[**"Act of 2011" means the Child Care (Amendment) Act 2011;

"aftercare plan" means an aftercare plan prepared under *section 45B* or *45C*;

"assessment of need" shall be construed in accordance with *section 45A*;**]**

F3**[**"broadcast" has the same meaning as it has in section 2 of the Broadcasting Act 2009; **]**

F4**[**...**]**

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

F5**[**"Data Protection Regulation" means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016[1] on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);**]**

F2**[**"eligible adult", subject to *subsections (1A)* and *(1B)*, means a person aged 18, 19 or 20 years who was in the care of the Child and Family Agency for a period of not less than 12 months in the 5 year period immediately prior to the person attaining the age of 18 years;

[1] O.J. No. L. 119, 4.5.2016, p. 1

"eligible child", subject to *subsections (1C)* and *(1D)*, means a child aged 16 years or over who—

(*a*) is in the care of the Child and Family Agency and has been in the care of the Agency for a period of not less than 12 months since attaining the age of 13 years, or

(*b*) was in the care of the Child and Family Agency for a period of not less than 12 months since attaining the age of 13 years but is no longer in the care of the Agency;**]**

"functions" includes powers and duties;

F6**[**...**]**

F1**[**"interim special care order" has the meaning assigned to it by *Part IVA* (as amended by the Child Care (Amendment) Act 2011); **]**

F7**[**"Minister" means the Minister for Children and Youth Affairs.**]**

"parents" includes a surviving parent and, in the case of a child who has been adopted under the Adoption Acts, 1952 to 1988, or, where the child has been adopted outside the State, whose adoption is recognised by virtue of the law for the time being in force in the State, means the adopter or adopters or the surviving adopter;

F8**[**"personal data" has the same meaning as it has in the Data Protection Regulation;**]**

"prescribed" means prescribed by regulations made by the Minister.

F3**[**"publish" means publish, other than by way of broadcast, to the public or a portion of the public.**]**

F1**[**"special care" has the meaning assigned to it by *Part IVA* (as amended by the Child Care (Amendment) Act 2011);

"special care order" has the meaning assigned to it by *Part IVA* (as amended by the Child Care (Amendment) Act 2011);

"special care unit" has the meaning assigned to it by *Part IVA* (as amended by the Child Care (Amendment) Act 2011).**]**

F2**[**(1A) (*a*) Where prior to the coming into operation of section 82 of the Child and Family Agency Act 2013 a person was in the care of the Health Service Executive in accordance with this Act for any period of time in the 5 year period immediately prior to the person attaining the age of 18 years, that period of time shall be considered as time spent in the care of the Child and Family Agency for the purpose of satisfying the 12 month period referred to in the definition of eligible adult.

(*b*) Where a person was in the care of the Child and Family Agency for a period (including a period referred to in *paragraph (a)*) of less than 12 months in the 5 year period immediately prior to the person attaining the age of 18 years, a period of time spent by that person in accommodation made available by the Agency, or by the Health Service Executive prior to the coming into operation of section 82 of the Child and Family Agency Act 2013, under *section 5* in the 5 year period immediately prior to the person attaining the age of 18 years shall be reckonable for the purpose of satisfying the 12 month period referred to in the definition of eligible adult.

(1B) A reference in the definition of eligible adult to the care of the Child and Family Agency includes—

(*a*) a reference to the care of the Child and Family Agency pursuant to an interim special care order or a special care order under *Part IVA*, and

(*b*) on or after the coming into operation of section 10 of the Act of 2011, a reference to special care within the meaning of *Part IVA*.

(1C) (*a*) Where prior to the coming into operation of section 82 of the Child and Family Agency Act 2013 a child was in the care of the Health Service Executive in accordance with this Act for any period of time since attaining the age of 13 years, that period of time shall be considered as time spent in the care of the Child and Family Agency for the purpose of satisfying the 12 month period referred to in the definition of eligible child.

(*b*) Where a child is or has been in the care of the Child and Family Agency for a period (including a period referred to in *paragraph (a)*) of less than 12 months since attaining the age of 13 years, a period of time spent by the child in accommodation made available by the Agency, or by the Health Service Executive prior to the coming into operation of section 82 of the Child and Family Agency Act 2013, under *section 5* since attaining the age of 13 years shall be reckonable for the purpose of satisfying the 12 month period referred to in the definition of eligible child.

(1D) A reference in the definition of eligible child to the care of the Child and Family Agency includes—

(*a*) a reference to the care of the Child and Family Agency pursuant to an interim special care order or a special care order under *Part IVA*, and

(*b*) on or after the coming into operation of section 10 of the Act of 2011, a reference to special care within the meaning of *Part IVA*.**]**

(2) In this Act—

(*a*) a reference to a Part, section or Schedule is to a Part, section or Schedule of this Act unless it is indicated that a reference to some other enactment is intended;

(*b*) a reference to a subsection, paragraph or subparagraph is to the subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended;

(*c*) a reference to any other enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended or extended by or under any other enactment, including this Act.

PART II

Promotion of Welfare of Children

Functions of F13**[**Child and Family Agency**]**.

3.—(1) It shall be a function of F14**[**the F13**[**Child and Family Agency**]]** to promote the welfare of children F15**[**...**]** who are not receiving adequate care and protection.

(2) In the performance of this function, F16**[**the F13**[**Child and Family Agency**]]** shall—

(*a*) take such steps as it considers requisite to identify children who are not receiving adequate care and protection and co-ordinate information from all relevant sources relating to children F17**[**...**]**;

(*b*) having regard to the rights and duties of parents, whether under the Constitution or otherwise—

(i) regard the welfare of the child as the first and paramount consideration, and

(ii) in so far as is practicable, give due consideration, having regard to his age and understanding, to the wishes of the child; and

(*c*) have regard to the principle that it is generally in the best interests of a child to be brought up in his own family.

(3) F18**[**The F13**[**Child and Family Agency**]]** shall, in addition to any other function assigned to it under this Act or any other enactment, provide child care and family

support services, and may provide and maintain premises and make such other provision as it considers necessary or desirable for such purposes, subject to any general directions given by the Minister under *section 69*.

(4) F19**[**...**]**

Voluntary care.

4.—(1) Where it appears to F20**[**the F21**[**Child and Family Agency**]** that a child requires**]** care or protection that he is unlikely to receive unless he is taken into its care, it shall be the duty of F20**[**the F22**[**Agency**]]** to take him into its care under this section.

(2) Without prejudice to the provisions of *Parts III*, *IV* F23**[**, *IVA* (as amended by the Child Care (Amendment) Act 2011)**]** and *VI*, nothing in this section shall authorise F24**[**the F21**[**Child and Family Agency**]]** to take a child into its care against the wishes of a parent having custody of him or of any person acting *in loco parentis* or to maintain him in its care under this section if that parent or any such person wishes to resume care of him.

(3) Where F25**[**the F21**[**Child and Family Agency**]]** has taken a child into its care under this section, it shall be the duty of F25**[**the F22**[**Agency**]]**—

(*a*) subject to the provisions of this section, to maintain the child in its care so long as his welfare appears to F25**[**the F22**[**Agency**]]** to require it and while he remains a child, and

(*b*) to have regard to the wishes of a parent having custody of him or of any person acting *in loco parentis* in the provision of such care.

(4) Without prejudice to the provisions of *Parts III*, *IV* and *VI*, where F26**[**the F21**[**Child and Family Agency**]]** takes a child into its care because it appears that he is lost or that a parent having custody of him is missing or that he has been deserted or abandoned, F26**[**the F22**[**Agency**]]** shall endeavour to reunite him with that parent where this appears to F26**[**the F22**[**Agency**]]** to be in his best interests.

(5) F27**[**A child who was taken into care under this section by the Health Service Executive before the coming into operation of the Child and Family Agency Act 2013 and who is in the care of the Health Service Executive immediately before the establishment day of that Agency shall be deemed to have been taken into care by the Agency and to be in its care on and from that day.**]**

Accommodation for homeless children.

5.—Where it appears to F28**[**the F29**[**Child and Family Agency**]** that a child is homeless, the F30**[**Agency**]** shall**]** enquire into the child's circumstances, and F31**[**if it**]** is satisfied that there is no accommodation available to him which he can reasonably occupy, then, unless the child is received into the F32**[**care of the F30**[**Agency**]]** under the provisions of this Act, F33**[**the F30**[**Agency**]** shall take**]** such steps as are reasonable to make available suitable accommodation for him.

Provision of adoption service.

6.—F34**[**(1) The F35**[**Child and Family Agency**]** shall provide, or ensure the provision of, a service for the adoption of children in accordance with the Adoption Act 2010.**]**

F34**[**(2) For the purposes of this section, the F35**[**Child and Family Agency**]** may enter into arrangements with an accredited body within the meaning of section 3 (1) of the Adoption Act 2010.**]**

(3) F36**[**The F35**[**Child and Family Agency**]]** may take a child into its care with a view to his adoption and may maintain him in such care in accordance with the provisions of this Act until he is placed for adoption.

(4) Without prejudice to *Parts III*, *IV* and *VI*, nothing in this section shall authorise F37**[**the F35**[**Child and Family Agency**]]** to take a child into its care against the wishes of a parent having custody of him or of any person acting *in loco parentis* or to maintain him in its care under this section if that parent or any such person wishes to resume care of him.

(5) The provisions of *section 10* shall apply with any necessary modifications in relation to any arrangement made under *subsection (2)*.

Child care advisory committees.

7.—F38**[**(1) The Child and Family Agency shall establish one or more child care advisory committees to advise the Agency on the performance of its functions under this Act and the Agency shall consider and have regard to any advice so tendered to it.**]**

F39**[**(1A) A child care advisory committee that, before the amendment of this section by the Child and Family Agency Act 2013, was established for a functional area of the Executive and that was in existence immediately before the establishment of the Child and Family Agency shall be deemed to have been established by the Agency in compliance with *subsection (1)* of this section.**]**

(2) A child care advisory committee shall be composed of persons with a special interest or expertise in matters affecting the welfare of children, including representatives of voluntary bodies providing child care and family support services.

(3) A person shall not receive any remuneration for acting as a member of a child care advisory committee, but F40**[**the F41**[**Child and Family Agency**]]** may make payments to any such member in respect of travelling and subsistence expenses incurred by him in relation to the business of the committee.

(4) Payments under this section shall be in accordance with a scale determined by the Minister, with the consent of the Minister for Finance.

(5) The Minister shall give general directions in relation to child care advisory committees which may include directions on any matter relating to the membership, constitution or business of committees (including a provision empowering a committee to co-opt one or more members) and F42**[**the F41**[**Child and Family Agency**]** and each child care advisory committee**]** shall comply with any such directions.

F43**[**(5A) Directions given by the Minister for Health in relation to child care advisory committees in existence immediately before the establishment day of the Child and Family Agency shall, subject to the amendment or revocation of those directions under *subsection (5B)*, apply to child care advisory committees established or deemed to have been established by the Agency, unless the Minister otherwise directs.

(5B) The Minister may amend or revoke directions given in relation to child care advisory committees.**]**

(6) F44**[**The F41**[**Child and Family Agency**]]** may, with the consent of the Minister, and shall, if so directed by the Minister, establish more than one child care advisory committee F45**[**...**]** and where more than one committee is established the provisions of *subsection (1)* shall apply with the necessary modifications.

(7) Each child care advisory committee shall—

(*a*) have access to non-personal information in relation to child care and family support services in its area,

(*b*) consult with voluntary bodies providing child care and family support services in its area,

(*c*) report on child care and family support services in its area, either on its own initiative or when so requested by the F41**[**Child and Family Agency**]**,

(*d*) review the needs of children in its area who are not receiving adequate care and protection,

and where more than one child care advisory committee is established F46**[**...**]**, the provisions of this subsection shall apply with the necessary modifications.

Review of services.

8.—F47**[**(1) The Child and Family Agency shall—

(*a*) not later than 6 months after the establishment day of the Agency, prepare the report that, but for the amendment of this section by the Child and Family Agency Act 2013, the Health Service Executive would have been required to have prepared under this section, and

(*b*) annually thereafter prepare a report on the adequacy of the child care and family support services available.**]**

(2) Without prejudice to the generality of *subsection (1)*, F48**[**the F49**[**Child and Family Agency**]]** in preparing a report under this section shall have regard to the needs of children who are not receiving adequate care and protection and, in particular—

(*a*) children whose parents are dead or missing,

(*b*) children whose parents have deserted or abandoned them,

(*c*) children who are in the care of F50**[**the F51**[**Agency**]]**,

(*d*) children who are homeless,

(*e*) children who are at risk of being neglected or ill-treated, and

(*f*) children whose parents are unable to care for them due to ill-health or for any other reason.

F52**[**(3) The Child and Family Agency shall give notice of the preparation of a report under *subsection (1)* to—

(*a*) each child care advisory committee, and

(*b*) such bodies as the Agency sees fit whose purposes include the provision of child care and family support services,

and shall have regard to any views or information furnished by such committees or bodies in the preparation of the report.**]**

(4) F53**[**The F49**[**Child and Family Agency**]]** shall submit a copy of any report prepared under this section to the Minister and may make copies of any such report available to such bodies as are mentioned in *subsection (3) (b)*.

Provision of services by voluntary bodies and other persons.

9.—(1) F54**[**...**]**

F55**[**(2) Nothing in the Child and Family Agency Act 2013 shall empower the Child and Family Agency to delegate to a voluntary body or to any other person the duty conferred on it under *section 4* to receive certain children into care or the power to apply for an order under *Part III*, *IV*, *IVA* (as amended by the Child Care (Amendment) Act 2011) or *VI*.**]**

Assistance for voluntary bodies and other persons.

10.— F56**[**...**]**

Research.

11.—(1) The Minister may conduct or assist other persons in conducting research into any matter connected with the care and protection of children or the provision of child care and family support services.

(2) F57**[**The F58**[**Child and Family Agency**]]** may conduct or assist other persons in conducting research into any matter connected with the functions assigned to F57**[**the F59**[**Agency**]]** under this Act.

PART III

Protection of Children in Emergencies

Power of Garda Síochána to take a child to safety.

12.—(1) Where a member of the Garda Síochána has reasonable grounds for believing that—

(*a*) there is an immediate and serious risk to the health or welfare of a child, and

(*b*) it would not be sufficient for the protection of the child from such immediate and serious risk to await the making of an application for an emergency care order by F60**[**the F61**[**Child and Family Agency**]]** under *section 13*, F62**[**or an application for a warrant under *section 35***]**.

the member, accompanied by such other persons as may be necessary, may, without warrant, enter (if need be by force) any house or other place (including any building or part of a building, tent, caravan or other temporary or moveable structure, vehicle, vessel, aircraft or hovercraft) and remove the child to safety.

(2) The provisions of *subsection (1)* are without prejudice to any other powers exercisable by a member of the Garda Síochána.

(3) Where a child is removed by a member of the Garda Síochána in accordance with *subsection (1)*, the child shall as soon as possible be delivered up to the custody of the F61**[**Child and Family Agency**]**.

(4) Where a child is delivered up to the custody of F63**[**the F61**[**Child and Family Agency**]]** in accordance with *subsection (3)*, F63**[**the F64**[**Agency**]]** shall, unless it returns the child to the parent having custody of him or a person acting *in loco parentis* F65**[**or an order referred to in *section 35* has been made in respect of the child**]**, make application for an emergency care order at the next sitting of the District Court held in the same district court district or, in the event that the next such sitting is not due to be held within three days of the date on which the child is delivered up to the custody of F63**[**the F64**[**Agency**]]**, at a sitting of the District Court, which has been specially arranged under *section 13(4)*, held within the said three days, and it shall be lawful for F63**[**the F64**[**Agency**]]** to retain custody of the child pending the hearing of that application.

F66**[**(5) Where a child was removed to safety in accordance with *subsection (1)* of this section or section 254(4) of the Children Act 2001 and the child is not delivered up to the custody of the Health Service Executive before the establishment day of the Child and Family Agency—

(*a*) the child shall as soon as possible be delivered up to the custody of the Agency, and

(*b*) *subsection (4)* of this section applies in relation to the child as though the child had been delivered up to the Agency in accordance with *subsection (3)* of this section.**]**

Emergency care order.

13.—(1) If a justice of the District Court is of opinion on the application of F69**[**the F70**[**Child and Family Agency**]]** that there is reasonable cause to believe that—

(*a*) there is an immediate and serious risk to the health or welfare of a child which necessitates his being placed in the care of F69**[**the F70**[**Child and Family Agency**]]**, or

(*b*) there is likely to be such a risk if the child is removed from the place where he is for the time being,

the justice may make an order to be known and in this Act referred to as an "emergency care order".

(2) An emergency care order shall place the child under the care of F71**[**the F70**[**Child and Family Agency**]]** for a period of eight days or such shorter period as may be specified in the order.

(3) Where a justice makes an emergency care order, he may for the purpose of executing that order issue a warrant authorising a member of the Garda Síochána, accompanied by such other members of the Garda Síochána or such other persons as may be necessary, to enter (if need be by force) any house or other place specified in the warrant (including any building or part of a building, tent, caravan or other temporary or moveable structure, vehicle, vessel, aircraft or hovercraft)

where the child is or where there are reasonable grounds for believing that he is and to deliver the child into the custody of the F70**[**Child and Family Agency**]**.

(4) The following provisions shall have effect in relation to the making of emergency care orders—

(*a*) any such order shall, subject to *paragraph* (*b*), be made by the justice for the district in which the child resides or is for the time being;

(*b*) where a justice for the district in which the child resides or is for the time being is not immediately available, an order may be made by any justice of the District Court;

(*c*) an application for any such order may, if the justice is satisfied that the urgency of the matter so requires, be made *ex parte*;

(*d*) an application for any such order may, if the justice is satisfied that the urgency of the matter so requires, be heard and an order made thereon elsewhere than at a public sitting of the District Court.

(5) An appeal from an emergency care order shall not stay the operation of the order.

(6) It shall not be necessary in any application or order under this section to name the child if such name is unknown.

(7) (*a*) Where a justice makes an emergency care order, he may, of his own motion or on the application of any person, give such directions (if any) as he thinks proper with respect to—

(i) whether the address or location of the place at which the child is being kept is to be withheld from the parents of the child, or either of them, a person acting *in loco parentis* or any other person;

(ii) the access, if any, which is to be permitted between the child and any named person and the conditions under which the access is to take place;

(iii) the medical or psychiatric examination, treatment or assessment of the child.

(*b*) A direction under this subsection may be given at any time during the currency of the order and may be varied or discharged on the application of any person.

Notification to be given by F74**[**Child and Family Agency**]**.

14.—(1)Where a child is delivered up to, or placed in the custody of, F75**[**the F74**[**Child and Family Agency**]** under this Part, the F76**[**Agency**]]** shall as soon as possible inform or cause to be informed a parent having custody of him or a person acting *in loco parentis* of that delivery or placement unless that parent or person is missing and cannot be found.

(2)For the purposes of this section, a person shall be deemed to have been informed of the placing of a child in the custody of F77**[**the F74**[**Child and Family Agency**]]** under *section 13* if he is given or shown a copy of the emergency care order made under that section or if that person was present at the sitting of the court at which such order was made.

Provision of accommodation for purposes of *Part III*.

15.—F78**[**The F79**[**Child and Family Agency**]]** shall provide or make arrangements with the registered proprietors of children's residential centres or with other suitable persons for the provision of suitable accommodation for the purposes of this Part.

PART IV

CARE PROCEEDINGS

Duty of F81[Child and Family Agency] to institute proceedings.

16.—Where it appears to F82[the F81[Child and Family Agency] that a child] requires care or protection which he is unlikely to receive unless a court makes a care order or a supervision order in respect of him, it shall be the duty of the F83[Agency] to make application for a care order or a supervision order, as it thinks fit.

Interim care order.

17.—(1) Where a justice of the District Court is satisfied on the application of F84[the F85[Child and Family Agency]] that—

(*a*) an application for a care order in respect of the child has been or is about to be made (whether or not an emergency care order is in force), and

(*b*) there is reasonable cause to believe that any of the circumstances mentioned at *paragraph (a), (b)* or *(c)* of *section 18(1)* exists or has existed with respect to the child and that it is necessary for the protection of the child's health or welfare that he be placed or maintained in the care of F84[the F86[Agency]] pending the determination of the application for the care order,

the justice may make an order to be known and in this Act referred to as an "interim care order".

(2) An interim care order shall require that the child named in the order be placed or maintained in the care of the F85[Child and Family Agency]—

(*a*) for a period not exceeding F87[twenty-nine days], or

(*b*) where the F85[Child and Family Agency] and the parent having custody of the child or person acting *in loco parentis* consent, for a period exceeding F87[twenty-nine days],

and an extension or extensions of any such period may be granted (with the consent, F87[where an extension is to exceed twenty-nine days], of the persons specified in *paragraph (b)*) on the application of any of the parties if the justice is satisfied that grounds for the making of an interim care order continue to exist with respect to the child.

(3) An application for an interim care order or for an extension of such an order shall be made on notice to a parent having custody of the child or to a person acting *in loco parentis* except where, having regard to the interests of justice or the welfare of the child, the justice otherwise directs.

(4) Where an interim care order is made, the justice may order that any directions given under *subsection (7)* of *section 13* may remain in force subject to such variations, if any, as he may see fit to make or the justice may give directions in relation to any of the matters mentioned in the said subsection and the provisions of that section shall apply with any necessary modifications.

Care order.

18.—(1) Where, on the application of F89[the F90[Child and Family Agency] with respect to a child], the court is satisfied that—

(*a*) the child has been or is being assaulted, ill-treated, neglected or sexually abused, or

(*b*) the child's health, development or welfare has been or is being avoidably impaired or neglected, or

(*c*) the child's health, development or welfare is likely to be avoidably impaired or neglected,

and that the child requires care or protection which he is unlikely to receive unless the court makes an order under this section, the court may make an order (in this Act referred to as a "care order") in respect of the child.

(2) A care order shall commit the child to the care of the F90[Child and Family Agency] for so long as he remains a child or for such shorter period as the court may determine and, in such case, the court may, of its own motion or on the

application of any person, extend the operation of the order if the court is satisfied that grounds for the making of a care order continue to exist with respect to the child.

(3) Where a care order is in force, the F90**[**Child and Family Agency**]** shall—

(*a*) have the like control over the child as if it were his parent; and

(*b*) do what is reasonable (subject to the provisions of this Act) in all the circumstances of the case for the purpose of safeguarding or promoting the child's health, development or welfare;

and shall have, in particular, the authority to—

(i) decide the type of care to be provided for the child under *section 36*;

(ii) give consent to any necessary medical or psychiatric examination, treatment or assessment with respect to the child; and

(iii) give consent to the issue of a passport to the child, or to the provision of passport facilities for him, to enable him to travel abroad for a limited period.

(4) Any consent given by F91**[**the F90**[**Child and Family Agency**]]** in accordance with this section shall be sufficient authority for the carrying out of a medical or psychiatric examination or assessment, the provision of medical or psychiatric treatment, the issue of a passport or the provision of passport facilities, as the case may be.

(5) Where, on an application for a care order, the court is satisfied that—

(*a*) it is not necessary or appropriate that a care order be made, and

(*b*) it is desirable that the child be visited periodically in his home by or on behalf of F91**[**the F90**[**Child and Family Agency**]]**,

the court may make a supervision order under *section 19*.

(6) Between the making of an application for a care order and its determination, the court, of its own motion or on the application of any person, may give such directions as it sees fit as to the care and custody of, or may make a supervision order in respect of, the child who is the subject of the application pending such determination, and any such direction or supervision order shall cease to have effect on the determination of the application.

(7) Where a court makes a care order, it may in addition make an order requiring the parents of the child or either of them to contribute to the F90**[**Child and Family Agency**]** such weekly or other periodic sum towards the cost of maintaining the child as the court, having regard to the means of the parents or either of them, thinks fit.

(8) An order under *subsection (7)* may be varied or discharged on application to the court by the parent required to contribute or by the F90**[**Child and Family Agency**]**.

F92**[**(9) Where a care order—

(*a*) has been made in respect of a child and—

(i) during the period for which the care order has effect a special care order or an interim special care order is made in respect of the child, and

(ii) the care order ceases to have effect during the period for which the special care order or interim special care order has effect,

or

(*b*) has not been made in respect of a child and a special care order or an interim special care order has been made in respect of that child,

the F90**[**Child and Family Agency**]** may apply for a care order in respect of that child during the period for which the special care order or interim special care order has effect.

(10) Where the District Court makes a care order, pursuant to the application referred to in *subsection (9)*, during the period for which the special care order or interim special care order has effect, it shall direct that the care order shall take effect immediately following the expiration of the special care order or, as the case may be, interim special care order.**]**

Supervision order.

19.—(1) Where, on the application of F94**[**the F95**[**Child and Family Agency**]** with respect to a child**]**, the court is satisfied that there are reasonable grounds for believing that—

(*a*) the child has been or is being assaulted, ill-treated, neglected or sexually abused, or

(*b*) the child's health, development or welfare has been or is being avoidably impaired or neglected, or

(*c*) the child's health, development or welfare is likely to be avoidably impaired or neglected,

and it is desirable that the child be visited periodically by or on behalf of F94**[**the F95**[**Child and Family Agency**]]**, the court may make an order (in this Act referred to as a "supervision order") in respect of the child.

(2) A supervision order shall authorise F96**[**the F95**[**Child and Family Agency**]]** to have the child visited on such periodic occasions as the board may consider necessary in order to satisfy itself as to the welfare of the child and to give to his parents or to a person acting *in loco parentis* any necessary advice as to the care of the child.

(3) Any parent or person acting *in loco parentis* who is dissatisfied with the manner in which F96**[**the F95**[**Child and Family Agency**]]** is exercising its authority to have a child visited in accordance with this section may apply to the court and the court may give such directions as it sees fit as to the manner in which the child is to be visited and F96**[**the F95**[**Child and Family Agency**]]** shall comply with any such direction.

(4) Where a court makes a supervision order in respect of a child, it may, on the application of F96**[**the F95**[**Child and Family Agency**]]**, either at the time of the making of the order or at any time during the currency of the order, give such directions as it sees fit as to the care of the child, which may require the parents of the child or a person acting *in loco parentis* to cause him to attend for medical or psychiatric examination, treatment or assessment at a hospital, clinic or other place specified by the court.

(5) Any person who fails to comply with the terms of a supervision order or any directions given by a court under *subsection (4)* or who prevents a person from visiting a child on behalf of F96**[**the F95**[**Child and Family Agency**]]** or who obstructs or impedes any such person visiting a child in pursuance of such an order shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £500 or, at the discretion of the court, to imprisonment for a term not exceeding 6 months or both such fine and such imprisonment.

(6) A supervision order shall remain in force for a period of 12 months or such shorter period as may be specified in the order and, in any event, shall cease to have effect when the person in respect of whom the order is made ceases to be a child.

(7) On or before the expiration of a supervision order, a further supervision order may be made on the application of F96**[**the F95**[**Child and Family Agency**]]** with effect from the expiration of the first mentioned order.

F97**[**(8) Where a supervision order—

(*a*) has been made in respect of a child and—

(i) during the period for which the supervision order has effect a special care order or an interim special care order is made in respect of the child, and

(ii) the supervision order ceases to have effect during the period for which the special care order or interim special care order has effect,

or

(*b*) has not been made in respect of a child and a special care order or interim special care order has been made in respect of that child,

the F95**[**Child and Family Agency**]** may apply for a supervision order in respect of that child during the period for which the special care order or interim special care order has effect.

(9) Where the District Court makes the supervision order, pursuant to the application referred to in *subsection (8)*, during the period for which the special care order or interim special care order has effect, it shall direct that the supervision order shall take effect immediately following the expiration of the special care order or, as the case may be, interim special care order.**]**

Proceedings under Guardianship of Infants Act, 1964, Judicial Separation and Family Law Reform Act, 1989, etc.

20.—F99**[**Where in any proceedings under section 7, 8, 11, 11B or Part III of the Guardianship of Infants Act, 1964, or in any case to which—

(*a*) section 3(3) of the Judicial Separation and Family Law Reform Act, 1989,

(*b*) section 6(*b*) or 10(*f*) of the Family Law Act, F100**[**1995,**]**

(*c*) section 5(2), 11(*b*) or 41 of the Family Law (Divorce) Act, F100**[**1996, or**]**

F101**[**(*d*) section 110(2), 115(c) or 141A of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010**]**

relates, or in any other proceedings for the delivery or return of a child, it appears to the court that it may be appropriate for a care order or a supervision order to be made with respect to the child concerned in the proceedings, the court may, of its own motion or on the application of any person, adjourn the proceedings and direct F102**[**the F103**[**Child and Family Agency**]]** to undertake an investigation of the child's circumstances.**]**

(2) Where proceedings are adjourned and the court gives a direction under *subsection (1)*, the court may give such directions as it sees fit as to the care and custody of, or may make a supervision order in respect of, the child concerned pending the outcome of the investigation by the F103**[**Child and Family Agency**]**.

(3) Where the court gives a direction under *subsection (1)*, the F103**[**Child and Family Agency**]** shall undertake an investigation of the child's circumstances and shall consider whether it should—

(*a*) apply for a care order or for a supervision order with respect to the child,

(*b*) provide services or assistance for the child or his family, or

(*c*) take any other action with respect to the child.

(4) Where F102**[**the F103**[**Child and Family Agency**]]** undertakes an investigation under this section and decides not to apply for a care order or a supervision order with respect to the child concerned, it shall inform the court of—

(*a*) its reasons for so deciding,

(*b*) any service or assistance it has provided, or it intends to provide, for the child and his family, and

(*c*) any other action which it has taken, or proposes to take, with respect to the child.

F104**[**(5) Where the Health Service Executive was directed to undertake an investigation into a child's circumstances and the investigation has not been undertaken or all matters relating to or arising from the investigation have not been concluded before the establishment day of the Child and Family Agency—

(a) any direction given under this section by the court to the Health Service Executive in respect of the child concerned shall be deemed to have been given to the Agency,

(b) the investigation may be completed by the Agency, and

(c) *subsections (3)* and *(4)* apply as though all of the investigation had been undertaken and completed by the Agency.**]**

Effect of appeal from orders.

21.—An appeal from an order under this Part shall, if the court that made the order or the court to which the appeal is brought so determines (but not otherwise), stay the operation of the order on such terms (if any) as may be imposed by the court making the determination.

Variation or discharge of orders etc.

22.—The court, of its own motion or on the application of any person, may—

(*a*) vary or discharge a care order or a supervision order,

(*b*) vary or discharge any condition or direction attaching to the order, or

(*c*) in the case of a care order, discharge the care order and make a supervision order in respect of the child.

Powers of court in case of invalidity of orders.

23.—Where a court finds or declares in any proceedings that a care order for whatever reason is invalid, that court may of its own motion or on the application of any person refuse to exercise any power to order the delivery or return of the child to a parent or any other person if the court is of opinion that such delivery or return would not be in the best interests of the child and in any such case the court, of its own motion or on the application of any person, may—

(*a*) make a care order as if it were a court to which an application had been made by F105**[**the F106**[**Child and Family Agency**]]** under *section 18*,

(*b*) make an order remitting the matter to a justice of the District Court for the time being assigned to the district court district where the child resides or is for the time being or was residing or was at the time that the invalid order was made or the application therefor was made; and where the matter has been so remitted F105**[**the F106**[**Child and Family Agency**]]** shall be deemed to have made an application under *section 18*,

(*c*) direct that any order under *paragraph (a)* shall, if necessary, be deemed for the purposes of this Act to have been made by a justice of the District Court for the time being assigned to a district court district, specified by the court, or

(*d*) where it makes an order under *paragraph (b)*, make a temporary order under *paragraph (a)* pending the making of an order by the court to which the matter or question has been remitted.

F108**[**PART IVA

CHILDREN IN NEED OF SPECIAL CARE OR PROTECTION**]**

F109**[**Interpretation.

23A.—In this Part—

"Act of 2007" means the Health Act 2007;

"care requirements" means the care a child requires having regard to his or her behaviour;

"Children Act order" means—

(*a*) a reprimand referred to in section 98 of the Act of 2001,

(*b*) an order referred to in paragraph (*a*), (*b*), (*c*), (*d*), (*e*) or (*f*) of section 98 of the Act of 2001, or

(*c*) a community sanction referred to in paragraph (*a*), (*b*), (*c*) or (*d*) of section 115 of the Act of 2001 and such sanction is not subject to a condition referred to in paragraph (*d*) of section 117 of the Act of 2001;

"children detention order" has the meaning assigned to it by section 3 of the Act of 2001;

"custodial sentence" means—

(*a*) a children detention order but does not include a children detention order the making of which has been deferred under section 144 of the Act of 2001,

(*b*) a detention and supervision order referred to in section 151 of the Act of 2001, or

(*c*) a sentence referred to in section 155 (as amended by the Criminal Justice Act 2006) of the Act of 2001;

"family welfare conference" has the meaning assigned to it by the Act of 2001;

"guardian", in relation to a child, means a person who—

(*a*) is a guardian of a child pursuant to the Guardianship of Infants Act 1964, or

(*b*) is appointed to be a guardian of the child by—

(i) deed or will, or

(ii) order of a court in the State,

and has not been removed from office;

"interim special care order" means an order made under *section 23L*;

"relative" has the meaning assigned to it in *section 23O* (inserted by the Act of 2001);

"special care" shall be construed in accordance with *section 23C*;

"special care order" means an order made under *section 23H*;

"special care unit" means premises, or a part of premises, comprising secure residential accommodation in which a child, in respect of whom a special care order or an interim special care order has been made, is detained for the purpose of the provision to that child of special care and includes accommodation and facilities required for the provision of special care;

"suspended custodial sentence" means a custodial sentence which does not take effect immediately it is imposed and does not include—

(*a*) a children detention order the making of which has been deferred under section 144 of the Act of 2001, or

(*b*) a period of detention which has been suspended under section 144(9)(*b*) of the Act of 2001.**]**

F110**[**Provision of special care and special care units.

23B.—(1) The F111**[**Child and Family Agency**]** shall provide special care to a child in respect of whom a special care order or an interim special care order has been made for the period for which that special care order or interim special care order has effect.

(2) The F111**[**Child and Family Agency**]** shall not detain a child in a special care unit unless the detention is pursuant to, and in accordance with, a special care order or an interim special care order made in respect of that child or the High Court has otherwise ordered.

(3) The F111**[**Child and Family Agency**]** shall—

(*a*) provide special care units, and

(*b*) maintain and administer special care units provided by it under *paragraph (a)*,

and shall comply with regulations, if any, made under the Act of 2007 in relation to special care units and standards, if any, set out under section 8(1)(*b*) of the Act of 2007.

(4) Notwithstanding *subsection (3)* and subject to *subsection (5)*, the F111**[**Child and Family Agency**]** may, for the purposes of this Part, enter into an arrangement with a person under F112**[**section 58 of the Child and Family Agency Act 2013**]** in respect of the provision by that person of special care and the provision, maintenance and administration of a special care unit.

(5) Without prejudice to the generality of F113**[**section 58 of the Child and Family Agency Act 2013**]** and to any term, condition of or other matter relating to an arrangement under that section as the F111**[**Child and Family Agency**]**, in accordance with that section, considers appropriate, for the purposes of this Part—

(*a*) the provisions specified in *subsection (6)* shall apply to a person with whom that arrangement is entered into,

(*b*) the F111**[**Child and Family Agency**]**, 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 F111**[**Child and Family Agency**]** 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 F111**[**Child and Family Agency**]** 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 F111**[**Child and Family Agency**]**,

(*d*) guidelines prepared and published by the F111**[**Child and Family Agency**]** 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*.**]**

F115**[**Special care.

23C.—In this Part "special care" means the provision, to a child, of—

(*a*) care which addresses—

(i) his or her behaviour and the risk of harm it poses to his or her life, health, safety, development or welfare, and

(ii) his or her care requirements,

and includes medical and psychiatric assessment, examination and treatment, and

(*b*) educational supervision,

in a special care unit in which the child is detained and requires for its provision a special care order or an interim special care order directing the F116**[**Child and Family Agency**]** to detain the child in a special care unit, which the F116**[**Child and Family Agency**]** considers appropriate for the child, for the purpose of such provision and may, during the period for which the special care order or interim special care order has effect, include the release of the child from the special care unit—

(i) in accordance with *section 23NF*, and

(ii) where the release is required for the purposes of *section 23D* or *23E*, in accordance with *section 23NG*.**]**

F117**[**Criminal proceedings and provision of special care.

23D.—(1) Where a child is charged with an offence and the proceedings in respect of that charge have not been determined, subject to *subsection (6)* and *section 23E*, nothing in this Act shall be construed as preventing the F118**[**Child and Family Agency**]** from providing special care to such child in accordance with a special care order or an interim special care order.

(2) Without prejudice to the generality of *subsection (1)*, subject to *subsection (6)* and *section 23E*—

(*a*) where a child is charged with an offence and the proceedings in respect of that charge have not been determined, nothing in this Act shall be construed as preventing—

(i) the F118**[**Child and Family Agency**]** from applying for a special care order or an interim special care order and, where the order is made in respect of that child, from applying for an extension of that order under *section 23J* or, as the case may be, *section 23N*, in respect of that child, or

(ii) the High Court from hearing and determining an application referred to in *subparagraph (i)*,

and

(*b*) where a special care order or an interim special care order has been made in respect of a child and that child is charged with an offence during the period for which a special care order or an interim special care order has effect, nothing in this Act shall be construed as—

(i) requiring the special care order or interim special care order to be discharged,

(ii) preventing the F118**[**Child and Family Agency**]** from making an application to extend the period for which, under *section 23J*, a special care order or, under *section 23N*, an interim special care order, has effect, or

(iii) preventing the High Court from hearing and determining an application referred to in *subparagraph (ii)*,

before the proceedings in respect of that charge are determined and the F118**[**Child and Family Agency**]** shall, as soon as practicable, inform the Court hearing that charge that the child is the subject of a special care order, or an interim special care order, and of the period for which the order has effect.

(3) Where a child is charged with an offence and the proceedings in respect of that charge have not been determined, without prejudice to *section 24*, when considering—

(*a*) an application for a special care order or an interim special care order in respect of that child,

(*b*) an application, in respect of that child, to extend the period for which—

(i) under and in accordance with *section 23J*, the special care order has effect, or

(ii) under and in accordance with *section 23N*, the interim special care order, has effect,

or

(*c*) an application under *section 23NG*, in respect of that child, to vary the special care order or interim special care order to authorise the release of a child from a special care unit for the purposes of the hearing of that charge and any other matter relating to the conduct of the proceedings in which that charge is heard,

the High Court shall have regard, at all times, to the rights of the child who is the subject of that application including his or her rights in the proceedings in which that charge is heard and without prejudice to the generality of the foregoing, the High Court shall not make, or vary, such order or extend such period or give a direction in respect of such order, extension or variation which would prejudice, or otherwise interfere with, the rights of the child in the proceedings in which that charge is heard and the conduct of those proceedings.

(4) Where the F118**[**Child and Family Agency**]** makes an application—

(*a*) for a special care order or an interim special care order, or

(*b*) to extend the period for which—

(i) under *section 23J*, the special care order has effect, or

(ii) under *section 23N*, the interim special care order has effect,

in respect of a child who is charged with an offence and the proceedings in respect of that charge have not been determined, the F118**[**Child and Family Agency**]** shall—

(i) inform the High Court of—

(I) that charge and those proceedings,

(II) any matter requiring the release of the child from the special care unit, under *section 23NG*, for the purposes of the hearing of that charge and the conduct of those proceedings, and

(III) without prejudice to the generality of *subparagraph (II)*, any matter requiring the release of the child from the special care unit, under *section 23NG*, for the purposes of *subsection (5)(b)* and *(5)(c)*,

and

(ii) inform the Court hearing that charge—

(I) of the application referred to in *paragraph (a)* and, where the High Court makes a special care order or an interim special care order, to inform the Court hearing that charge that the order concerned was made and the period for which it has effect, or

(II) of the application referred to in *paragraph (b)* and where the order has been extended, to inform the Court hearing that charge of the period for which that order was extended.

(5) Where a special care order or an interim special care order has been made in respect of a child who is charged with an offence and the proceedings in respect of that charge have not been determined, the F118**[**Child and Family Agency**]** shall—

(*a*) convey the child to the Court hearing that charge,

(*b*) provide the child with access to the solicitor and counsel representing the child in the proceedings relating to that charge, and

(*c*) convey the child to any other place, or provide the child with access to any other person for the purposes of the representation of that child in, or any other matter relating to the hearing, or conduct, of those proceedings in respect of that charge.

(6) Where a child referred to in *paragraph (a)* or *(b)* of *subsection (2)* is remanded in custody, whether pursuant to *section 88* (as amended by the Criminal Justice Act 2006) of the Act of 2001 or otherwise, before the proceedings in respect of that charge are heard and determined, nothing in this Act shall be construed as operating to prevent the remand of that child in custody and—

(*a*) the F118**[**Child and Family Agency**]** shall not make an application for a special care order or an interim special care order or an application under *section 23J* or *23N* in respect of that child and where such application was made but not determined before the child was remanded in custody, the F118**[**Child and Family Agency**]** shall withdraw the application, or

(*b*) where a special care order or an interim special care order has been made and has effect before the child is remanded in custody, nothing in this Act shall be construed as requiring the F118**[**Child and Family Agency**]** to continue to provide special care to that child and the F118**[**Child and Family Agency**]** shall apply to the High Court to have such special care order or interim special care order discharged.

(7) In this section, "Court hearing that charge" includes the Children Court referred to in *section 71* (as amended by the Criminal Justice Act 2006) of the Act of 2001.**]**

F120**[**Custodial sentence, deferred children detention order, Children Act order and provision of special care.

23E.—(1) Subject to *subsections (7)*, *(9)* and *(10)*, nothing in this Act shall be construed as preventing the F121**[**Child and Family Agency**]** from providing special care, in accordance with a special care order or an interim special care order, to a child who has been found guilty, or convicted, of a criminal offence and where, following such conviction—

(*a*) a custodial sentence was imposed on the child and that sentence has been served,

(*b*) a suspended custodial sentence has been imposed on that child,

(*c*) the making of a children detention order has been deferred, in respect of that child, in accordance with section 144 of the Act of 2001,

(*d*) any detention imposed in accordance with section 144(9)(*a*) of the Act of 2001 on the child has been served,

(*e*) a period of detention, imposed in respect of the child in accordance with section 144(9)(*b*) of the Act of 2001, has been suspended, or

(*f*) a Children Act order has been made in respect of that child,

and without prejudice to the generality of the foregoing nothing in this Act shall be construed as preventing the F121**[**Child and Family Agency**]** from applying for a special care order or an interim special care order and, where the order is made in respect of such child, from applying for an extension under *section 23J* or *23N* in respect of such child, or as preventing the High Court from hearing and determining such application.

(2) Without prejudice to *subsection (1)*, where a child is the subject of a special care order or an interim special care order and during the period for which the order has effect a suspended custodial sentence is imposed on that child, the making of a children detention order has been deferred in respect of that child under section 144 of the Act of 2001, a period of detention has, under section 144(9)(*b*) of the Act of 2001, been suspended in respect of that child or a Children Act order is made in respect of that child, subject to *subsections (7)*, *(9)* and *(10)*, nothing in this Act shall be construed as—

(*a*) requiring the special care order or interim special care order to be discharged,

(*b*) preventing the F121**[**Child and Family Agency**]** from making an application to extend the period for which—

(i) under *section 23J*, such special care order has effect, or

(ii) under *section 23N*, such interim special care order, has effect,

or

(*c*) preventing the High Court from hearing and determining an application referred to in *paragraph (b)*,

and the F121**[**Child and Family Agency**]** shall, as soon as practicable, inform the Court which imposed the suspended custodial sentence, deferred making the children detention order, suspended the period of detention or made the Children Act order that the child is the subject of a special care order or an interim special care order and the period for which such order has effect.

(3) Where the F121**[**Child and Family Agency**]** makes an application—

(*a*) for a special care order or an interim special care order, or

(*b*) to extend the period for which, under *section 23J*, a special care order or, under *section 23N,* an interim special care order, has effect,

and at the time the application is made a suspended custodial sentence has been imposed in respect of the child who is the subject of that application, the F121**[**Child and Family Agency**]** shall—

(i) inform the High Court of—

(I) such suspended custodial sentence and any terms, conditions and other requirements of such sentence, and

(II) any matter requiring the release of the child from the special care unit, under *section 23NG*, for the purposes of such suspended custodial sentence and *subsection (6)*,

and

(ii) inform the Court which imposed the suspended custodial sentence—

(I) of the application referred to in *paragraph (a)* and, where a special care order or interim special care order is made, to inform that Court accordingly and of the period for which the order has effect, or

(II) of the application referred to in *paragraph (b)*, and where the order has been extended, to inform that Court of the period for which the order was extended.

(4) Where the F121**[**Child and Family Agency**]** makes an application—

(*a*) for a special care order or an interim special care order, or

(*b*) to extend the period for which, under *section 23J*, a special care order or, under *section 23N*, an interim special care order, has effect,

and at the time the application is made the making of a children detention order has, in accordance with section 144 of the Act of 2001, been deferred in respect of the child who is the subject of that application, or a period of detention has, in respect of that child, been suspended under section 144(9)(*b*) of that Act, the F121**[**Child and Family Agency**]** shall—

(i) inform the High Court—

(I) that the making of a children detention order has been deferred under and in accordance with section 144 of the Act of 2001, that a period of detention has not been imposed at the time of the making of the application, and of any terms, conditions and other requirements of such children detention order or, in respect of such suspended period of detention, and

(II) of any matter requiring the release of the child from the special care unit, under *section 23NG*, for the purposes of such children detention order, or such suspension, and *subsection (6)*,

and

(ii) inform the Court which deferred making such children detention order or suspended the period of detention—

(I) of the application referred to in *paragraph (a)* and, where a special care order or interim special care order is made, to inform that Court accordingly and the period for which the order has effect, or

(II) of the application referred to in *paragraph (b)*, and, where the order has been extended, to inform that Court of the period for which the order was extended.

(5) Where the F121**[**Child and Family Agency**]** makes an application—

(*a*) for a special care order or an interim special care order, or

(*b*) to extend the period for which, under *section 23J*, a special care order or, under *section 23N*, an interim special care order, has effect,

and at the time the application is made a Children Act order has been made in respect of the child who is the subject of that application, the F121**[**Child and Family Agency**]** shall—

(i) inform the High Court of—

(I) the Children Act order concerned and the terms, conditions and other requirements of that order, and

(II) any matter requiring the release of the child from the special care unit, under *section 23NG*, for the purposes of the Children Act order concerned and *subsection (6)*,

and

(ii) inform the Court which made the Children Act order—

(I) of the application referred to in *paragraph (a)* and, where the special care order or the interim special care order is made, to inform that Court accordingly and the period for which the order has effect, or

(II) of the application referred to in *paragraph (b)*, and, where the order has been extended, to inform that Court of the period for which the order was extended.

(6) Where a child is the subject of a special care order or an interim special care order and during the period for which such order has effect—

(*a*) a suspended custodial sentence has been imposed in respect of that child,

(*b*) the making of a children detention order has, in respect of the child, been deferred under section 144 of the Act of 2001,

(*c*) a period of detention has been suspended in accordance with section 144(9)(*b*) of the Act of 2001, or

(*d*) a Children Act order is made in respect of the child,

the F121**[**Child and Family Agency**]** shall take all steps reasonably open to it to assist that child to comply with the terms, conditions and other requirements of the suspended custodial sentence referred to in *paragraph (a)*, the children detention order referred to in *paragraph (b)*, the suspension referred to in *paragraph (c)* or the Children Act order referred to in *paragraph (d)*, and, without prejudice to the generality of the foregoing, shall—

(i) convey that child to any place which that child is required to attend pursuant to the custodial sentence referred to in *paragraph (a)*, the children detention order referred to in *paragraph (b)*, the suspension referred to in *paragraph (c)*, or the Children Act order referred to in *paragraph (d)*, and

(ii) provide that child with access to any person for the purposes of complying with the terms, conditions or other requirements of the custodial sentence referred to in *paragraph (a)*, the children detention order referred to in *paragraph (b)*, the suspension referred to in *paragraph (c)*, or the Children Act order referred to in *paragraph (d)*.

(7) Where an application for a special care order or an interim special care order, or an application under *section 23J* or *23N*, has been made in respect of a child and before that application has been determined—

(*a*) a custodial sentence is imposed on that child and is to take effect immediately,

(*b*) under section 144(9)(*a*) of the Act of 2001, a period of detention is imposed in respect of that child and such period of detention is to take effect immediately,

(*c*) a period of detention which had been suspended in accordance with section 144(9)(*b*) of the Act of 2001 is no longer suspended and such period of detention is to take effect immediately, or

(*d*) a suspended custodial sentence was imposed on that child but is no longer suspended and the custodial sentence is to take effect immediately,

the F121**[**Child and Family Agency**]** shall withdraw that application.

(8) Where an application for a special care order or an interim special care order, or an application under *section 23J* or *23N*, has been made in respect of a child and before that application has been determined—

(*a*) a suspended custodial sentence is imposed on that child,

(*b*) the making of a children detention order has been deferred, in respect of that child, under section 144 of the Act of 2001 or a period of detention has been suspended, in respect of that child, under section 144(9)(*b*) of that Act, or

(*c*) a Children Act order has been made in respect of that child,

the F121**[**Child and Family Agency**]** shall inform the High Court as soon as practicable of the suspended custodial sentence referred to in *paragraph (a)*, the children detention order or suspension referred to in *paragraph (b)* or the Children Act order referred to in *paragraph (c)* and of any matter requiring the release of the child from the special care unit under *section 23NG* for the purposes of complying with such suspended custodial sentence, children detention order, suspension or Children Act order.

(9) Where a child is the subject of a special care order or an interim special care order and during the period for which such order has effect—

(*a*) a custodial sentence is imposed on that child and is to take effect immediately it is imposed, or

(*b*) a suspended custodial sentence was imposed on that child but is no longer suspended and the custodial sentence is to take effect immediately,

nothing in this Act relating to the provision of special care to that child pursuant to such special care order or interim special care order shall operate so as to prevent the child from serving that custodial sentence and without prejudice to the generality of the foregoing the F121**[**Child and Family Agency**]** shall, as soon as practicable, apply to the High Court to discharge such special care order or such interim special care order.

(10) Where a child is the subject of a special care order or an interim special care order and the making of a children detention order has been deferred, in accordance with section 144 of the Act of 2001, in respect of that child, or a period of detention has been suspended in accordance with section 144(9)(*b*) of that Act, and during the period for which such special care order or interim special care order has effect—

(*a*) a period of detention is imposed under section 144(9)(*a*) of the Act of 2001, in respect of that child and such period of detention is to take effect immediately, or

(*b*) a period of detention which had been suspended in accordance with section 144(9)(*b*) of the Act of 2001 is no longer suspended and such period of detention is to take effect immediately,

nothing in this Act relating to the provision of special care to that child pursuant to such special care order or such interim special care order shall operate so as to prevent the child from being so detained and without prejudice to the generality of the foregoing the F121**[**Child and Family Agency**]** shall, as soon as practicable, apply to the High Court to discharge such special care order or such interim special care order.

(11) Where a child is the subject of a special care order or an interim special care order and during the period for which such order has effect a suspended custodial sentence is imposed on that child—

(*a*) the F121**[**Child and Family Agency**]** shall inform the High Court of such suspended custodial sentence, any terms and conditions of such suspended custodial sentence and any matter requiring the release of the child from the special care unit, under *section 23NG* for the purposes of complying with such suspended custodial sentence, and

(*b*) subject to *subsection (9)*, the F121**[**Child and Family Agency**]** shall, in accordance with such special care order or interim special care order and this Act, continue to provide special care to that child.

(12) Where a child is the subject of a special care order or an interim special care order and during the period for which such order has effect the making of a children detention order has been deferred, in accordance with section 144 of the Act of 2001, in respect of that child or a period of detention has been suspended in accordance with section 144(9)(*b*) of that Act—

(*a*) the F121**[**Child and Family Agency**]** shall inform the High Court of such deferral or such suspension and of any terms and conditions of such deferral or suspension and of any matter requiring the release of the child from the special care unit, under *section 23NG*, for the purposes of complying with such deferral or suspension, and

(*b*) subject to *subsection (10)(a)* or *(10)(b)*, the F121**[**Child and Family Agency**]** shall, in accordance with such special care order or such interim special care order and this Act, continue to provide special care to the child.

(13) Where a child is the subject of a special care order or an interim special care order and during the period for which such order has effect a Children Act order is made in respect of that child—

(*a*) theF121**[**Child and Family Agency**]** shall inform the High Court of such Children Act order, any terms and conditions of such Children Act order and any matter requiring the release of the child from the special care unit, under *section 23NG* for the purposes of complying with such Children Act order, and

(*b*) the F121**[**Child and Family Agency**]** shall, in accordance with such special care order or interim special care order and this Act, continue to provide special care to that child.

(14) In this section references to a custodial sentence being served means, in the case of a custodial sentence which is a detention and supervision order, that the period for which that order was made has expired.**]**

F123**[** Determination by F124**[**Child and Family Agency**]** that child requires special care.

23F.—(1) The F124**[**Child and Family Agency**]** shall not apply for a special care order in respect of a child unless it is satisfied that the child has attained the age of 11 years and it has made a determination, in accordance with this section, that the child requires special care.

(2) Where—

(*a*) the F124**[**Child and Family Agency**]** is satisfied that there is reasonable cause to believe that the behaviour of the child poses a real and substantial risk of harm to his or her life, health, safety, development or welfare,

(*b*) having regard to that behaviour and risk of harm, the F124**[**Child and Family Agency**]** has assessed the care requirements of the child, and is satisfied that there is reasonable cause to believe that—

(i) the provision, or the continuation of the provision, by the F124**[**Child and Family Agency**]** to the child of care, other than special care, and

(ii) treatment and mental health services, under, and within the meaning of, the Mental Health Act 2001,

will not adequately address that behaviour and risk of harm and those care requirements, and

(*c*) having regard to paragraph (*b*), the F124**[**Child and Family Agency**]** is satisfied that there is reasonable cause to believe that the child requires special care to adequately address—

(i) that behaviour and risk of harm, and

(ii) those care requirements,

which it cannot provide to the child unless the High Court makes a special care order in respect of that child,

the F124**[**Child and Family Agency**]** shall make arrangements to carry out the consultation referred to in *subsection (3)*.

(3) The F124**[**Child and Family Agency**]**—

(*a*) shall, subject to *subsection (4)*, consult with—

(i) the child,

(ii) the parent having custody of the child, unless the parent is dead, missing or cannot be found, and

(iii) a guardian, if any, or a person, if any, acting *in loco parentis*, unless that guardian or person is missing or cannot be found,

and

(*b*) may, having regard to all the circumstances of the child, consult with—

(i) a relative of the child, or

(ii) a person who, in the opinion of the F124**[**Child and Family Agency**]**, has knowledge of that child and his or her family or other circumstances,

in relation to the behaviour and risk of harm referred to in *subsection (2)(a)*, the care requirements referred to in *subsection (2)(b)*, the proposal to provide special care to the child and the detention of the child in a special care unit for that purpose.

(4) Where the F124**[**Child and Family Agency**]**, having regard to the protection of the life, health, safety, development or welfare of the child, is satisfied that there is reasonable cause to believe it is not in the best interests of the child to consult with all or any of the following persons, it shall not consult with that person:

(*a*) the child;

(*b*) a parent having custody of the child;

(*c*) the guardian;

(*d*) a person acting *in loco parentis*.

(5) The F124**[**Child and Family Agency**]** shall, subject to *subsection (6)*, convene a family welfare conference in accordance with section 7 (as amended by the Child Care (Amendment) Act 2011) of the Act of 2001 if it is satisfied that there is reasonable cause to believe that the child requires special care, after having carried out the consultations in accordance with *subsection (3)* or not carried them out in accordance with *subsection (4)*.

(6) Notwithstanding *subsection (5)*, where the F124**[**Child and Family Agency**]** is satisfied that, having regard to the protection of the life, health, safety, development or welfare of the child, there is reasonable cause to believe that it is not in the best interests of the child to convene the family welfare conference referred to in *subsection (5)*, it may decide not to convene that conference.

(7) Where a family welfare conference—

(*a*) has been convened in accordance with *subsection (5)* and the F124**[**Child and Family Agency**]** has had regard to the recommendations, if any, notified under section 12 of the Act of 2001, or

(*b*) has not been convened in accordance with *subsection (6)*,

and the F124**[**Child and Family Agency**]** is satisfied that there is reasonable cause to believe that the child requires special care it shall make a determination as to whether the child requires special care.

(8) Where the F124**[**Child and Family Agency**]** determines that there is reasonable cause to believe that for the purposes of protecting the life, health, safety, development or welfare of the child, the child requires special care the F124**[**Child and Family Agency**]** shall apply to the High Court for a special care order.

(9) Where the F124**[**Child and Family Agency**]** applies for a special care order and, in accordance with *subsection (4)*, it did not carry out the consultation referred to in *subsection (3)*, it shall inform the High Court that the consultation was not carried out and of the grounds for not carrying out that consultation.

(10) Where the F124**[**Child and Family Agency**]** applies for a special care order and it did not convene a family welfare conference in accordance with *subsection (6)*, it shall inform the High Court that it did not convene that conference and of the grounds for not convening that conference.

(11) The F124**[**Child and Family Agency**]** shall prepare and publish guidelines relating to the procedures for—

(*a*) carrying out a consultation for the purposes of this section, and

(*b*) convening a family welfare conference for the purposes of this section.**]**

F125**[**(12) Where the Health Service Executive convened a family welfare conference in respect of a child pursuant to *subsection (5)* and a determination was not made by the Health Service Executive pursuant to *subsection (7)* before the establishment of the Child and Family Agency, that Agency shall be deemed for the purposes of this section to have convened the conference.**]**

F128**[**Notice of application for special care order or interim special care order.

23G.—(1) An application for a special care order or an interim special care order shall, subject to *subsection (6)* and *section 23L(3)*, be made on notice to—

(*a*) a parent having custody of the child, unless the parent is dead, missing or cannot be found,

(*b*) a guardian of the child, if any, or a person, if any, acting *in loco parentis* unless that guardian or that person is dead, missing or cannot be found, and

(*c*) a guardian *ad litem*, where such guardian is appointed in accordance with F129**[***Part VA* in respect of proceedings under this Part**]**.

(2) Where having regard to all the circumstances of a child the F130**[**Child and Family Agency**]** considers it appropriate for that child, it may inform any of the following persons of an application for a special care order or an interim special care order:

(*a*) a relative of the child;

(*b*) a person who, in the opinion of the F130**[**Child and Family Agency**]**, has knowledge of that child and his or her family or other circumstances.

(3) The F130**[**Child and Family Agency**]** shall inform the Garda Síochána of an application for a special care order or an interim special care order including an application for an interim special care order referred to in *section 23L(3)*.

(4) The F130**[**Child and Family Agency**]** shall, for the purposes of *subsection (1)*, take all steps reasonably open to it to locate a person referred to in *paragraphs (a)* and *(b)* of *subsection (1)*.

(5) The High Court, having regard to all the circumstances of the child, may direct that, in addition to the persons referred to in *subsections (1)* and *(2)*, another person, who has knowledge of that child and his or her family or other circumstances, be informed of an application for a special care order or an interim special care order.

(6) Notwithstanding *paragraphs (a)* and *(b)* of *subsection (1)*, the High Court, on the application of the F130**[**Child and Family Agency**]**, may, having regard to the interests of justice or the protection of the life, health, safety, development or welfare of the child, direct that an application referred to in *subsection (1)* shall be made otherwise than on notice to a named person being a person to whom, pursuant to *paragraphs (a)* and *(b)* of *subsection (1)*, such application is to be made on notice and the High Court may make such other provision and give other directions in respect of such notice, as it, having regard to all the circumstances of the child, considers necessary and in the best interests of the child.**]**

F132**[**Special care order.

23H.—(1) Where the High Court is satisfied that—

(*a*) the child has attained the age of 11 years,

(*b*) the behaviour of the child poses a real and substantial risk of harm to his or her life, health, safety, development or welfare,

(*c*) having regard to that behaviour and risk of harm and the care requirements of the child—

(i) the provision, or the continuation of the provision, by the F133**[**Child and Family Agency**]** to that child of care, other than special care, and

(ii) treatment and mental health services under, and within the meaning of, the Mental Health Act 2001,

will not adequately address that behaviour and risk of harm and those care requirements,

(*d*) having regard to *paragraph (c)*, the child requires special care to adequately address—

(i) that behaviour and risk of harm, and

(ii) those care requirements,

which the F133**[**Child and Family Agency**]** cannot provide to the child unless a special care order is made in respect of that child,

(*e*) the F133**[**Child and Family Agency**]** has carried out the consultation referred to in *section 23F(3)* or, where the F133**[**Child and Family Agency**]** has not carried out that consultation, the High Court is satisfied that it is in the best interests of the child not to have carried out that consultation having regard to the grounds provided in accordance with *section 23F(9)*,

(*f*) in respect of the family welfare conference referred to in *section 23F(5)*—

(i) the F133**[**Child and Family Agency**]** has convened the family welfare conference and the F133**[**Child and Family Agency**]** has had regard to the recommendations notified in accordance with section 12 of the Act of 2001, or

(ii) it is in the best interests of the child that the family welfare conference was not convened having regard to the information and grounds provided in accordance with *section 23F(10)*,

(*g*) for the purposes of protecting the life, health, safety, development or welfare of the child, the child requires special care, and

(*h*) having regard to *paragraphs (a)* to *(g)*, the detention of the child in a special care unit, as it is required for the purpose of providing special care to him or her, is in the best interests of the child,

the High Court may make a special care order in respect of that child.

(2) A special care order shall specify the period for which it has effect and that period shall not exceed 3 months from the day on which that order is made unless that period is extended under *section 23J* and shall—

(*a*) commit the child in respect of whom it is made to the care of the F133**[**Child and Family Agency**]**,

(*b*) direct the F133**[**Child and Family Agency**]** to detain that child in a special care unit, which the F133**[**Child and Family Agency**]** considers appropriate for that child, for the purpose of providing that child with special care, and

(*c*) direct the F133**[**Child and Family Agency**]** to provide special care to the child and to generally care for and maintain the child,

and the High Court may make such other provision and give directions, as it, having regard to all the circumstances of the child, considers necessary and in the best interests of the child.

(3) For the purposes of executing a special care order the High Court may—

(*a*) make an order directing a person who has actual custody of the child to deliver that child to the custody of the F133**[**Child and Family Agency**]**,

(*b*) make an order directing the Garda Síochána to search for and find the child and to deliver the child to the custody of the F133**[**Child and Family Agency**]**, at a special care unit specified by the F133**[**Child and Family Agency**]**, and

(*c*) issue a warrant authorising a member of the Garda Síochána, accompanied by such other members of the Garda Síochána or such other persons as may be necessary, to enter, if need be by force, any house or other place specified in the warrant, including any building or part of a building, tent, caravan, or other temporary or moveable structure, vehicle, vessel, or aircraft where the child is, or where there are reasonable grounds for believing that he or she is, and to deliver the child into the custody of the F133**[**Child and Family Agency**]** at the special care unit in which the child is to be detained,

and the High Court may, in respect of such order or warrant, give directions as, having regard to all the circumstances of the child, it considers necessary and in the best interests of the child.

(4) Where the High Court makes a special care order the F133**[**Child and Family Agency**]** shall inform the Garda Síochána immediately that the special care order has been made and of the terms and conditions of that order and an order made, or warrant issued, if any, under this section and an order, if any, made under *section 23NA(1)*.

(5) A person shall be deemed to have been given, or shown, a copy of a special care order or an order made, or warrant issued, under *subsection (3)* if that person was present at the sitting of the High Court at which that special care order or that order was made or that warrant was issued.**]**

F136**[**Review of special care order.

23I.—(1) The High Court shall carry out a review referred to in *subsection (4)* in each 4 week period for which a special care order has effect and the High Court shall, when making the special care order, or extending it pursuant to an application under *section 23J*, specify the date or dates for such review.

(2) A review under this section shall, subject to a direction under *section 23NA(2)(a)*, if any, be made on notice to the persons referred to, and in accordance with, *paragraphs (a)* to *(c)* of *section 23G(1)*.

(3) The F137**[**Child and Family Agency**]**—

(*a*) may, where it considers it appropriate to the circumstances of the child, inform a person referred to in *section 23G(2)*, and

(*b*) shall, where a direction has been made under *section 23NA(2)(b)*, inform the person in respect of whom that direction was made,

of a review under this section.

(4) The High Court shall, when carrying out a review under this section, consider whether the child continues to require special care to adequately address his or her behaviour, the risk of harm to his or her life, health, safety, development or welfare posed by that behaviour and his or her care requirements and shall have regard to an assessment made in accordance with *section 23ND(4)*.

(5) The High Court may vary a special care order pursuant to a review under this section and may make such other provision and give directions as it, having regard to all the circumstances of the child, considers necessary and in the best interests of the child.

(6) Where a day is specified for a review under this section and on that day the child concerned is—

(*a*) pursuant to *section 23NF*, outside the State for the purpose referred to in *section 23NF(2)(c)*, or

(*b*) pursuant to *section 23NG*, released from the special care unit for a purpose referred to in *section 23NG(1)*,

the review may be held on such date notwithstanding that the child is outside the State or released from the special care unit for such purpose.**]**

F139**[**Extension of period for which special care order has effect.

23J.—(1) Where a special care order has been made in respect of a child and the F140**[**Child and Family Agency**]** is satisfied that there is reasonable cause to believe that—

(*a*) the child is benefiting from the special care provided to him or her pursuant to the order,

(*b*) notwithstanding *paragraph (a)* and having regard to the assessments made by the F140**[**Child and Family Agency**]** under *section 23ND(4)*, the risk of harm to the child posed by his or her behaviour continues to exist,

(*c*) the child requires the continuation of the provision to him or her of special care to adequately address that behaviour and risk of harm and his or her care requirements which the F140**[**Child and Family Agency**]** cannot continue to provide to the child unless the period for which that special care order has effect is extended,

(*d*) the provision of—

(i) care by the F140**[**Child and Family Agency**]** to the child, other than special care, and

(ii) treatment and mental health services, under, and within the meaning of, the Mental Health Act 2001,

will not adequately address that behaviour or risk of harm or the care requirements of the child, and

(*e*) the continuation of the provision of the special care and, for that purpose, the continuation of the detention of the child in a special care unit, is required to protect his or her life, health, safety, development or welfare,

the F140**[**Child and Family Agency**]** shall, subject to *subsection (2)*, apply to the High Court to extend the period for which the special care order has effect for the purpose of continuing the provision of special care to that child.

(2) Not more than 2 applications may be made under this section.

(3) An application under this section shall, subject to a direction under *section 23NA(2)(a)*, be made on notice to the persons referred to in, and in accordance with, *paragraphs (a)* to *(c)* of *section 23G(1)*.

(4) The F140**[**Child and Family Agency**]**—

(*a*) may, where it considers it appropriate to the circumstances of the child, inform a person referred to in *section 23G(2)*, and

(*b*) shall, where a direction has been made under *section 23NA(2)(b)*, inform the person in respect of whom that direction was made,

of an application under this section.

(5) The first application under this section shall be made before the expiration of the period specified in the special care order in accordance with *section 23H(2)*.

(6) The final application under this section shall be made before the expiration of the period for which the special care order was extended pursuant to the first application.

(7) Where the High Court is satisfied that—

(*a*) the conditions specified in *paragraphs (a)* to *(e)* of *subsection (1)* are satisfied in respect of the child, and

(*b*) the continuation of the detention of the child in a special care unit is in the best interests of the child,

the High Court may, subject to *subsection (8)*, extend the period for which the special care order has effect and the High Court may, having regard to all the circumstances of the child, vary the special care order and make such other provision and give directions as it considers necessary and in the best interests of the child.

(8) Each extension of the period for which a special care order has effect shall not exceed 3 months.

(9) Where the High Court extends the period for which a special care order has effect (in this section referred to as the "extended period") the extended period shall take effect—

(*a*) pursuant to the first application, immediately following the expiration of the period specified in the special care order in accordance with *section 23H(2)*, and

(*b*) pursuant to the final application, immediately following the expiration of the previous extended period.

(10) Where an order was made under *section 23NA(1)* in respect of a child who is the subject of an application under this section, the High Court may, on the application of the F140**[**Child and Family Agency**]**, extend the period for which that order has effect.

(11) An application under this section may be made, and heard, in respect of a child who, pursuant to *section 23NF*, is outside the State for the purpose referred to in *section 23NF(2)(c)*.**]**

F143**[**Special care before determination under section 23F.

23K.—Where the F144**[**Child and Family Agency**]** is taking all steps reasonably open to it to make a determination under *section 23F* in respect of a child and has not yet made that determination but it is satisfied that there is reasonable cause to believe that—

(*a*) the child has attained the age of 11 years,

(*b*) the behaviour of the child poses a real and substantial risk of harm to his or her life, health, safety, development or welfare of that child,

(*c*) the risk of harm referred to in *paragraph (b)* is immediate,

(*d*) having regard to that behaviour and risk of harm and having assessed the care requirements of that child—

(i) the provision, or the continuation of the provision, by the F144**[**Child and Family Agency**]** to the child of care other than special care, and

(ii) treatment and mental health services under, and within the meaning of, the Mental Health Act 2001,

will not adequately address that behaviour and risk of harm and those care requirements,

(*e*) having regard to *paragraph (d)*, the child requires special care to adequately address—

(i) that behaviour and risk of harm, and

(ii) those care requirements,

which it cannot provide to the child unless the High Court makes an interim special care order in respect of that child,

(*f*) for the purposes of protecting the life, health, safety, development or welfare of the child, the child requires special care, and

(*g*) having regard to *paragraph (c)*, the child requires special care immediately and before it has made a determination under *section 23F*,

the F144**[**Child and Family Agency**]** shall, as soon as possible, apply to the High Court for an interim special care order.**]**

F149**[**Interim special care order.

23L.—(1) Where the High Court is satisfied that there is reasonable cause to believe that—

(*a*) the child has attained the age of 11 years,

(*b*) the F150**[**Child and Family Agency**]** is taking all steps reasonably open to it to make a determination under *section 23F*,

(*c*) the behaviour of the child poses a real and substantial risk of harm to his or her life, health, safety, development or welfare,

(*d*) the risk of harm, referred to in *paragraph (c)*, is immediate,

(*e*) having regard to that behaviour and risk of harm and the care requirements of the child—

(i) the provision**,** or the continuation of the provision, by the F150**[**Child and Family Agency**]** to that child of care, other than special care, and

(ii) treatment and mental health services under, and within the meaning of, the Mental Health Act 2001,

will not adequately address that behaviour and risk of harm and those care requirements,

(*f*) having regard to *paragraph (e)*, the child requires special care to adequately address—

(i) that behaviour and risk of harm, and

(ii) those care requirements,

which the F150**[**Child and Family Agency**]** cannot provide to the child unless an interim special care order is made in respect of that child,

(*g*) for the purposes of protecting the life, health, safety, development or welfare of the child, the child requires special care,

(*h*) having regard to *paragraph (d)*, the child requires special care immediately and it is required to be provided before the determination under section 23F is made in respect of that child, and

(*i*) having regard to *paragraphs (a)* to *(h)*, the detention of the child in a special care unit, as it is required for the purpose of providing special care to him or her, is in the best interests of the child,

the High Court may make an interim special care order in respect of that child.

(2) An interim special care order shall specify the period for which it has effect and that period shall not exceed, subject to *subsection (3)*, 14 days from the day on which that order is made unless that period is extended under *section 23N* and shall—

(*a*) commit the child in respect of whom it is made to the care of the F150**[**Child and Family Agency**]**,

(*b*) direct the F150**[**Child and Family Agency**]** to detain that child in a special care unit, which the F150**[**Child and Family Agency**]** considers appropriate for that child, for the purpose of providing that child with special care, and

(*c*) direct the F150**[**Child and Family Agency**]** to provide special care to, and to generally care for and maintain, that child,

and the High Court may make such other provision and give directions, as it, having regard to all the circumstances of the child, considers necessary and in the best interests of the child.

(3) An application for an interim special care order may be made *ex parte* where the High Court is satisfied that the interests of justice, the welfare of the child or the protection of the life, health, safety, development or welfare of the child so require, and, subject to *section 23M(6)*, where an interim special care order is made pursuant to an *ex parte* application the period for which such interim special care order has effect shall not exceed 8 days from the day on which it is made.

(4) For the purposes of executing an interim special care order the High Court may—

(*a*) make an order directing a person who has actual custody of the child to deliver that child to the custody of the F150**[**Child and Family Agency**]**,

(*b*) make an order directing the Garda Síochána to search for and find the child and to deliver the child to the custody of the F150**[**Child and Family Agency**]**, at a special care unit specified by the F150**[**Child and Family Agency**]**, and

(*c*) issue a warrant authorising a member of the Garda Síochána, accompanied by such other members of the Garda Síochána or such other persons as may be necessary, to enter, if need be by force, any house or other place specified in the warrant, including any building or part of a building, tent, caravan, or other temporary or moveable structure, vehicle, vessel, or aircraft where the child is, or where there are reasonable grounds for believing that he or she is, and to deliver the child into the custody of the F150**[**Child and Family Agency**]** at the special care unit in which the child is to be detained,

and the High Court may, in respect of such order or warrant, give directions as, having regard to all the circumstances of the child, it considers necessary and in the best interests of the child.

(5) Where the High Court makes an interim special care order, the F150**[**Child and Family Agency**]** shall inform the Garda Síochána immediately that the interim special care order has been made and of the terms and conditions of that order and an order made, or warrant issued, if any, under this section and *section 23NA(1)*.

(6) A person shall be deemed to have been given, or shown, a copy of an interim special care order or an order made, or warrant issued, under *subsection (4)* if that person was present at the sitting of the High Court at which that interim special care order or that order was made or that warrant was issued.

(7) If the F150**[**Child and Family Agency**]** does not know the name of a child in respect of whom the application for an interim special care order is made, the F150**[**Child and Family Agency**]** may make the application for the interim special care order without naming the child and the application shall contain such information in respect of the child to enable him or her to be identified for the purposes of the interim special care order.**]**

F153**[**Interim special care orders made *ex parte*: supplemental provisions.

23M.—(1) Where, in accordance with *section 23L(3)*, the High Court makes an interim special care order pursuant to an *ex parte* application—

(*a*) the High Court shall appoint a day for which the hearing of an application for an interim special care order on notice to the persons referred to in *section 23G(1)* is returnable to the High Court, and, subject to *subsection (7)*, the day appointed for such hearing shall not exceed 8 days from the day on which that interim special care order is made pursuant to the *ex parte* application,

(*b*) the High Court shall, subject to a direction under *subsection (2)*, direct that a copy of the interim special care order made pursuant to the *ex parte* application and, subject to *subsection (3)*, notice of the hearing referred to in *paragraph (a)*, be served on a person referred to in, and in accordance with, *paragraphs (a)* and *(b)* of *section 23G(1)*,

(*c*) the High Court, where F154**[**a person is appointed under *section 35C(1)* pursuant to an order under *section 35B(2)***]** in respect of the proceedings, shall direct that a copy of the interim special care order made pursuant to the *ex parte* application and notice of the hearing referred to in *paragraph (a)* be served on F154**[**the person so appointed**]**, and

(*d*) the High Court may direct that a person referred to in *section 23G(2)* and *section 23G(5)*, be informed of the making of that interim special care order and of the hearing referred to in *paragraph (a)*,

and the High Court may direct that other information and documents be served on such persons and it may make such other provision and give directions, as it, having regard to all the circumstances, considers necessary and in the best interests of the child.

(2) The High Court, on the application of the F155**[**Child and Family Agency**]**, may, having regard to the interests of justice or the protection of the life, health, safety, development or welfare of the child, direct that a copy of the interim special care order referred to in *subsection (1)(b)* not be served on a person referred to in *subsection (1)(b)*.

(3) The High Court may, in respect of the hearing referred to in *subsection (1)(a)*, make a direction under *section 23G(6)*.

(4) The F155**[**Child and Family Agency**]**—

(*a*) may inform a person referred to in *section 23G(2)* of the hearing referred to in *subsection (1)(a)*, and

(*b*) shall, for the purposes of the hearing referred to in *subsection (1)(a)* and subject to a direction under *subsection (2)*, take all steps reasonably open to it to locate a person referred to in *paragraphs (a)* and *(b)* of *section 23G(1)*.

(5) Where the High Court makes an interim special care order at the hearing referred to in *subsection (1)(a)*, it shall, when specifying, in accordance with *section 23L(2)*, the period for which that order is to have effect, take into account the period for which the interim special care order made pursuant to the *ex parte* application has had effect and the cumulative period of the first-mentioned interim special care order and the interim special care order made pursuant to the *ex parte* application shall not, in accordance with *section 23L(2)*, exceed 14 days.

(6) Where, at the hearing referred to in *subsection (1)(a)*, the High Court—

(*a*) makes an interim special care order, the interim special care order made pursuant to the *ex parte* application shall cease to have effect immediately following the making of the first-mentioned interim special care order, or

(*b*) refuses to make an interim special care order it shall discharge the interim special care order made pursuant to the *ex parte* application.

(7) Where the High Court makes an interim special care order pursuant to an *ex parte* application for a period which is less than 8 days, the day appointed for the

hearing referred to in *subsection (1)(a)* shall not exceed the period for which such order is made.

(8) Without prejudice to the generality of the foregoing, the High Court may give directions as it considers necessary and in the best interests of the child in respect of an application made *ex parte* for an interim special care order and in respect of the hearing referred to in *subsection (1)(a)* including directions relating to the service of a copy of the interim special care order made *ex parte* or pursuant to the hearing referred to in *subsection (1)(a)*.**]**

F157**[**Extension of period for which interim special care order has effect.

23N.—(1) Where an interim special care order has been made in respect of a child and the F158**[**Child and Family Agency**]** has not yet made a determination under *section 23F* in respect of that child but it is satisfied that there is reasonable cause to believe that the conditions specified in *paragraphs (a)* to *(e)* of *section 23J(1)* are satisfied in respect of the child, the F158**[**Child and Family Agency**]** shall, subject to *subsections (2)* and *(8)*, apply to the High Court to extend the period for which the interim special care order has effect for the purpose of continuing the provision of special care to that child.

(2) Not more than one application may be made under this section.

(3) An application under this section shall, subject to a direction under *section 23NA(2)(a)*, be made on notice to the persons referred to in, and in accordance with, *paragraphs (a)* to *(c)* of *section 23G(1)*.

(4) The F158**[**Child and Family Agency**]**—

(*a*) may, where it considers it appropriate to the circumstances of the child, inform a person referred to in *section 23G(2)*, and

(*b*) shall, where a direction was made under *section 23NA(2)(b)*, inform the person in respect of whom that direction was made,

of an application under this section.

(5) An application under this section shall be made before the expiration of the period specified in the interim special care order in accordance with *section 23L(2)*.

(6) Where the High Court is satisfied that there is reasonable cause to believe that—

(*a*) the F158**[**Child and Family Agency**]** is taking all steps reasonably open to it to make a determination in respect of the child under *section 23F*,

(*b*) the conditions specified in *paragraphs (a)* to *(e)* of *section 23J(1)* are satisfied in respect of the child, and

(*c*) the continuation of the detention of the child in a special care unit is in the best interests of the child,

the High Court may, subject to *subsections (7)* and *(8)*, extend the period for which the interim special care order has effect, and the High Court may, having regard to all the circumstances of the child, vary the interim special care order and make such other provision and give directions as it considers necessary and in the best interests of the child.

(7) The extension of the period for which the interim special care order has effect shall not exceed 21 days.

(8) An application to extend the period for which an interim special care order has effect shall not be made in respect of an interim special care order, referred to in *section 23L(3)*, which has been made pursuant to an *ex parte* application and in respect of which the hearing referred to in *section 23M(1)(a)* has not taken place.

(9) Where the High Court extends the period for which an interim special care order has effect (in this section referred to as the "extended period") the extended period shall take effect immediately following the expiration of the period specified in the interim special care order in accordance with *section 23L(2)*.

(10) Where an order was made under *section 23NA(1)* in respect of a child who is the subject of an application under this section, the High Court may, on the application of the F158**[**Child and Family Agency**]**, extend the period for which that order has effect.

(11) An application under this section may be made, and heard, in respect of a child who, pursuant to section 23NF, is outside the State for the purpose referred to in *section 23NF(2)(c)*.**]**

F160**[***Sections 23H* and *23L*: supplemental provisions.

23NA.—(1) Where the High Court has made a special care order or an interim special care order in respect of a child, it may, on the application of the F161**[**Child and Family Agency**]**, make an order, for the duration of the period for which that special care order or interim special care order has effect, directing the Garda Síochána, when requested by the F161**[**Child and Family Agency**]**, to search for and find the child and to deliver the child to the custody of the F161**[**Child and Family Agency**]** at a special care unit specified by the F161**[**Child and Family Agency**]** where the child—

(*a*) is, without lawful authority or the consent or knowledge of the F161**[**Child and Family Agency**]**, removed from the custody of the F161**[**Child and Family Agency**]** or from a special care unit,

(*b*) absconds from a special care unit or the custody of the F161**[**Child and Family Agency**]**,

(*c*) fails to return, or is prevented from returning to—

(i) a special care unit, or

(ii) the custody of the F161**[**Child and Family Agency**]**,

or

(*d*) is missing or is otherwise absent, without the consent or knowledge of the F161**[**Child and Family Agency**]**, from a special care unit or place to which he or she has been released under *section 23NF* or *23NG*.

(2) Where the High Court makes a special care order or an interim special care order, the High Court, having regard to the interests of justice or the protection of the life, health, safety, development or welfare of the child, on its own motion or on the application of a parent, a guardian of the child, a person *in loco parentis* or the F161**[**Child and Family Agency**]**—

(*a*) may, for the purpose of protecting the life, health, safety, development or welfare of the child—

(i) give directions in relation to the withholding of the address of the special care unit from a named person,

(ii) give directions in relation to the access, if any, to the child by a named person and the conditions under which that access is to be permitted, and

(iii) direct that, notwithstanding *sections 23I(2)*, *23J(3)*, *23N(3)*, *23NE(6)*, *23NE(7)*, *23NE(8)*, *23NF(4)* and *23NG(3)*, a review under *section 23I* and an application under *sections 23J*, *23N*, *23NE*, *23NF* and *23NG*, or any of them, shall be made otherwise than on notice to a named person, being a person to whom notice of such review or application is made pursuant to those sections,

and

(*b*) may, where it has made a direction under *section 23G(5)*, for the purpose of protecting the life, health, safety, development or welfare of the child, direct that the person referred to in that subsection be informed of a review under *section 23I* and an application under *sections 23J*, *23N*, *23NE*, *23NF* and *23NG*, or any of them.

(3) Where the High Court makes a special care order or an interim special care order and before that order was made the F161**[**Child and Family Agency**]** was unable to locate—

(*a*) a parent having custody of the child concerned,

(*b*) a guardian of the child, if any, or

(*c*) a person *in loco parentis*,

the F161**[**Child and Family Agency**]** shall take all steps reasonably open to it to find that parent, guardian or person and, subject to a direction under *subsection (2)(a)* and *section 23M(2)*, or any other order or direction of the High Court, inform him or her—

(i) that a special care order or an interim special care order has been made in respect of the child and the terms and conditions of that order,

(ii) of the name and location of the special care unit in which the child is detained, and

(iii) of an order made, or warrant issued, if any, under *section 23H* or *23L*, an order, if any, made under *subsection (1)*, and a direction, if any, made under *subsection (2)*.

(4) Where the High Court makes a direction referred to in *section 23G(6)* and, following that direction, makes a special care order or an interim special care order in respect of the child, subject to that direction, or other order or direction of the High Court including a direction referred to in *subsection (2)(a)*, the F161**[**Child and Family Agency**]** shall take all steps reasonably open to it to inform that parent or person—

(*a*) that the special care order or interim special care order has been made in respect of the child and the terms and conditions of that order,

(*b*) of the name and location of the special care unit in which the child is detained, and

(*c*) of an order made, or warrant issued, if any, made under *section 23H*, or *23L*, an order, if any, made under *subsection (1)*, and a direction, if any, made under *subsection (2)*.

(5) Where the High Court makes a special care order or an interim special care order, the F161**[**Child and Family Agency**]**, may apply to the High Court for an order to require a parent, or both parents, to pay to the F161**[**Child and Family Agency**]** a sum of money as a contribution towards the cost of maintaining the child, in each week or other period and the application shall be on notice to the parent concerned or both of them.

(6) Where—

(*a*) an application under *subsection (5)* is made, the High Court shall have regard to the means of a parent, or both parents, and where it makes the order it may give directions and make such other provision as it considers necessary, and

(*b*) the High Court makes the order referred to in *subsection (5)*, a parent, or both parents, may apply to the High Court to vary or discharge the order to pay the sum of money referred to in *subsection (5)*.

(7) Where the High Court makes an interim special care order, the F161**[**Child and Family Agency**]** shall, as soon as possible, take all steps reasonably open to it to make a determination, in respect of the child concerned, under, and in accordance with, *section 23F*.

(8) A person shall be deemed to have been given, or shown, a copy of an order referred to in *subsection (1)* if that person was present at the sitting of the High Court at which that order was made.

(9) The duration of the period for which the order made under *subsection (1)* has effect, may be extended with an application under *section 23J* or *23N*.**]**

F163**[**Failure to find child.

23NB.—(1) Where a child, in respect of whom a special care order or an interim special care order has been made, has not been found within 3 days of the making of that order the F164**[**Child and Family Agency**]** shall, on notice to the persons referred to in *subsection (3)*, notify the High Court as soon as practicable after those 3 days have expired, that the child has not been found and of all steps taken, and proposed to be taken, by the F164**[**Child and Family Agency**]** and the Garda Síochána to find the child.

(2) The High Court may, following the notification under *subsection (1)*, give directions and make such other provision in relation to that order and the execution of that order as it considers necessary and in the best interests of the child.

(3) A notification under *subsection (1)* shall, subject to a direction referred to in *section 23G(6)* or *23M(2)*, and *section 23NA(2)(a)*, be made on notice to a person referred to in, and in accordance with, *paragraphs (a)* to *(c)* of *section 23G(1)*.

(4) Where a direction was made under *section 23NA(2)(b)*, the F164**[**Child and Family Agency**]** shall inform the person in respect of whom that direction was made, of the notification under this section.

(5) Where the F164**[**Child and Family Agency**]** considers it appropriate to the circumstances of the child, it may inform a person referred to in *section 23G(2)* of the notification under this section.**]**

F166**[**Appeal and staying of order.

23NC.—Where—

(*a*) a special care order or an interim special care order, or

(*b*) an extension under *section 23J* or *23N*,

is appealed, the High Court, may direct that the special care order, interim special care order or extension is to be stayed pending the hearing and determination of the appeal.**]**

F168**[**Functions of F169**[**Child and Family Agency**]** when providing special care.

23ND.—(1) Where a special care order or an interim special care order has effect the F169**[**Child and Family Agency**]**—

(*a*) shall have the like control over the child as if it were a parent of that child,

(*b*) shall do what is reasonable, subject to this Part, to promote his or her health, development or welfare and protect his or her life, health, safety, development or welfare, having regard to all the circumstances of the child,

(*c*) shall have the authority to decide on the special care to be provided to the child having regard to his or her care requirements and the special care unit in which a child is to be detained,

(*d*) shall have the authority to give consent to any medical or psychiatric examination, treatment or assessment in respect of the child,

(*e*) shall have the authority to give consent to the application for, and issuing of, a passport to the child, or the provision of passport facilities to the child, for the purpose of—

(i) obtaining medical or psychiatric assessment, examination and treatment outside the State,

(ii) permitting the child to reside, outside the State, with a parent or relative, or

(iii) obtaining such assessment, examination and treatment referred to in *subparagraph (i)* and permitting such residence referred to in *subparagraph (ii)*,

in accordance with *section 23NF*, and

(*f*) shall take all steps that are reasonably open to it to prevent the child from absconding from the special care unit or the custody of the F169**[**Child and Family Agency**]**.

(2) Where the F169**[**Child and Family Agency**]** has given its consent in accordance with this section, such consent shall be sufficient authority for the carrying out of any medical or psychiatric assessment or examination, or the provision to the child of medical or psychiatric treatment, or the issue of a passport or the provision of passport facilities.

(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.

(4) Where a child is detained in a special care unit, the F169**[**Child and Family Agency**]**—

(*a*) shall, from time to time, continue to assess his or her care requirements, and

(*b*) having made an assessment referred to in *paragraph (a)*, shall from time to time—

(i) assess the effect of the special care provided to the child in relation to his or her care requirements, the behaviour of the child and risk of harm posed by that behaviour, and

(ii) satisfy itself that the child continues to require special care to adequately address that behaviour and risk of harm and those care requirements.

(5) The F169**[**Child and Family Agency**]** may release the child from the special care unit for the purpose referred to in *section 23NF(2)(c)*, in accordance with *section 23NF*.

(6) The F169**[**Child and Family Agency**]** may transfer a child from one special care unit to another special care unit.

(7) Where the F169**[**Child and Family Agency**]** proposes to transfer a child to another special care unit, subject to a direction under *section 23NA(2)(a)*, the F169**[**Child and Family Agency**]** shall—

(*a*) notify, subject to *paragraph (b)*—

(i) a parent having custody of the child unless the parent is dead, missing or cannot be found, and

(ii) a guardian, if any, of the child unless the guardian is missing or cannot be found,

of that proposal, or

(*b*) where the transfer is required for the immediate safety of the child, notify—

(i) a parent having custody of the child unless the parent is dead, missing or cannot be found, and

(ii) a guardian, if any, of the child unless the guardian is missing or cannot be found,

of the location of the special care unit to which the child has been transferred.

(8) The F169**[**Child and Family Agency**]** shall, for the purposes of *subsection (7)*, take all steps reasonably open to it to locate a person referred to in *paragraph (a)* or *(b)* of *subsection (7)*.**]**

F170**[**Discharge and variation of special care order or interim special care order.

23NE.—(1) Where a special care order or an interim special care order has effect and the F171**[**Child and Family Agency**]** is satisfied that there is reasonable cause to believe that—

(*a*) the care requirements of the child have changed and the child no longer requires special care, or

(*b*) the child is not benefiting from special care,

the F171**[**Child and Family Agency**]** shall, subject to *subsection (6)*, apply to the High Court to have the special care order or the interim special care order discharged.

(2) A special care order or an interim special care order shall cease to have effect when the child in respect of whom it was made attains 18 years of age.

(3) The High Court may, subject to *subsections (7)* and *(8)*, discharge a special care order or an interim special care order—

(*a*) of its own motion,

(*b*) on the application of a parent of the child, a guardian of the child or a person *in loco parentis*, or

(*c*) on the application of the F171**[**Child and Family Agency**]** pursuant to *section 23D* or *23E*, or both of them.

(4) The High Court may vary a special care order or an interim special care order—

(*a*) of its own motion,

(*b*) on the application of the F171**[**Child and Family Agency**]**, or

(*c*) on the application of a person referred to in *subsection (3)(b)*.

(5) When considering an application to discharge or vary a special care order or an interim special care order under this section, other than an application referred to in *subsection (3)(c)*, the High Court shall satisfy itself that the discharge or variation is in the best interests of the child, having regard to his or her behaviour and the risk of harm it poses to his or her life, health, safety, development or welfare.

(6) An application referred to in *subsection (1)*, *(3)(c)* or *(4)(b)* shall, subject to a direction under *section 23NA(2)(a)*, be made on notice to the persons referred to in, and in accordance with, *paragraphs (a)* to *(c)* of *section 23G(1)* and where—

(*a*) a direction has been made under *section 23NA(2)(b)*, the F171**[**Child and Family Agency**]** shall inform the person in respect of whom that direction was made of the application, and

(*b*) the F171**[**Child and Family Agency**]** is satisfied it is appropriate to the circumstances of the child, it may inform a person referred to in *section 23G(2)* of the application.

(7) An application referred to in *subsection (3)(a)* or *(4)(a)* shall, subject to a direction under *section 23NA(2)(a)*, be made on notice to the F171**[**Child and Family Agency**]** and the persons referred to in, and in accordance with, *paragraphs (a)* to *(c)* of *section 23G(1)*, and—

(*a*) where a direction has been made under *section 23NA(2)(b)*, the F171**[**Child and Family Agency**]** shall inform the person in respect of whom that direction was made of the application, and

(*b*) where the F171**[**Child and Family Agency**]** is satisfied it is appropriate to the circumstances of the child, it may inform a person referred to in *section 23G(2)*.

(8) An application referred to in *subsection (3)(b)* or *(4)(c)* shall be made on notice to the F171**[**Child and Family Agency**]**, and subject to a direction under *section 23NA(2)(a)*, the persons, other than the person making the application, referred to in, and in accordance with, *paragraphs (a)* to *(c)* of *section 23G(1)*, and—

(*a*) the person making the application may inform a person referred to in *section 23G(2)* of the application, and

(*b*) where a direction has been made under *section 23NA(2)(b)*, the person making the application shall inform the person in respect of whom that direction was made of that application.**]**

F173**[**Release from special care unit under special care order or interim special care order.

23NF.—(1) Notwithstanding the detention of a child in a special care unit pursuant to a special care order or an interim special care order, the F174**[**Child and Family Agency**]** may apply to the High Court to vary that special care order or interim special care order to authorise the release of the child from the special care unit for all or any of the purposes referred to in *subsection (2)*.

(2) The purposes referred to in *subsection (1)* are:

(*a*) to place the child in a children's residential centre or to permit the child to reside with a parent or a relative, including a parent or relative who resides outside the State, for a specified period as the F174**[**Child and Family Agency**]** considers appropriate having regard to the care requirements of the child;

(*b*) the provision to the child of medical or psychiatric examination, treatment or assessment;

(*c*) the provision to the child, outside the State, of medical or psychiatric examination, treatment or assessment;

(*d*) release on compassionate grounds;

(*e*) educational and recreational outings from the special care unit;

(*f*) to promote the welfare of the child, having regard to his or her care requirements and to adequately address his or her behaviour and the risk of harm it poses to his or her life, health, safety, development or welfare.

(3) An application under this section may be made—

(*a*) with an application for a special care order or interim special care order,

(*b*) at a review under *section 23I*,

(*c*) with an application under *section 23J* or *23N*, or

(*d*) at any other time during the period for which the special care order or interim special care order has effect.

(4) An application referred to in *subsection (3)(d)* shall be made, subject to a direction under *section 23NA(2)(a)*, on notice to the persons referred to in, and in accordance with, *paragraphs (a)* to *(c)* of *section 23G(1)*.

(5) Where the F174**[**Child and Family Agency**]** considers it appropriate to the circumstances of the child, it may inform a person referred to in *section 23G(2)* of an application referred to in *subsection (3)(d)*.

(6) Where a direction has been made under *section 23NA(2)(b)* in respect of an application under this section, the F174**[**Child and Family Agency**]** shall inform the person in respect of whom that direction was made of an application referred to in *subsection (3)(d)*.

(7) The High Court may—

(*a*) vary the special care order or interim special care order to authorise the release of the child from the special care unit during the period for which the special care order or interim special care order has effect for all or any of the purposes referred to in *subsection (2)* where it is satisfied that the release is necessary for the protection of his or her life, health, safety, development or welfare and is in the best interests of the child,

(*b*) make such other provision and give directions in respect of the release as the High Court, having regard to all the circumstances of the child, considers necessary and in the best interests of the child, and

(*c*) without prejudice to the generality of *paragraphs (a)* and *(b)*, vary the special care order or interim special care order for a specified period or a number of specified periods and may include terms and conditions as the High Court, having regard to all the circumstances of the child, considers necessary and in the best interests of the child.

(8) Without prejudice to the generality of *subsection (7)*, a variation under this section may provide for the care of the child during the release and where the release is for the purpose—

(*a*) referred to in *subsection (2)(c)*, or

(*b*) referred to in *subsection (2)(a)* and the parent or relative concerned resides outside the State,

the variation, or direction, may provide—

(i) in respect of the purpose referred to in *paragraph (a)*, for the placement of the child in a specified place in which such examination, treatment or assessment is to be provided to the child, or

(ii) in respect of the purpose referred to in *paragraph (b)*, any matter relating to the residence of the child with the parent or relative concerned.

(9) Notwithstanding *subsection (1)*, the F174**[**Child and Family Agency**]** may release a child from a special care unit where—

(*a*) the child requires medical treatment, assessment or examination immediately, or

(*b*) the release is required immediately on compassionate grounds.

(10) After a release referred to in *subsection (9)* the F174**[**Child and Family Agency**]** shall—

(*a*) inform the High Court as soon as practicable, of the release and the reasons for it,

(*b*) subject to a direction under *section 23NA(2)(a)*, inform a person referred to in *section 23G(1)(a)* as soon as possible of the release and the reasons for it unless he or she is dead, missing or cannot be found, and

(*c*) where appropriate to the circumstances of the child and subject to a direction under *section 23NA(2)(a),* inform a person referred to in *section 23G(1)(b)* as soon as possible of the release and the reasons for it unless he or she is dead, missing or cannot be found.

(11) Where a child has been released from a special care unit under *subsection (9)* and the F174**[**Child and Family Agency**]** considers it appropriate, having regard to the circumstances of the child, it may, subject to a direction under *section 23NA(2)(a)*, inform any other person, including a person referred to in *section 23G(2)* of the release and the reasons for it.

(12) Where a child has been released under *subsection (9)* and a direction has been made under *section 23NA(2)(b)* in respect of an application under this section, the F174**[**Child and Family Agency**]** shall inform the person in respect of whom that direction was made, of the release under this section.

(13) Where a child is released for the purpose referred to in *subsection (9)(a)* the child may remain in the place in which such treatment, assessment or examination is provided to him or her for such period as is required for such treatment, assessment or examination.

(14) Where a child is released from the special care unit pursuant to this section, including a release referred to in subsection (9), the period of the release concerned

shall be included in the period for which the special care order or the interim special care order has effect.

(15) Without prejudice to the generality of *subsections (7)* and *(8)*, where a child is released from the special care unit—

(*a*) for the purpose referred to in *subsection (2)(c)*, or

(*b*) the purpose, referred to in *subsection (2)(a)* and the parent or relative concerned resides outside the State,

the High Court shall satisfy itself of all factors relevant to the welfare of the child in respect of—

(i) the provision, referred to in *subsection (2)(c)*, to the child of medical or psychiatric examination, treatment or assessment outside the State, or

(ii) the residence of the child with a parent or relative, referred to in *subsection (2)(a)*, outside the State,

before it varies the special care order or the interim special care order concerned.**]**

F176**[**Release from special care unit for purposes of *sections 23D* and *23E*.

23NG.—(1) Notwithstanding the detention of a child in a special care unit pursuant to a special care order or an interim special care order, the F177**[**Child and Family Agency**]** may apply to the High Court to vary that special care order or interim special care order to authorise the release of the child from the special care unit for all or any of the following:

(*a*) for the purposes referred to in *section 23D(3)(c)*;

(*b*) for the purposes referred to in *section 23D(4)(i)* and *section 23D(5)*;

(*c*) for the purposes of complying with any terms, conditions and other requirements of a Children Act order referred to in *sections 23E(5)(i)*, *23E(8)* and *23E(13)*;

(*d*) for the purposes of complying with any terms, conditions and other requirements of a children detention order the making of which has been deferred under section 144 of the Act of 2001, referred to in *sections 23E(4)(i)*, *23E(8)* and *23E(12)*;

(*e*) for the purposes of complying with any terms, conditions and other requirements of the suspension, under section 144(9)(*b*) of the Act of 2001, of a period of detention referred to in *sections 23E(4)(i)*, *23E(8)* and *23E(12)*;

(*f*) for the purposes of complying with a suspended custodial sentence referred to in *sections 23E(3)(i)*, *23E(8)* and *23E(11)*;

(*g*) for the purposes referred to in *section 23E(6)*;

(*h*) for any other purpose in respect of which the release of the child is required pursuant to *section 23D* or *23E*.

(2) An application under this section may be made—

(*a*) with an application for a special care order or interim special care order, at a review under *section 23I* or with an application under *section 23J* or *23N*, or

(*b*) at any other time during the period for which the special care order or interim special care order has effect.

(3) An application referred to in subsection (2)(*b*) shall be made, subject to a direction under *section 23NA(2)(a)*, on notice to the persons referred to in, and in accordance with, *paragraphs (a)* to *(c)* of *section 23G(1)*.

(4) The High Court may—

(*a*) vary the special care order or interim special care order to authorise the release of the child from the special care unit during the period for which the special care order or interim special care order has effect for all or any of the purposes referred to in *subsection (1)*,

(*b*) make such other provision and give directions in respect of the release under this section as the High Court, having regard to all the circumstances of the child, considers necessary and in the best interests of the child,

(*c*) without prejudice to the generality of *paragraphs (a)* and *(b)*, vary the special care order or interim special care order for a specified period or a number of specified periods and may include terms and conditions as the High Court, having regard to all the circumstances of the child, considers necessary and in the best interests of the child,

and without prejudice to the generality of the foregoing where the release is for the purposes referred to in *paragraph (a)* or *(b)* of *subsection (1)* or for any other purpose for which the release of the child is required pursuant to section 23D, the variation shall be made in accordance with *section 23D(3)*.

(5) Where a child is released from the special care unit pursuant to this section the period of the release shall be included in the period for which the special care order or the interim special care order has effect.**]**

F179**[**Hearing of proceedings.

23NH.—F180**[**...**]]**

F181**[**Return of child to F182**[**Child and Family Agency**]** in certain circumstances.

23NI.—(1) Where a child, in respect of whom a special care order or an interim special care order has been made—

(*a*) is, without lawful authority or the consent or the knowledge of the F182**[**Child and Family Agency**]**, removed from the custody of the F182**[**Child and Family Agency**]** or a special care unit,

(*b*) absconds from a special care unit or the custody of the F182**[**Child and Family Agency**]**,

(*c*) fails to return, or is prevented from returning, to—

(i) a special care unit, or

(ii) the custody of the F182**[**Child and Family Agency**]**,

or

(*d*) is missing or is otherwise absent, without the consent or knowledge of the F182**[**Child and Family Agency**]**, from the special care unit or place to which he or she has been released in accordance with *section 23NF* or *23NG*,

the F182**[**Child and Family Agency**]** shall request the Garda Síochána to search for the child and return the child to the custody of the F182**[**Child and Family Agency**]** at the special care unit specified by the F182**[**Child and Family Agency**]**.

(2) Where a request has, in accordance with *subsection (1)*, been made, the Garda Síochána may take all reasonable measures to comply with the request.

(3) Where the F182**[**Child and Family Agency**]** has reasonable grounds for believing that a person can produce a child referred to in *subsection (1)*, the F182**[**Child and Family Agency**]** shall apply to the High Court for an order directing that person to deliver the child to the care of the F182**[**Child and Family Agency**]**.

(4) Where an application referred to in *subsection (3)* is made and the High Court is satisfied by information on oath that there are reasonable grounds for believing that a person specified in the information can produce that child, the High Court may make an order directing that person to deliver up that child to the custody of the F182**[**Child and Family Agency**]** and may, for the purpose of that order, give directions as it considers necessary and in the best interests of the child.

(5) A person shall be deemed to have been given, or shown, a copy of a warrant issued under *subsection (6)* if that person was present at the sitting of the High Court at which the warrant was issued.

(6) Where the High Court is satisfied by information on oath that there are reasonable grounds for believing that a child referred to in *subsection (1)*, and who is named in an application, is in a house or other place, including any building or part of a building, tent, caravan or other temporary or moveable structure, vehicle, vessel or aircraft, specified in the information, the High Court may, on the application of the F182**[**Child and Family Agency**]** in respect of a child referred to in *subsection (1)*, issue a warrant authorising a member of the Garda Síochána, accompanied by such other members of the Garda Síochána or such other persons as may be necessary, to enter, if need be by force, and to search any house or other place specified in the warrant, where the child is, or where there are reasonable grounds for believing that he or she is, and to return the child to the custody of the F182**[**Child and Family Agency**]** at the special care unit specified by the F182**[**Child and Family Agency**]**.

(7) An application for an order under *subsection (3)* may be made *ex parte* and may be heard if the High Court is satisfied—

(*a*) of the urgency of the matter,

(*b*) that it is necessary for the purpose of protecting the life, health, safety, development or welfare of the child, or

(*c*) that it is in the interests of justice to do so.

(8) Where a member of the Garda Síochána has reasonable grounds for believing that—

(*a*) there is an immediate and serious risk to the life, health, safety, development or welfare of a child referred to in *subsection (1)*, and

(*b*) it would not be sufficient for the protection of that child from such immediate and serious risk to await the making of an application for a warrant under *subsection (6)*,

the member, accompanied by such other persons as may be necessary, may, without a warrant, enter, if need be by force, any house or other place, including any building or part of a building, tent, caravan or other temporary or moveable structure, vehicle, vessel or aircraft, and remove the child to safety and return the child to the custody of the F182**[**Child and Family Agency**]** at the special care unit specified by the F182**[**Child and Family Agency**]**.

(9) *Subsection (8)* is without prejudice to any other powers exercisable by a member of the Garda Síochána.

(10) Where a child is removed to safety by a member of the Garda Síochána in accordance with *subsection (8)*, the child shall be returned to the custody of the F182**[**Child and Family Agency**]** at the special care unit specified by the F182**[**Child and Family Agency**]**.**]**

F184**[**Applications for special care orders or interim special care orders generally.

23NJ.—(1) Nothing in this Act shall be construed as preventing the F185**[**Child and Family Agency**]** from applying for a special care order or an interim special care order, in respect of a child who has previously been the subject of—

(*a*) an application for a special care order or an interim special care order,

(*b*) a special care order, whether or not the period for which it had effect was extended in accordance with *section 23J*, or

(*c*) an interim special care order, whether or not the period for which it had effect was extended in accordance with *section 23N*.

(2) Where a special care order has been made in respect of a child, whether or not the period for which it had, or has, effect was extended in accordance with

section 23J, the F185**[**Child and Family Agency**]** may apply for another special care order in respect of that child—

(*a*) at any time after the first-mentioned special care order ceased to have effect, or

(*b*) during the period for which the first-mentioned special care order has effect,

and where the High Court, pursuant to an application to which paragraph (*b*) refers, makes the special care order, the first-mentioned special care order shall cease to have effect immediately following the making of that special care order.

(3) Where an interim special care order has been made in respect of a child, whether or not the period for which it had effect was extended in accordance with *section 23N*, the F185**[**Child and Family Agency**]** may apply for another interim special care order in respect of that child, subject to *subsection (4)*, at any time after the first-mentioned interim special care order ceased to have effect.

(4) *Subsection (3)* shall not apply in respect of a hearing, referred to in *section 23M(1)(a)*, held pursuant to the making of an interim special care order *ex parte*.

(5) Where an interim special care order has been made in respect of a child, whether or not the period for which it had, or has, effect was extended in accordance with *section 23N*, the F185**[**Child and Family Agency**]** may apply for a special care order in respect of that child—

(*a*) at any time after the interim special care order ceased to have effect, or

(*b*) during the period for which the interim special care order has effect,

and where the High Court, pursuant to an application to which *paragraph (b)* refers—

(i) makes the special care order, the interim special care order shall cease to have effect immediately following the making of that special care order, or

(ii) if the High Court refuses to make the special care order it shall discharge the interim special care order.

(6) The F185**[**Child and Family Agency**]** may apply for a special care order, or an interim special care order, in respect of a child who is, or has previously been the subject of an order of the High Court the effect of which was to detain a child in secure residential accommodation and such application may be made, in accordance with this Part—

(*a*) at any time after that High Court order ceased to have effect, or

(*b*) during the period for which that High Court order has effect,

and where the High Court, pursuant to an application to which *paragraph (b)* refers, makes the special care order or, as the case may be, the interim special care order it shall give directions in respect of the cessation of the effect of that High Court order.**]**

F187**[**Application for directions.

23NK.—Where a child is in the care of the F188**[**Child and Family Agency**]** pursuant to a special care order or an interim special care order, the High Court may—

(*a*) of its own motion, or

(*b*) on the application of the F188**[**Child and Family Agency**]**, a parent, F189**[**the guardian of the child, a guardian *ad litem*, where such guardian *ad litem* is appointed in accordance with Part VA in respect of proceedings under this Part,**]** or a relative,

give directions or make an order on any question affecting the welfare of the child as the High Court thinks proper and may vary or discharge any such direction or order.**]**

F191**[**Existing orders.

23NL.—(1) Where an existing order has effect in respect of a child on the day on which a special care order or an interim special care order is made in respect of that child, subject to *subsection (2)*, the provision of special care to that child by the F192**[**Child and Family Agency**]** shall take precedence over the care provided to the child pursuant to such existing order during the period for which the special care order or interim special care order has effect.

(2) Where an existing order has effect for a specified period, nothing in *subsection (1)* shall be construed as affecting that period.

(3) In this section "existing order" means—

(*a*) an interim care order made under *section 17*,

(*b*) a care order made under *section 18*,

(*c*) an emergency order made under *section 13*, or

(*d*) a supervision order made under *section 19*.**]**

F193**[**Provision of information to certain persons.

23NM.—(1) The F194**[**Child and Family Agency**]** shall, from time to time during the period for which a special care order or an interim special care order has effect and subject to a direction under *section 23NA(2)(a)*, provide—

(*a*) a parent having custody of the child unless the parent is dead, missing or cannot be found, and

(*b*) a guardian of the child unless the guardian is missing or cannot be found, or a relative,

with information relating to the child having regard to the special care provided to him or her, his or her care requirements, the behaviour of the child before the provision of special care and the risk it poses to his or her life, health, safety, development or welfare.

(2) The F194**[**Child and Family Agency**]** shall, for the purposes of *subsection (1)*, take all steps reasonably open to it to locate a person referred to in *paragraphs (a)* and *(b)* of *subsection (1)*.

(3) Without prejudice to the generality of *subsection (1)*, information provided pursuant to that subsection includes information in respect of—

(*a*) the benefits of special care having regard to the care requirements of the child, and

(*b*) an incident, if any, relating to the child which—

(i) has occurred in the special care unit or during a period for which the child was released from the special care unit pursuant to *section 23NF* or *23NG*, and

(ii) has had, or is likely to have, an adverse affect on that child.**]**

F195**[**Request for appraisal of special care provided to child.

23NN.—(1) A parent of a child who is the subject of a special care order or an interim special care order, a guardian or a person who has a *bona fide* interest in the child, may request, in writing, the F196**[**Child and Family Agency**]** to carry out an appraisal of the child in respect of the special care provided to him or her, the care requirements of the child, the behaviour of the child before the provision of such special care and the risk such behaviour poses to his or her life, health, safety, development or welfare.

(2) Where a request under *subsection (1)* is made, the F196**[**Child and Family Agency**]** shall, subject to *subsection (3)*, carry out an appraisal referred to in *subsection (1)*.

(3) Where, pursuant to a request referred to in *subsection (1)*, the F196**[**Child and Family Agency**]** decides not to carry out an appraisal, the F196**[**Child and Family

Agency**]** shall inform, in writing, the person who made the request of that decision and the reasons for it.

(4) Where the F196**[**Child and Family Agency**]** decides not to carry out an appraisal pursuant to a request referred to in *subsection (1)*, the person who made that request may appeal the decision in accordance with this section within 14 days of receipt of the written notification in the prescribed form stating the reasons for the appeal.

(5) Where the F196**[**Child and Family Agency**]** receives an appeal under *subsection (4)* it shall, with the consent of the Minister, appoint a person who—

(*a*) has, in the opinion of the F196**[**Child and Family Agency**]**, the necessary qualifications, training or experience, or a combination thereof, and

(*b*) is not an employee of the F196**[**Child and Family Agency**]**.

(6) The person appointed pursuant to *subsection (5)* to consider an appeal under *subsection (4)* shall—

(*a*) be independent in the performance of his or her functions,

(*b*) comply with guidelines issued under *subsection (10)* by the F196**[**Child and Family Agency**]** in respect of the procedure to be followed with respect to the consideration of the appeal,

(*c*) consider any written or oral objections made by the appellant in support of the appeal,

(*d*) make a decision in writing determining the appeal as soon as practicable in all the circumstances of the case, and

(*e*) send a copy of the decision referred to in *paragraph (d)* to the appellant and the F196**[**Child and Family Agency**]** together with the reasons for that decision.

(7) The appellant or the F196**[**Child and Family Agency**]** may appeal to the High Court against the decision referred to in *subsection (6)(d)* on a point of law.

(8) An appeal under *subsection (7)* shall, where the appellant requests, be heard otherwise than in public.

(9) A decision of the High Court on an appeal under *subsection (7)* shall be final except that, by leave of the High Court, an appeal from the decision shall lie to the Supreme Court on a specified question of law.

(10) The F196**[**Child and Family Agency**]** shall issue guidelines in respect of the procedure to be followed in respect of an appeal under this section.**]**

F198**[**Guidelines.

23NO.—The F199**[**Child and Family Agency**]** shall prepare and publish guidelines in respect of—

(*a*) the procedures for—

(i) the discharge of children from special care units including the discharge or release of children who are to remain in the care of the F199**[**Child and Family Agency**]** pursuant to an order under the Act other than under this Part, and

(ii) the release, in accordance with *section 23NF* and *23NG*, of children from a special care unit,

F200**[**(*b*) (i) the provision of care under this Act to a child when a special care order or an interim special care order made in respect of that child ceases to have effect, and

(ii) the assistance which may be provided by the Child and Family Agency in accordance with an aftercare plan where a person has been the subject

of an interim special care order or a special care order and is an eligible child or eligible adult,

and**]**

(*c*) informing the Garda Síochána and other persons, of children—

(i) who are, without lawful authority or the consent or knowledge of the F199**[**Child and Family Agency**]**, removed from the custody of the F199**[**Child and Family Agency**]** or a special care unit,

(ii) who abscond from a special care unit or the custody of the F199**[**Child and Family Agency**]**,

(iii) who fail to return, or are prevented from returning, to a special care unit or the custody of the F199**[**Child and Family Agency**]**, or

(iv) who are missing or otherwise absent, without the consent or knowledge of the F199**[**Child and Family Agency**]**, from the special care unit or place to which children are released in accordance with *sections 23NF* and *23NG*.**]**

F201**[**Offences.

23NP.—(1) Without prejudice to the law relating to contempt of court, where the High Court—

(*a*) makes an order under *section 23H(3)(a)*,

(*b*) makes an order under *section 23L(4)(a)*, or

(*c*) makes an order under *section 23NI(4)*,

and the person who has actual custody of the child has been given or shown a copy of the order referred to in *paragraph (a)*, *(b)* or *(c)* and has been required, by or on behalf of the F202**[**Child and Family Agency**]**, to give up that child to the F202**[**Child and Family Agency**]**, and that person fails or refuses to comply with the order, that person shall be guilty of an offence and shall be liable on summary conviction to a class B fine or imprisonment for a term not exceeding 6 months or both.

(2) Without prejudice as to the law as to contempt of court, where a special care order or an interim special care order has been made in respect of a child, a person who—

(*a*) without lawful authority, removes that child from—

(i) a special care unit,

(ii) the custody of the F202**[**Child and Family Agency**]**, any person who is taking care of the child on behalf of the F202**[**Child and Family Agency**]** or a person referred to in *section 23B(4)*, or

(iii) the place to which he or she has been released under *section 23NF* or *23NG*,

or

(*b*) prevents the child, where that child is released from the special care unit in accordance with *section 23NF* or *23NG*, from returning to—

(i) the special care unit, or

(ii) the custody of the F202**[**Child and Family Agency**]** or a person referred to in *paragraph (a)(ii)*,

shall be guilty of an offence and shall be liable on summary conviction to a class B fine or imprisonment for a term not exceeding 6 months or both.

(3) For the purposes of this section, a person shall be deemed to have been given or shown a copy of an order referred to in *paragraph (a)*, *(b)* or *(c)* of *subsection*

(1) if that person was present at the sitting of the High Court at which that order was made.**]**

F204**[**PART IVB

PRIVATE FOSTER CARE**]**

F204**[**Definitions. **23O.**—In this Part—

F205**[**"authorised officer" means a person appointed by the F206**[**Child and Family Agency**]** under *section 23S*;**]**

F207**[**...**]**

"private foster care arrangement" means any arrangement or undertaking whereby a child is for more than 14 days in the full-time care, for reward or otherwise, of a person other than his or her parent or guardian, a person cohabiting with a parent or guardian or a relative, except where the child—

(*a*) is residing at a boarding school and receiving full-time education,

(*b*) is in an institution managed by or on behalf of a Minister of the Government or F205**[**the F206**[**Child and Family Agency**]]**,

(*c*) is in an institution in which the majority of persons being cared for and maintained are being treated for acute illness,

(*d*) is in an institution for the care and maintenance of children with a disability,

(*e*) is in a mental institution within the meaning of the Mental Treatment Acts, 1945 to 1966,

(*f*) is detained in a children detention school or children detention centre within the meaning of the Children Act, 2001,

F208**[**(*g*) is placed for adoption under an adoption order within the meaning of section 3 (1) of the Adoption Act 2010 or is the subject of an intercountry adoption effected outside the State recognised by that Act,**]**

(*h*) is in the care of F205**[**the F206**[**Child and Family Agency**]]**,

(*i*) is on holidays for a continuous period not exceeding 42 days,

(*j*) is placed with a person or body for primarily educational purposes, or

(*k*) is placed with a friend of the child's parent or guardian for a period not exceeding 42 days, while the parent or guardian is on holidays;

"relative", in relation to a child, means a grandparent, brother, sister, uncle or aunt, whether of the whole blood, half blood or by affinity, and includes the spouse of any such person and any person cohabiting with any such person.**]**

F209**[**Notice of private foster care arrangement. **23P.**—(1) A person arranging or undertaking a private foster care arrangement shall give notice to the F210**[**Child and Family Agency**]** in the manner specified in *section 23Q* not less than thirty days before the placement.

(2) Where a child is placed in a private foster care arrangement owing to an unforeseen emergency, both the person making the arrangement and the person undertaking it shall notify the F210**[**Child and Family Agency**]** in the manner specified in *section 23Q* as soon as practicable and not more than 14 days after the placement.

F211**[**(3) Any person arranging or undertaking a private foster care arrangement who has submitted to the Health Service Executive before the establishment of the Child and Family Agency the information the Health Service Executive required in relation to the arrangement or undertaking shall be deemed to have complied with *subsection (1)*.**]]**

F212**[**Information to be submitted to F213**[**Child and Family Agency**]**.

23Q.—(1) Any person arranging or undertaking a private foster care arrangement shall submit to the F213**[**Child and Family Agency**]** in writing—

(*a*) the person's name and address,

(*b*) the name, sex, date and place of birth and address of the child concerned,

F212**[**(*c*) the name and address of the parent or guardian of the child,**]**

(*d*) if the child's residence is changed, the child's new address,

(*e*) if the private foster care arrangement terminates, the reasons for its termination,

and any other information that the F213**[**Child and Family Agency**]** may consider necessary in relation to any persons involved in the arrangement.

(2) Any person arranging a private foster care arrangement shall submit to the F213**[**Child and Family Agency**]**, in writing, the name and address of the person undertaking the arrangement and any other information in respect of that person that F214**[**the F215**[**Agency**]]** may consider necessary.**]**

F216**[**Duty in respect of children in private foster care.

23R.—Any person arranging or undertaking a private foster care arrangement in respect of a child shall regard the child's welfare as the first and paramount consideration.

(2) Any person undertaking such an arrangement shall take all reasonable measures to safeguard the health, safety and welfare of the child concerned.

(3) Any person arranging such an arrangement shall make all reasonable enquiries to ensure that the person undertaking it is in a position to comply with *subsection (2)*.**]**

F217**[**Authorised officers.

23S.—(1) F218**[**The F219**[**Child and Family Agency**]** shall appoint such and so many of its employees**]** for the purposes of this Part.

(2) Each authorised officer shall be given a warrant of his or her appointment and, when exercising any power conferred by this Part, shall, on request by any person affected, produce the warrant or a copy thereof, together with a form of personal identification.**]**

F220**[**Inspection by authorised persons.

23T.—(1) Where the F221**[**Child and Family Agency**]** has received a notice in accordance with *section 23P* in respect of a private foster care arrangement, an authorised officer may at all reasonable times enter any premises (including a private dwelling) in which the child concerned is residing.

(2) A judge of the District Court may, if satisfied on the sworn information of an authorised officer that there are reasonable grounds for believing that a private foster care arrangement has been arranged or undertaken and that the F221**[**Child and Family Agency**]** has not received the requisite notice, issue a warrant authorising an authorised officer, accompanied if necessary by other persons, to enter, if need by reasonable force, and inspect any premises (including a private dwelling) in which the child may be residing.

(3) An authorised officer, on entering any such premises, shall investigate the care and attention that the child is receiving and the condition of the premises with a view to ensuring that the person undertaking the arrangement is complying with his or her duty to take all reasonable measures to safeguard the child's health, safety and welfare.

(4) An authorised officer may request a member of the Garda Síochána to accompany him or her when carrying out an inspection.**]**

F222**[**Institution of proceedings by F223**[**Child and Family Agency**]**.

23U.—If F224**[**the F223**[**Child and Family Agency**]]** believes—

(*a*) that a person who is arranging or undertaking a private foster care arrangement has not notified it under *section 23P*, or

(*b*) that such a person is not taking all reasonable measures to safeguard the health, safety and welfare of the child concerned,

it may apply to the District Court for one of the following orders:

(i) that a supervision order under *section 19* be made in respect of the child,

(ii) that the child be taken into the care of F224**[**the F223**[**Child and Family Agency**]]** under *section 13*, *17* or *18*, or

(iii) that the arrangement be terminated and the child returned to his or her parents or guardian,

and the Court may order accordingly.**]**

F226**[**Restrictions on private foster care arrangements in certain cases.

23V.—A person shall not arrange or undertake a private foster care arrangement for the purpose of adopting a child under F227**[**an adoption order within the meaning of section 3(1) of the Adoption Act 2010 or an intercountry adoption effected outside the State recognised by that Act.**]**

(2) Any person undertaking a private foster care arrangement in respect of a child shall not apply under those Acts to adopt the child unless—

(*a*) the child is eligible for adoption under F228**[**the Adoption Act 2010**]**, and

(*b*) the F229**[**Child and Family Agency**]**has consented to the continuance of the arrangement pending the completion of an assessment of that person under those Acts.

(3) If the F229**[**Child and Family Agency**]** believes that a person who is arranging or undertaking a private foster care arrangement is doing so in contravention of *subsection (1)* or *(2)*, it may apply to the District Court for an order either—

(*a*) that the child be taken into its care under *section 13*, *17* or *18*, or

(*b*) that the arrangement be terminated and the child returned to his or her parents or guardian,

and the Court may order accordingly.**]**

F231**[**Offences.

23W.—(1) Any person—

(*a*) who while arranging or undertaking a private foster care arrangement does not notify the F232**[**Child and Family Agency**]** under *section 23P*,

(*b*) who contravenes *subsection (2)* or *(3)* of *section 23R*,

(*c*) who refuses to allow an authorised officer to enter any premises in accordance with *subsection (1)* or *(2)* of *section 23T* or obstructs or impedes an authorised officer in the exercise of his or her powers under that section,

(*d*) who while arranging or undertaking a private foster care arrangement knowingly or wilfully makes or causes or procures any other person to make a false or misleading statement to the F232**[**Child and Family Agency**]**,

(*e*) who contravenes *section 23V(1)*, or

(*f*) who does not comply with an order under *paragraph (ii)* or *(iii)* of *section 23U* or under *section 23V(3)*,

is guilty of an offence and liable on summary conviction to a fine not exceeding £1,500.

(2) Where a person is convicted of an offence under this section, the District Court may by order prohibit the person from arranging or undertaking a private foster care arrangement for such period as may be specified in the order.**]**

F234**[**Saver.

23X.—This Part is without prejudice to any other provision of this Act or any provision of the Children Act, 2001, which imposes, in the interests of a child, duties or obligations on F235**[**the F236**[**Child and Family Agency**]]** or a member of the Garda Síochána.**]**

PART V

Jurisdiction and Procedure

Welfare of child to be paramount.

F237**[24.**—(1) In any proceedings before a court under this Act in relation to the care and protection of a child, including proceedings before the High Court under *Part IVA* in relation to special care, the court shall regard the best interests of the child as the paramount consideration in the resolution of such proceedings.

(2) In determining for the purposes of *subsection (1)* what is in the best interests of the child, the court shall have regard to all of the factors or circumstances that it considers relevant to the child including—

(*a*) the child's age, maturity and any special characteristics of the child,

(*b*) the benefit to the child of having a meaningful relationship with his or her parents and with any other relatives and persons who are involved in the child's upbringing,

(*c*) the views of the child where he or she is capable of forming, and has chosen to express, such views,

(*d*) the physical, psychological and emotional needs of the child,

(*e*) the social, intellectual and educational needs of the child,

(*f*) the religious, spiritual, cultural and linguistic upbringing and needs of the child, and

(*g*) any harm which the child has suffered or is at risk of suffering, including harm as a result of household violence, and the protection of the child's safety and psychological well-being.

(3) In this section, "household violence" has the same meaning as it has in section 31 (7) of the Guardianship of Infants Act 1964.**]**

F239**[**Views of child

24A.—Where in any proceedings before a court under this Act in relation to the care and protection of a child, including proceedings before the High Court under *Part IVA* in relation to special care, the child is capable of forming his or her own views, the court, in so far as practicable shall—

(*a*) determine the means by which to facilitate the expression by the child of his or her views in the proceedings, and

(*b*) give due weight to such views as the child wishes to express, having regard to the age and maturity of the child.**]**

Power of court to join child as a party and costs of child as a party.

25.—(1) If in any proceedings under *Part IV* F241**[**, *IVA* (as amended by the Child Care (Amendment) Act 2011)**]** or *VI* the child to whom the proceedings relate is not already a party, the court may, where it is satisfied having regard to the age, understanding and wishes of the child and the circumstances of the case that it is necessary in the interests of the child and in the interests of justice to do so, order that the child be joined as a party to, or shall have such of the rights of a party as may be specified by the court in, either the entirety of the proceedings or such

issues in the proceedings as the court may direct. The making of any such order shall not require the intervention of a next friend in respect of the child.

(2) Where the court makes an order under *subsection (1)* or a child is a party to the proceedings otherwise than by reason of such an order, the court may, if it thinks fit, appoint a solicitor to represent the child in the proceedings and give directions as to the performance of his duties (which may include, if necessary, directions in relation to the instruction of counsel).

(3) The making of an order under *subsection (1)* or the fact that a child is a party to the proceedings otherwise than by reason of such an order shall not prejudice the power of the court under *section 30(2)* to refuse to accede to a request of a child made thereunder.

(4) Where a solicitor is appointed under *subsection (2)*, the costs and expenses incurred on behalf of a child exercising any rights of a party in any proceedings under this Act shall be paid by the F242**[**Child and Family Agency**]** F243**[**the F244**[**Agency**]]** may apply to the court to have the amount of any such costs or expenses measured or taxed.

(5) The court which has made an order under *subsection (2)* may, on the application to it of F243**[**the F242**[**Child and Family Agency**]]**, order any other party to the proceedings in question to pay to F243**[**the F244**[**Agency**]]** any costs or expenses payable by F243**[**the F244**[**Agency**]]** under *subsection (4)*.

F245**[**(6) In this section, where the proceedings are proceedings under *Part IVA* (as amended by the Child Care (Amendment) Act 2011), "court" means the High Court.**]**

Appointment of guardian *ad litem* for a child.

26.—F247**[**...**]**

Power to procure reports on children.

27.—(1) In any proceedings under *Part IV* F248**[***IVA* (as amended by the Child Care (Amendment) Act 2011)**]** or *VI* the court may, of its own motion or on the application of any party to the proceedings, by an order under this section give such directions as it thinks proper to procure a report from such person as it may nominate on any question affecting the welfare of the child.

(2) In deciding whether or not to request a report under *subsection (1)* the court shall have regard to the wishes of the parties before the court where ascertainable but shall not be bound by the said wishes.

(3) A copy of any report prepared under *subsection (1)* shall be made available to the counsel or solicitor, if any, representing each party in the proceedings or, if any party is not so represented, to that party and may be received in evidence in the proceedings.

(4) Where any person prepares a report pursuant to a request under *subsection (1)*, the fees and expenses of that person shall be paid by such party or parties to the proceedings as the court shall order.

(5) The court, if it thinks fit, or any party to the proceedings, may call the person making the report as a witness.

F249**[**(6) In *subsection (3)*, a reference to a party includes a reference to a guardian *ad litem*, if any, appointed in accordance with *Part VA* in respect of the proceedings concerned.

(7) In this section, where the proceedings are proceedings under *Part IVA*, "court" means the High Court.**]**

Jurisdiction.

28.—(1) The District Court and the Circuit Court on appeal from the District Court shall have jurisdiction to hear and determine proceedings under *Part III*, *IV* or *VI* F251**[**and summary proceedings for an offence under *section 23NP* (inserted by the Child Care (Amendment) Act 2011).**]**

(2) Proceedings under *Part III*, *IV* or *VI* F252**[**, and summary proceedings for an offence under *section 23NP* (inserted by the Child Care (Amendment) Act 2011),**]** may be brought, heard and determined before and by a justice of the District Court for the time being assigned to the district court district where the child resides or is for the time being.

F253**[**(3) The High Court shall have jurisdiction to hear and determine—

(*a*) proceedings under *Part IVA* (as amended by the Child Care (Amendment) Act 2011), other than proceedings under *section 23NP* (inserted by the Child Care (Amendment) Act 2011),

(*b*) any application or other matter under, and in accordance with, this Act (as amended by the Child Care (Amendment) Act 2011) that relates to a special care order, an interim special care order or the hearing and determination of proceedings for special care under *Part IVA* (as amended by the Child Care (Amendment) Act 2011),

(*c*) without prejudice to the generality of *paragraph (b)*, any application or other matter under, and in accordance with, *Part V* (as amended by the Child Care (Amendment) Act 2011) F254**[**or *Part VA***]** that relates to proceedings under *Part IVA* (as amended by the Child Care (Amendment) Act 2011) for special care, and the hearing and determination of such proceedings other than proceedings under *section 31(3)* which relate to proceedings under *Part IVA*, and

(*d*) without prejudice to the generality of *paragraph (b)*, any proceedings relating to *section 37* (as amended by the Child Care (Amendment) Act 2011) in so far as they concern a child who is the subject of a special care order or an interim special care order during the period for which the order concerned has effect.

(4) The District Court, and the Circuit Court on appeal from the District Court, shall have jurisdiction to hear and determine an application for a care order or a supervision order notwithstanding that, at the time that application is made, a special care order or an interim special care order has effect in respect of the child concerned.**]**

Hearing of proceedings.

29.—(1) Proceedings under F257**[***Part III, IV, IVA* or *VI***]** shall be heard otherwise than in public.

(2) The provisions of sections 33 (1), 33 (2) and 45 of the Judicial Separation and Family Law Reform Act, 1989, shall apply to proceedings under F257**[***Part III, IV, IVA* or *VI***]** as they apply to proceedings to which those provisions relate.

(3) The District Court and the Circuit Court on appeal from the District Court shall sit to hear and determine proceedings under *Part III*, *IV* or *VI* at a different place or at different times or on different days from those at or on which the ordinary sittings of the Court are held.

(4) Proceedings before the High Court in relation to proceedings under *Part III*, *IV* or *VI* shall be as informal as is practicable and consistent with the administration of justice.

F258**[**(5) Nothing contained in this section shall operate to prohibit—

(*a*) the preparation of a report of proceedings under F259**[***Part III, IV, IVA* or *VI***]** by—

(i) a barrister or a solicitor, F260**[**or**]**

(ii) F261**[**...**]**

(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 F262**[**relevant documents**]**,

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

F263**[**(5A) (*a*) Subject to *paragraph (b)*, nothing contained in this section shall operate to prohibit bona fide representatives of the Press from attending proceedings referred to in *subsection (1)*.

(*b*) Subject to *paragraphs (c)* and *(d)*, where, in proceedings referred to in subsection (1), a court is satisfied that it is necessary to do so—

(i) in order to preserve the anonymity of a party to the proceedings or any child to whom the proceedings relate,

(ii) by reason of the nature or circumstances of the case, or

(iii) as it is otherwise necessary in the interests of justice,

the court may, on its own motion, or on application to it by a party to the proceedings or by a person on behalf of a child to whom the proceedings relate, by order—

(I) exclude, or otherwise restrict the attendance of, bona fide representatives of the Press from the court during the hearing or particular parts of it, or

(II) prohibit or restrict the publication or broadcasting of any evidence given or referred to during the proceedings or any part of such evidence,

and any such order may, with regard to any restriction, contain such conditions as the court considers appropriate.

(*c*) In determining whether or not to make an order under *paragraph (b)*, a court shall have regard to the desirability of promoting public confidence in the administration of justice and to any other matter that appears to it to be relevant and shall, in particular, have regard to the following:

(i) the best interests of a child to whom the proceedings relate;

(ii) the views, if any, of—

(I) a party to the proceedings, and

(II) a child to whom the proceedings relate who is, in the opinion of the court, capable of forming his or her own views;

(iii) whether information given or likely to be given in evidence is sensitive personal information;

(iv) the extent to which the attendance of bona fide representatives of the Press might inhibit or cause undue distress to a party to the proceedings or a child to whom the proceedings relate by reason of the emotional condition or any medical condition, physical impairment or intellectual disability of the party or the child concerned;

(v) the need to protect a party to the proceedings or a child to whom the proceedings relate against coercion, intimidation or harassment;

(vi) whether information given or likely to be given in evidence might be prejudicial to a criminal investigation or criminal proceedings; and

(vii) whether information of the type referred to in *subparagraphs (iii)* and *(vi)* when taken together with other information would, if published or broadcast, be likely to lead members of the public to identify a party to the proceedings or a child to whom the proceedings relate.

(*d*) In considering the views of a child referred to in *clause (II)* of *paragraph (c)(ii)*, a court shall take account of the age and level of maturity of the child concerned.

(*e*) Where evidence in proceedings referred to in *subsection (1)* concerns a matter referred to in *subparagraph (vi)* of *paragraph (c)*, an application under *paragraph (b)* may be made by or on behalf of the Director of Public Prosecutions.

(*f*) In this subsection—

"party to the proceedings" includes a witness in the proceedings;

"sensitive personal information" means information about a person that would, in the ordinary course of events, be known only to the person or members of the family, or friends, of the person, and includes but is not limited to—

(i) information relating to the medical, psychiatric or psychological history of the person,

(ii) information relating to the tax affairs of the person,

(iii) information relating to the sexual conduct or sexual orientation of the person.**]]**

F264**[**(5B) (*a*) Where the Minister is satisfied that the attendance by an officer of the Minister at proceedings referred to in *subsection (1)* will assist the Minister in—

(i) the performance of his or her functions pursuant to *Part VA* and any regulations made thereunder, including the promotion of high professional standards and good practice by guardians *ad litem* in the performance of their functions under this Act, or

(ii) the review of the operation of this Act, in particular in relation to the care and protection of children,

the Minister may grant an approval to the officer (in this subsection referred to as an "approved officer") for the purposes of such attendance.

(*b*) An approval under *paragraph (a)* shall specify—

(i) the name of the approved officer to whom it is granted,

(ii) the purpose for which it is granted,

(iii) the period for which it is valid,

(iv) the proceedings that the approved officer is permitted to attend,

(v) the purposes for which information, obtained by the approved officer in the course of his or her attendance at proceedings in accordance with *subparagraph (iv)*, may be processed, which shall include the preparation of a report under *paragraph (c)(iii)* and the assistance of the Minister for a purpose referred to in *paragraph (a)*,

(vi) without prejudice to any other requirement of the Data Protection Regulation or the Data Protection Act 2018, a requirement that personal data and special categories of personal data contained in information obtained, by the approved officer in the course of his or her attendance at proceedings in accordance with *subparagraph (iv)*, shall be kept in

such form that does not permit the identification of the parties to the proceedings or any child to whom the proceedings relate, and

(vii) such other matters as the Minister considers appropriate.

(*c*) Subject to any directions the court may give, nothing contained in this section shall operate to prohibit for the purposes specified in an approval—

(i) the attendance of an approved officer at proceedings referred to in *subsection (1)*,

(ii) the access by such officer to any relevant documents of the proceedings referred to in *subsection (1)*, and

(iii) the preparation by such officer of a report of the proceedings to assist the Minister for a purpose referred to in *paragraph (a)*, provided that the report does not contain any information which would enable the parties to the proceedings or any child to whom the proceedings relate to be identified.

(*d*) In this subsection—

F265**[**...**]**

"proceedings" include proceedings commenced but not completed before the commencement of this subsection;

"special categories of personal data" has the same meaning as it has in the Data Protection Act 2018.**]**

(6) F266**[**...**]**

(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.

F267**[**(10) In *subsections (5)* and *(5B)*, "relevant documents", in relation to any proceedings referred to in those subsections, means any of the following documents (other than where the contents of any such document are expressed to be without prejudice or in terms having a like effect):

(*a*) the originating document in the proceedings;

(*b*) pleadings and other documents (including the terms of settlement, if any) produced to, or lodged with, the court or included in the book of pleadings;

(*c*) reports prepared in the course of the proceedings or otherwise under this Act and produced to, or lodged with, the court including—

(i) a report prepared by the Child and Family Agency, and

(ii) a report furnished by a guardian *ad litem* under *section 35E(2)*;

and

(*d*) any order, decision or judgment of the court in the proceedings.**]**

Power to proceed in absence of child.

30.—(1) It shall not be necessary in proceedings under *Part III*, *IV* F269**[**, *IVA* (as amended by the Child Care (Amendment) Act 2011)**]** or *VI* for the child to whom the proceedings relate to be brought before the court or to be present for all or any part of the hearing unless the court, either of its own motion or at the request of any of the parties to the case, is satisfied that this is necessary for the proper disposal of the case.

(2) Where the child requests to be present during the hearing or a particular part of the hearing of the proceedings the court shall grant the request unless it appears to the court that, having regard to the age of the child or the nature of the proceedings, it would not be in the child's interests to accede to the request.

F270**[**(3) In *subsection (1)* and *(2)*, where the proceedings are proceedings under *Part IVA* (as amended by the Child Care (Amendment) Act 2011), "court" means the High Court.**]**

Prohibition on publication or broadcast of certain matters.

31.—(1) No matter likely to lead members of the public to identify a child who is or has been the subject of proceedings under *Part III*, *IV* F272**[**, *IVA* (as amended by the Child Care (Amendment) Act 2011)**]** or *VI* F273**[**shall be published or broadcast.**]**

(2) Without prejudice to *subsection (1)*, the court may, in any case if satisfied that it is appropriate to do so in the interests of the child, by order dispense with the prohibitions of that subsection in relation to him to such extent as may be specified in the order.

(3) If any matter is published or broadcast in contravention of *subsection (1)*, each of the following persons, namely—

(*a*) in the case of publication in a newspaper or periodical, any proprietor, any editor and any publisher of the newspaper or periodical,

(*b*) in the case of any other publication, the person who publishes it, and

(*c*) in the case of a broadcast, F274**[**any person**]** who transmits or provides the programme in which the broadcast is made and any person having functions in relation to the programme corresponding to those of an editor of a newspaper,

F275**[**shall be guilty of an offence and shall be liable—

(i) on summary conviction, to a class A fine or to imprisonment for a term not exceeding 12 months or both, or

(ii) on conviction on indictment, to a fine not exceeding €50,000 or to imprisonment for a term not exceeding 3 years or both.**]**

F276**[**(3A) (*a*) Where an offence under this section is committed by a body corporate and it is proved that the offence was committed with the consent or connivance, or was attributable to any wilful neglect, of a person who was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in that capacity, that person, as well as the body corporate, shall be guilty of an offence and may be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(*b*) Where the affairs of a body corporate are managed by its members, *paragraph (a)* applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.**]**

(4) Nothing in this section shall affect the law as to contempt of court.

(5) F277**[**...**]**

F278**[**(5A) In this section, where the proceedings are proceedings under *Part IVA* (as amended by the Child Care (Amendment) Act 2011), "court" means the High Court.**]**

Presumption and determination of age.

32.—F280**[**(1)**]** In any application for an order under *Part III*, *IV* or *VI*, the court F281**[**, or for a special care order or an interim special care order under *Part IVA* (as amended by the Child Care (Amendment) Act 2011), the High Court)**]** shall make due inquiry as to the age of the person to whom the application relates and the age presumed or declared by the court F282**[**, or as the case may be, the High Court,**]** to be the age of that person shall, until the contrary is proved, for the purposes of this Act, be deemed to be the true age of that person.

F283**[**(2) Without prejudice to *subsection (1)*, and subject to Chapter 3 of Part 3 of the International Protection Act 2026, an applicant within the meaning of that Act shall, following a notification under section 45 (1), (3) or (4) of that Act, be presumed to be a minor for the purposes of this Act.**]**

Rules of court.

33.—(1) For the purpose of ensuring the expeditious hearing of applications under *Part III*, F285**[***IV, VA*,**]** or *VI*, rules of court may make provision for the service of documents otherwise than under section 7 of the Courts Act, 1964 (as amended by section 22 of the Courts Act, 1971) in circumstances to which the said section 7 relates.

F286**[**(1A) For the purposes of ensuring the expeditious hearing of applications and proceedings under, and in relation to, *Part IVA* (as amended by the Child Care (Amendment) Act 2011), rules of court may make provision for the service of superior court documents otherwise than under section 23 of the Courts Act 1971.**]**

(2) Rules of court may make provision for the furnishing of information and documents by parties to proceedings under *Part III*, *IV* F287**[**, *IVA* (as amended by the Child Care (Amendment) Act 2011)**]** or *VI* to each other or to solicitors acting for them.

(3) This section is without prejudice to section 17 of the Interpretation Act, 1937, which provides for rules of court.

F288**[**(4) In *subsection (2)*, a reference to parties to proceedings includes a reference to a guardian *ad litem*, if any, appointed in accordance with *Part VA* in respect of the proceedings concerned.**]**

Failure or refusal to deliver up a child.

34.—(1) Without prejudice to the law as to contempt of court, where the District Court has made an order under *Part III or IV* directing that a child be placed or maintained in the care of F289**[**the F290**[**Child and Family Agency**]]**, any person having the actual custody of the child who, having been given or shown a copy of the order and having been required, by or on behalf of F289**[**the F291**[**Agency**]]**, to give up the child to F289**[**the F291**[**Agency**]]**, fails or refuses to comply with the requirement shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £500 or, at the discretion of the court, to imprisonment for a term not exceeding 6 months or both such fine and such imprisonment.

(2) For the purposes of this section, a person shall be deemed to have been given or shown a copy of an order made under *Part III* or *IV* if that person was present at the sitting of the court at which such an order was made.

Warrant to search for and deliver up a child.

35.—Where a justice has made an order under *Part IV* directing that a child be placed or maintained in the care of F293**[**the F294**[**Child and Family Agency**]]**, a justice may for the purpose of executing that order issue a warrant authorising a member of the Garda Síochána, accompanied by such other members of the Garda Síochána or such other persons as may be necessary, to enter (if need be by force) any house or other place specified in the warrant (including any building or part of a building, tent, caravan, or other temporary or moveable structure, vehicle, vessel, aircraft or hovercraft) where the child is or where there are reasonable grounds for believing that he is and to deliver the child into the custody of F293**[**the F294**[**Child and Family Agency**]]**.

F296[PART VA

GUARDIANS *AD LITEM*]

F297[Interpretation (*Part VA*)

35A.—(1) In this Part—

"appointed" means appointed under *section 35C(1)*;

"authorisation" means an authorisation issued to a person under *section 35L(1)*;

"child", in relation to a guardian *ad litem*, means the child to whom the proceedings under *Part IV*, *IVA*, *IVB* or *VI* relate, and for whom the guardian *ad litem* is, or is to be, appointed;

"guardian *ad litem*" means a person in respect of whom an authorisation is issued;

"relevant date" means the date on which section 7 of the Child Care (Amendment) Act 2022 comes into operation.

(2) In this Part—

(*a*) a reference to the District Court shall be construed as including a reference to the Circuit Court on appeal from the District Court, and

(*b*) where the proceedings are proceedings under *Part IVA*, "court" means the High Court.**]**

F299[Order directing appointment of guardian *ad litem*

35B.—(1) A guardian *ad litem* shall not be appointed for a child in proceedings under this Act unless an order directing such appointment has been made under this section.

(2) In proceedings under *Part IVA*, the High Court shall by order direct that a guardian *ad litem* be appointed for a child.

(3) In proceedings under *Part IV*, *IVB* or *VI*, the District Court shall by order direct that a guardian *ad litem* be appointed for a child, unless the court—

(*a*) is satisfied, having regard to all of the circumstances that the court considers relevant to the child including the matters referred to in *paragraphs (a)* to *(g)* of *section 24(2)*, that the best interests of the child can be determined without such appointment being made, and

(*b*) in respect of a child who is capable of forming his or her own views, it has determined other means by which to facilitate the expression by the child of those views.

(4) Where the District Court decides not to make an order under *subsection (3)*, it shall give reasons for its decision in writing.

(5) Where a court makes an order under *subsection (2)* or *(3)*, the court shall give directions relating to—

(*a*) the service on the Minister of such documents relating to the proceedings as he or she may require for the performance of his or her functions under *section 35C*,

(*b*) the service on such guardian *ad litem* as may be appointed of documents relating to the proceedings, and

(*c*) the notification of the making of the order and the appointment of a guardian *ad litem* under *section 35C(1)* to the parties to the proceedings.**]**

F301[Appointment of guardian *ad litem* for child

35C.—(1) Where an order under *section 35B(2)*, *(3)* or *35H(3)(b)* is made, the Minister shall appoint a guardian *ad litem* for the child to whom the order relates.

(2) The Minister shall notify the court that made the order under *section 35B(2)*, *(3)* or *35H(3)(b)*, as the case may be, of an appointment under *subsection (1)* as soon as practicable after the making of such an appointment.

F302**[**(3) The power to appoint a guardian *ad litem* under *subsection (1)* includes the power to appoint a guardian *ad litem* for the child concerned in place of—

(*a*) a person who stood appointed for the child and whose appointment in relation to that child ceased in accordance with *section 35O(2)*,

(*b*) a person who was deemed under *section 35Q(1)* to be appointed for the child and the order pursuant to which he or she was appointed ceased to have effect under *paragraph (b)(ii)* or *(c)(ii)* of *section 35Q(2)*,

(*c*) a guardian *ad litem* who stands appointed for the child and is unable to perform his or her functions in respect of that child due to the absence or incapacity of the guardian *ad litem*, or

(*d*) a guardian *ad litem* who stands appointed for the child (in this paragraph referred to as the "relevant guardian *ad litem*") where it appears to the Minister that there are good and sufficient grounds to so appoint for one or more of the following reasons:

(i) a complaint that relates to the performance by the relevant guardian *ad litem* of his or her functions under this Act is the subject of an ongoing investigation;

(ii) child safeguarding concerns arise in relation to the relevant guardian *ad litem* where there has been a report, under section 14 of the Children First Act 2015 or otherwise, of harm (within the meaning of that Act), or the risk of harm, being caused, or having been caused, to a child;

(iii) the child has requested that a different guardian *ad litem* be appointed for him or her;

(iv) the relevant guardian *ad litem* has requested that a different guardian *ad litem* be appointed for the child;

(v) the relevant guardian *ad litem*, having regard, in particular, to his or her obligations under *section 35E(5)*, agrees that a different guardian *ad litem* be appointed for the child.**]**

(4) Where the Minister appoints a guardian *ad litem* for a child pursuant to an order under *section 35H(3)(b)*, the power to appoint a guardian *ad litem* under *subsection (1)* includes the power to appoint a guardian *ad litem* other than the guardian *ad litem* previously appointed for the child in the proceedings and to whom the order relates.**]**

F303**[**Legal advice and legal representation

35D.—(1) In proceedings under *Part IVA*, where a guardian *ad litem* is appointed for a child pursuant to an order under *section 35B(2)* or *35H(3)(b)*, the Minister shall provide, or arrange for the provision, to the guardian *ad litem* of legal advice and legal representation for the purposes of the proceedings for which the guardian *ad litem* is appointed.

(2) In proceedings under *Part IV*, *IVB* or *VI*, following the making of an order under *section 35B(3)* or *35H(3)(b)*, at the request of the guardian *ad litem* appointed for the child, the Minister, for the purposes of the proceedings for which the guardian *ad litem* is appointed—

(*a*) shall provide, or arrange for the provision, to the guardian *ad litem* of legal advice, F304**[**...**]**

F305**[**(*b*) shall provide, or arrange for the provision of, legal representation to the guardian *ad litem*—

(i) where the court making the order under *section 35B(3)* or *35H(3)(b)* expresses the view—

(I) at the time that order is made, or

(II) at any time after that order is made,

having regard to the nature of the case, that it is necessary and in the best interests of the child and in the interests of justice that such representation be provided,

(ii) for the purposes of the guardian *ad litem* making an application under this Act in relation to the child, or

(iii) where an order has been made under *section 35E(11)*, and**]**

F306**[**(*c*) may provide, or arrange for the provision of, such legal representation as the Minister considers appropriate to the guardian *ad litem*, having regard to all of the circumstances of the case, including the matters set out in *subsection (3)*.**]**

F305**[**(3) Without prejudice to the generality of *paragraph (c)* of *subsection (2)*, the matters referred to in that paragraph to which the Minister shall have regard include:

(*a*) the views of the guardian *ad litem* having regard, in particular, to his or her obligations under *section 35E(5)*;

(*b*) the nature of additional functions (if any) that the court, under *section 35E(2)(d)*, has directed the guardian *ad litem* to perform;

(*c*) the nature and complexity of the evidence that the guardian *ad litem* may be required to give in the case;

(*d*) whether the court has made an order under *section 25(2)* appointing a solicitor to represent the child in the proceedings;

(*e*) whether the proceedings relate to an application on consent or otherwise;

(*f*) the nature and complexity of the proceedings.**]**

F306**[**(4) Where under *subsection (2)(b)(i)* the court expresses the view that legal representation be provided to the guardian *ad litem* that view shall—

(*a*) where *clause (I)* of that subsection applies, be recorded in the order under *section 35B(3)* or *35H(3)(b)*, as the case may be, and

(*b*) where *clause (II)* of that subsection applies, be recorded in an appropriate form.**]]**

F307**[**Functions of guardians *ad litem* appointed under *section 35C*

35E.—(1) The functions of a guardian *ad litem* appointed for a child shall be—

(*a*) in so far as practicable and where the child is capable of forming his or her own views, to ascertain the views of the child in relation to any matter to which the proceedings relate, and

(*b*) to make recommendations to the court regarding what is in the best interests of the child—

(i) where the child has expressed views referred to in *paragraph (a)*, after having considered those views, or

(ii) where the child is not capable of forming or expressing his or her views or is unwilling to express his or her views.

(2) Without prejudice to the generality of *subsection (1)*, a guardian *ad litem* appointed for a child shall—

(*a*) furnish to the court a report that—

(i) conveys any views expressed by the child in relation to the matters to which the proceedings relate, and

(ii) contains the recommendations of the guardian *ad litem* regarding what is in the best interests of the child and the reasons for those recommendations,

(*b*) having regard to the age and maturity of the child, inform him or her of—

(i) the recommendations referred to in *paragraph (a)(ii)*,

(ii) the outcome of the proceedings, and

(iii) such other matters relevant to the proceedings as the guardian *ad litem* considers appropriate,

(*c*) inform the court of any additional matters, relevant to the best interests of the child, coming to his or her knowledge as a result of the performance by the guardian *ad litem* of his or her functions, and

(*d*) perform such additional functions as the court, having regard to *subsection (3)*, may of its own motion direct either generally or for a specified purpose.

(3) In determining for the purpose of *subsection (2)(d)* whether to direct the performance by a guardian *ad litem* of such additional functions as the court may specify, the court shall have regard to the nature of the case and whether such performance is necessary and in the best interests of the child.

(4) Subject to this Part, a guardian *ad litem* appointed for a child shall be independent in the performance of his or her functions.

(5) A guardian *ad litem* shall, in the performance of his or her functions under this Part, regard the best interests of the child as the paramount consideration.

(6) In determining for the purposes of this section what is in the best interests of the child, a guardian *ad litem* appointed for the child shall have regard to all of the circumstances that he or she considers relevant to that child, including the matters referred to in *paragraphs (a)* to *(g)* of *section 24(2)*.

(7) Subject to *subsection (9)*, a copy of a report furnished to the court under *subsection (2)(a)* shall be made available to the counsel or solicitor, if any, representing each party in the proceedings, or, if any party is not so represented, to that party and may be received in evidence in the proceedings.

(8) The court or any party to the proceedings may call a guardian *ad litem* appointed for a child as a witness.

(9) The court may, where it considers appropriate, order that such part of the report as is specified in the order shall be omitted from a copy made available under *subsection (7)*.

(10) A guardian *ad litem* appointed for a child is not a party to the proceedings.

(11) Notwithstanding *subsection (10)*, the court may, in any proceedings under this Act in which a guardian *ad litem* has been appointed for a child pursuant to an order under *section 35B(2), (3)* or *35H(3)(b)*, of its own motion or on the application of the guardian *ad litem*, where it is satisfied, having regard to the nature of the case, that it is necessary and in the best interests of the child and in the interests of justice to do so, order that the guardian *ad litem* shall have such of the rights of a party as may be specified by the court in the entirety of the proceedings or in respect of such issues in the proceedings as the court may direct.**]**

F308**[**Powers of guardians *ad litem* appointed under *section 35C*

35F.—(1) A guardian *ad litem* appointed for a child may make an application to the court—

(*a*) subject to *subsection (4)*, to procure a report on any question affecting the welfare of the child where—

(i) there is no report on the question concerned, or

(ii) the information in a report on the question concerned is out of date,

(*b*) for the provision of information to the guardian *ad litem* by any person, or

(*c*) in relation to any other matter relating to his or her functions.

(2) The court may by order—

(*a*) on an application under *subsection (1)(a)*, direct the Child and Family Agency to procure a report from such person as the court may nominate on any question affecting the welfare of the child,

(*b*) on an application under *subsection (1)(b)*, direct such person as the court considers appropriate to provide specified information to the guardian *ad litem* appointed for the child, and

(*c*) on an application under *subsection (1)(c)*, give such directions as the court considers appropriate.

(3) In deciding whether or not to give a direction under *subsection (2)(a)*, the court shall have regard to the wishes of the parties to the proceedings.

(4) A guardian *ad litem* appointed for a child shall consult the parties to the proceedings or the counsel or solicitor, if any, representing such parties before making an application under *subsection (1)(a)*.

(5) Where a court gives a direction under *subsection (2)*, a person to whom the direction is made shall, subject to *subsection (9)*, comply with such direction.

(6) A copy of a report prepared pursuant to a direction under *subsection (2)(a)* shall be made available to the guardian *ad litem* appointed for the child, the counsel or solicitor, if any, representing each party in the proceedings or, if any party is not so represented, to that party and may be received in evidence in the proceedings.

(7) The court may, where it considers appropriate, order that such part of a report prepared pursuant to a direction under *subsection (2)(a)* as is specified in the order shall be omitted from a copy made available under *subsection (6)*.

(8) Where a person prepares a report pursuant to a direction under *subsection (2)(a)*—

(*a*) the fees and expenses of the person shall be paid by such party to the proceedings as the court shall order, and

(*b*) the court, the guardian *ad litem* or any party to the proceedings may call the person as a witness.

(9) Nothing in this section shall operate to require a person to provide a guardian *ad litem* appointed for a child with any information that the person would be entitled to refuse to provide on the grounds of legal professional privilege.**]**

F309**[**Provision of information by Child and Family Agency

35G.—(1) A guardian *ad litem* appointed for a child may request the Child and Family Agency to provide to him or her any information relating to the welfare of the child necessary for the performance by the guardian *ad litem* of his or her functions under this Act.

(2) Notwithstanding anything contained in any other enactment or rule of law, but subject to the Data Protection Regulation and the Data Protection Act 2018 —

(*a*) the Child and Family Agency shall comply with a request under *subsection (1)*, and

(*b*) the guardian *ad litem* may apply to the court to determine any dispute between the guardian *ad litem* and the Agency in relation to the requirement of the Agency to provide information under this section.

(3) The Child and Family Agency, in complying with a request under *subsection (1)*, is not required to furnish information that would be exempt from production in proceedings in a court on the grounds of legal professional privilege.**]**

F310**[**Cessation of appointment and re-appointment of guardian *ad litem*

35H.—(1) Subject to *subsections (3)* and *(4)*, an order under *section 35B(2)* and any appointment under *section 35C(1)* pursuant to such an order ceases to have effect on the earliest of the following occurring:

(*a*) where the High Court makes a special care order—

(i) on the expiration of the period specified in the special care order or such extended period (within the meaning of *section 23J(9)*), if any, for which the special care order has effect, or

(ii) upon the discharge of the special care order under *section 23NE*, whichever is the earlier;

(*b*) where the High Court makes an interim special care order—

(i) on the expiration of the period specified in the interim special care order or such extended period (within the meaning of *section 23N(9)*), if any, for which the interim special care order has effect, or

(ii) upon the discharge of the interim special care order under *section 23NE*, whichever is the earlier;

(*c*) upon a determination by the High Court not to make a special care order or an interim special care order, as the case may be, in respect of the child to whom the order relates;

(*d*) by direction of the High Court; or

(*e*) when the child to whom the order relates attains the age of 18 years.

(2) Subject to *subsections (3)* and *(4)*, an order under *section 35B(3)* and any appointment under *section 35C(1)* pursuant to such an order ceases to have effect on the earliest of the following occurring:

(*a*) where the District Court makes an interim care order under *section 17*, on the expiration of the period specified in the interim care order or any extension of such period under *subsection (2)* of that section;

(*b*) upon a determination by the District Court to refuse to make an interim care order under *section 17*;

(*c*) upon a determination by the District Court of an application under *section 18(1)* for a care order;

(*d*) upon a determination by the District Court of an application under *section 19(1)* for a supervision order;

(*e*) upon a determination by the District Court of an application under—

(i) *section 22(a)*, *(b)* or *(c)*,

(ii) *section 43A*, or

(iii) *section 43B(1)*;

(*f*) other than where the child to whom the order relates is in the care of the Child and Family Agency under *section 17*, upon a determination by the District Court of an application under—

(i) *section 37(2)* or *(3)*, or

(ii) *section 47*;

(*g*) by direction of the District Court; or

(*h*) when the child to whom the order relates attains the age of 18 years.

(3) Where a court by order directs that proceedings in which an order has been made under *section 35B(2)* or *(3)* are to be kept under review, the court may—

(*a*) direct that the order under *section 35B(2)* or *(3)* and any appointment under *section 35C(1)* pursuant to such an order ceases to have effect until such time as a hearing of a review is due to take place, and

(*b*) prior to the date of the review, by order direct that a guardian *ad litem* previously appointed for the child in the proceedings be re-appointed for that child.

(4) Where a child in respect of whom a court has made an order under *section 35B(2)* or *(3)*, as the case may be, becomes a party to the proceedings by order under *section 25(1)*, or otherwise than by reason of such an order, the court shall determine when the order under *section 35B(2)* or *(3)* and any appointment under *section 35C(1)* pursuant to such an order ceases to have effect having regard to the matters referred to in *paragraphs (a)* to *(g)* of *section 24(2)*.

(5) In *subsections (1)* and *(2)*, a reference to an order, a determination or a direction is a reference to such order, determination or direction in relation to which, at the expiration of the time for bringing an appeal against it, no such appeal has been brought or, if such an appeal has been brought, it has been abandoned or determined by the court.

(6) For the purposes of *subsection (1)(a)(i)*, where the High Court, pursuant to an application to which *subsection (2)(b)* or *(5)(b)* of *section 23NJ* applies, makes a special care order (in this subsection referred to as the "subsequent care order")—

(*a*) a reference in *subsection (1)(a)(i)* to the expiration of the period specified in a special care order shall be construed as including a reference to the expiration of the period specified in the subsequent care order, and

(*b*) a reference to the expiration of an extended period for which the special care order has effect shall be construed as including a reference to the expiration of an extended period for which the subsequent care order has effect.

(7) Where an interim special care order referred to in *subsection (1)(b)* is an order made in accordance with *section 23L(3)*, a reference in that subsection to an interim special care order shall be construed as including a reference to such interim special care order that the High Court may make at a hearing referred to in *section 23M(1)(a)*.**]**

F312**[**Costs

35I.—(1) Any costs or expenses reasonably incurred by a guardian *ad litem* in the exercise of his or her functions under this Act shall be paid by the Minister and the Minister may apply to the court to have the amount of any such costs or expenses measured or taxed.

(2) The court may, on the application to it in that behalf by the Minister, order a party to proceedings in which a guardian *ad litem* is appointed to pay to the Minister any costs or expenses payable by the Minister under *subsection (1)*.

(3) In this section, "costs or expenses" means costs or expenses in respect of work done on or after the relevant date.**]**

F313**[**Regulations

35J.—(1) The Minister may, for the purpose of promoting high professional standards and good practice on the part of guardians *ad litem*, make regulations relating to the standard of performance by guardians *ad litem* of their functions under this Act, and, without prejudice to the generality of the foregoing, such regulations may:

(*a*) specify the standards to be applied to guardians *ad litem* in the performance by them of their functions under this Act;

(*b*) make provision for the training of guardians *ad litem*;

(*c*) make provision for codes of conduct for guardians *ad litem*;

(*d*) make provision for the procedures that are to apply to monitor, measure and evaluate the performance by guardians *ad litem* of their functions under this Act;

(*e*) make provision for the establishment and administration of a system of investigation and adjudication of complaints against guardians *ad litem*;

(*f*) make provision for the procedures that are to apply in respect of the keeping of records by guardians *ad litem*;

(*g*) specify such fees and expenses to be paid to guardians *ad litem* as the Minister may, with the consent of the Minister for Public Expenditure and Reform, from time to time determine;

(*h*) make provision for such matters of procedure and administration as appear to the Minister to be necessary or expedient in respect of the provision, or arrangement for the provision of, legal advice to, and legal representation for, guardians *ad litem*;

(*i*) make provision for such other matters as the Minister considers necessary to ensure that guardians *ad litem* are capable of performing their functions under this Act.

(2) Regulations under this section may make different provision in relation to different classes of persons and different classes of proceedings, and contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.**]**

F314**[**Provision of information by guardians *ad litem* to Minister

35K.—(1) The Minister may request a guardian *ad litem* to provide the Minister with such information relating to the performance of the functions of the guardian *ad litem* under this Act (including information relating to the proceedings in which he or she has been appointed for a child) as is necessary for the performance by the Minister of his or her functions under this Part.

(2) Notwithstanding anything contained in any other enactment or rule of law, but subject to the Data Protection Regulation and the Data Protection Act 2018, a guardian *ad litem* shall comply with a request under *subsection (1)*.

(3) The Minister may use such information provided in response to a request under *subsection (1)* as he or she requires for the performance of his or her functions under this Part.**]**

F315**[**Authorisation

35L.—(1) Subject to this section, the Minister may issue an authorisation in writing to such and so many persons as the Minister considers appropriate to perform the functions conferred on a guardian *ad litem* by or under this Act.

(2) A person will not be considered appropriate for the purposes of *subsection (1)* unless—

(*a*) the person is a member of a class prescribed under *subsection (3)(a)*, and

(*b*) subject to *subsection (3)(c)*, the person satisfies such requirements as may be specified under *subsection (3)(b)*.

(3) The Minister may by regulations—

(*a*) prescribe a class or classes of persons who, in the opinion of the Minister, are suitable to be guardians *ad litem*,

(*b*) specify the requirements that a member of a class or classes prescribed under *paragraph (a)* shall satisfy in order to be considered appropriate for the purposes of *subsection (1)*, and

(*c*) provide for exemptions from any requirement referred to in *paragraph (b)* for a specified class or classes of persons.

(4) When prescribing a class or classes of persons under *subsection (3)(a)*, the Minister shall have regard to—

(*a*) the functions to be performed by guardians *ad litem* under this Act, and

(*b*) the qualifications, minimum level of professional experience, training and expertise of such class or classes of persons.

(5) When specifying requirements under *subsection (3)(b)* and providing for exemptions under *subsection (3)(c)* in respect of such requirements, the Minister shall have regard to—

(*a*) the functions to be performed by guardians *ad litem* under this Act, and

(*b*) the promotion of high professional standards and good practice on the part of guardians *ad litem*.

(6) Where the Minister is considering issuing an authorisation to a person, the Minister may request the person to provide the Minister with such information as the Minister may require in order to decide whether to issue the authorisation and the person shall comply with the request concerned.

(7) Where in the opinion of the Minister a person fails without good cause to comply with a request under subsection (6), the Minister may have regard to such failure when considering whether to issue an authorisation to the person.**]**

F316**[**Notification of relevant matters

35M.— (1) A guardian *ad litem* shall notify the Minister in writing of any relevant matter in relation to him or her which would be likely to affect his or her authorisation, as soon as practicable and in any event not later than 14 days after that matter comes to the knowledge of the guardian *ad litem*.

(2) In this section, "relevant matter", includes a criminal record within the meaning of section 2 of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012, other than a conviction to which section 14A of that Act applies.**]**

F317**[**Revocation of authorisation

35N.— The Minister may revoke an authorisation issued in respect of a person if it appears to the Minister that—

(*a*) any requirement for the granting of the authorisation is no longer satisfied,

(*b*) the person has failed to comply with *section 35M(1)*,

(*c*) the person has committed a serious breach of regulations made under this Part,

(*d*) the person has become incapable through ill-health or otherwise of performing the functions of a guardian *ad litem* under this Act, or

(*e*) there are other good and sufficient reasons to do so.**]**

F318**[**Cessation of authorisation

35O.—(1) An authorisation issued in respect of a person shall cease to have effect—

(*a*) where it is revoked under *section 35N*,

(*b*) in the case of a person who is an officer of the Minister, where the person ceases to be an officer of the Minister,

(*c*) in the case of a person with whom the Minister has entered into a contract for services under *section 35P*, on the expiry of the period of the contract, or on the expiry of such further period as the Minister may direct in accordance with *subsection (3)*, or

(*d*) at the request of the person.

(2) Where an authorisation ceases in accordance with *subsection (1)* and the person in respect of whom the authorisation was issued stands appointed for a child, the person concerned shall cease to be so appointed.

(3) Where the period of a contract referred to in *subsection (1)(c)* is due to expire before the conclusion of proceedings in which a person is appointed for a child, the Minister may direct that the authorisation issued in respect of the person shall continue for such period as the Minister considers necessary having regard to the proceedings concerned.**]**

F319**[**Contracts for services

35P.—(1) This section applies to a person who the Minister is satisfied is appropriate to perform the functions conferred on a guardian *ad litem* by or under this Act.

(2) The Minister may enter into contracts for services with such and so many persons to whom the section applies as the Minister considers necessary for the performance by him or her of the functions under *section 35C(1)* or *35L(1)*.

(3) A contract for services entered into under *subsection (2)* shall contain such terms and conditions as the Minister may, with the consent of the Minister for Public Expenditure and Reform, determine.

(4) The Minister may issue an authorisation to a person with whom he or she has entered into a contract for services under *subsection (2)*.**]**

F320**[**Transitional and saving provisions (*Part VA*)

35Q.—(1) Where immediately prior to the relevant date a person—

(*a*) stands appointed under *section 26* as a guardian *ad litem*,

(*b*) is a person in respect of whom the Minister has received a vetting disclosure, and

(*c*) is a person who the Minister is satisfied is a fit and proper person to be a guardian *ad litem*,

then, on and from that date, the appointment shall be deemed to be an appointment under *section 35C(1)*.

(2) Where an appointment is deemed under *subsection (1)* to be an appointment under *section 35C(1)*, this Part shall apply to the person concerned subject to the following modifications and any other necessary modifications—

(*a*) an order made under *section 26* prior to the relevant date—

(i) in the case of a person appointed to act as a guardian *ad litem* in any proceedings under *Part IVA*, shall be treated as if it was an order made under *section 35B(2)*, and

(ii) in the case of a person appointed to act as a guardian *ad litem* in any proceedings under *Part IV*, *IVB* or *VI*, shall be treated as if it was an order made under *section 35B(3)*,

(*b*) an order referred to in *paragraph (a)(i)* shall cease to have effect—

(i) in accordance with *section 35H(1)*, or

(ii) after a period of 12 months commencing on the relevant date if no authorisation is issued in respect of the person in that period,

whichever is the earlier,

(*c*) an order referred to in *paragraph (a)(ii)* shall cease to have effect—

(i) in accordance with *section 35H(2)*, or

(ii) after a period of 12 months commencing on the relevant date if no authorisation is issued in respect of the person in that period,

whichever is the earlier, and

(*d*) where prior to the relevant date the person had instructed a solicitor or counsel, or both, to represent him or her in proceedings under this Act,

then on and from that date, the solicitor or counsel, or both, as the case may be, may continue to represent the person in such proceedings for such period as the order has effect, in accordance with *paragraph (b)* or *(c)*, as the case may be.

(3) In this section, "vetting disclosure" has the same meaning as it has in the National Vetting Bureau (Children and Vulnerable Persons) Act 2012.**]**

PART VI

CHILDREN IN THE CARE OF F321**[**CHILD AND FAMILY AGENCY**]**

Accommodation and maintenance of children in care.

36.—(1) Where a child is in the F322**[**care of the F323**[**Child and Family Agency**]]**, F324**[**subject to *subsection (4),***]** F322**[**the F325**[**Agency**]** shall**]** provide such care for him, subject to its control and supervision, in such of the following ways as it considers to be in his best interests—

(*a*) by placing him with a foster parent, or

(*b*) by placing him in residential care (whether in a children's residential centre registered under *Part VIII*, in a residential home maintained F322**[**by the F325**[**Agency**]]** or in a school or other suitable place of residence), or

(*c*) in the case of a child who may be eligible for adoption under the Adoption Acts, 1952 to 1988, by placing him with a suitable person with a view to his adoption, or

(*d*) by making such other suitable arrangements (which may include placing the child with a relative) F322**[**as the F325**[**Agency**]]** thinks proper.

(2) In this Act, "foster parent" means a person other than a relative of a child who is taking care of the child on behalf of F322**[**the F323**[**Child and Family Agency**]]** in accordance with regulations made under *section 39* and "foster care" shall be construed accordingly.

(3) Nothing in this section shall prevent F322**[**the F323**[**Child and Family Agency**]]** sending a child in its care to any hospital or to any institution which provides nursing or care for children suffering from physical or mental disability.

F324**[**(4) A placement referred to in *subsection (1)* shall not be made in respect of a child who is the subject of a special care order or an interim special care order during the period for which that order has effect.**]**

Access to children in care.

37.—(1) Where a child is in the care of F327**[**the F328**[**Child and Family Agency**]]** whether by virtue of an order under *Part III* or *IV* or otherwise, F327**[**the F329**[**Agency**]]** shall, subject to the provisions of this Act, facilitate reasonable access to the child by his parents, any person acting *in loco parentis*, or any other person who, in the opinion of F327**[**the F329**[**Agency**]]**, has a *bona fide* interest in the child and such access may include allowing the child to reside temporarily with any such person.

F330**[**(1A) Where a child is in the care of the F328**[**Child and Family Agency**]** pursuant to a special care order or an interim special care order, the F328**[**Child and Family Agency**]** shall, subject to this Act, and to a direction, if any, given under *section 23NA(2)(a)* (inserted by the Child Care (Amendment) Act 2011), and in accordance with that special care order or interim special care order and that direction, if any, facilitate reasonable access to the child in the special care unit by his or her parents, a person acting *in loco parentis*, a guardian or any other person who, in the opinion of the F328**[**Child and Family Agency**]**, has a *bona fide* interest in the child.**]**

F331**[**(2) Any person who is dissatisfied with arrangements made by the Child and Family Agency under *subsection (1)* or *(1A)* or by the Health Service Executive under those subsections before the establishment of that Agency may apply to the court, and the court may—

(*a*) make such order as it thinks proper regarding access to the child by that person, and

(*b*) vary or discharge that order on the application of any person.**]**

(3) The court, on the application of F327**[**the F328**[**Child and Family Agency**]]**, and if it considers that it is necessary to do so in order to safeguard or promote the child's welfare, may—

(*a*) make an order authorising F327**[**the F329**[**Agency**]]** to refuse to allow a named person access to a child in its care, and

(*b*) vary or discharge that order on the application of any person.

(4) This section is without prejudice to *section 4 (2)*.

F332**[**(5) In this section, in proceedings under *Part IVA* (as amended by the Child Care (Amendment) Act 2011), "court" means the High Court.**]**

Provision of residential care by F336**[**Child and Family Agency**]**.

38.—F337**[**The F336**[**Child and Family Agency**]]** shall make arrangements with the registered proprietors of children's residential centres or with other suitable persons to ensure the provision of an adequate number of residential places for children in its care.

(2) F337**[**The F336**[**Child and Family Agency**]]** may, with the approval of the Minister, provide and maintain a residential centre or other premises for the provision of residential care for children in care.

(3) The Minister shall make regulations with respect to the conduct of homes or other premises provided by F337**[**the F336**[**Child and Family Agency**]]** under this section and for securing the welfare of children maintained therein.

(4) Without prejudice to the generality of *subsection (3)*, regulations under this section may—

(*a*) prescribe requirements as to the maintenance, care and welfare of children while being maintained in centres,

(*b*) prescribe requirements as to the numbers, qualifications and availability of members of the staffs of centres,

(*c*) prescribe requirements as to the design, maintenance, repair, cleaning and cleanliness, ventilation, heating and lighting of centres,

(*d*) prescribe requirements as to the accommodation (including the amount of space in bedrooms, the washing facilities and the sanitary conveniences) provided in centres,

(*e*) prescribe requirements as to the food provided for children while being maintained in centres,

(*f*) prescribe requirements as to the records to be kept in centres and for the examination and copying of any such records or of extracts therefrom by officers of the Minister.

Regulations as to foster care.

39.—(1) The Minister shall make regulations in relation to the placing of children in foster care by F340**[**the F341**[**Child and Family Agency**]]** under *section 36* and for securing generally the welfare of such children.

(2) Without prejudice to the generality of *subsection (1)*, regulations under this section may—

(*a*) fix the conditions under which children may be placed in foster care;

(*b*) prescribe the form of contract to be entered into by F340**[**the F341**[**Child and Family Agency**]]** with foster parents;

(*c*) provide for the supervision and visiting by F340**[**the F341**[**Child and Family Agency**]]** of children in foster care.

Regulations as to residential care.

40.—(1) The Minister shall make regulations in relation to the placing of children in residential care (whether in children's residential centres or in other institutions) by F342**[**the F343**[**Child and Family Agency**]]** under *section 36* and for securing generally the welfare of such children.

(2) Without prejudice to the generality of *subsection (1)*, regulations under this section may—

(*a*) fix the conditions under which children may be placed in residential care;

(*b*) prescribe the form of contract to be entered into by F342**[**the F343**[**Child and Family Agency**]]** with persons providing residential care;

(*c*) provide for the supervision and visiting by F342**[**the F343**[**Child and Family Agency**]]** of children in residential care.

Regulations as to placement with relatives.

41.—(1) The Minister shall make regulations in relation to the making of arrangements by F344**[**the F345**[**Child and Family Agency**]]** under *section 36 (1) (d)* for the care of children and for securing generally the welfare of such children.

(2) Without prejudice to the generality of *subsection (1)*, regulations under this section may—

(*a*) fix the conditions under which children may be placed by F344**[**the F345**[**Child and Family Agency**]]** with relatives;

(*b*) prescribe the form of contract to be entered into by F344**[**the F345**[**Child and Family Agency**]]** with relatives;

(*c*) provide for the supervision and visiting by F344**[**the F345**[**Child and Family Agency**]]** of children placed with relatives.

Review of cases of children in care.

42.—(1) The Minister shall make regulations requiring the case of each child in the care of F346**[**the F347**[**Child and Family Agency**]]** to be reviewed in accordance with the provisions of the regulations.

(2) Without prejudice to the generality of *subsection (1)*, regulations under this section may make provision—

(*a*) as to the manner in which each case is to be reviewed,

(*b*) as to the frequency of reviews, and

(*c*) requiring the F347**[**Child and Family Agency**]** to consider whether it would be in the best interests of the child to be given into the custody of his parents.

Removal from placement.

43.—F349**[**(1) The Child and Family Agency may, in accordance with any regulations made by the Minister, remove a child in its care from the custody of any person with whom the child has been placed under *section 36* before the establishment day of the Child and Family Agency.**]**

(2) Where a person refuses or neglects to comply with a request of F350**[**the F351**[**Child and Family Agency**]]** to deliver up a child in accordance with regulations made under *subsection (1)*, F350**[**the F352**[**Agency**]]** may apply to the District Court for an order directing that person to deliver up the child to the custody of F350**[**the F352**[**Agency**]]** and the justice may, if he considers that it is in the best interests of the child so to do, make such an order.

(3) Without prejudice to the law as to contempt of court, where the District Court has made an order under *subsection (2)* (requiring that a child be delivered up to the custody of F350**[**the F351**[**Child and Family Agency**]]**), any person having the actual custody of the child who, having been given or shown a copy of the order

and having been required, by or on behalf of F350**[**the F352**[**Agency**]]**, to give up the child to F350**[**the F352**[**Agency**]]**, fails or refuses to comply with the requirement shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £500 or, at the discretion of the court, to imprisonment for a term not exceeding 6 months or both such fine and such imprisonment.

(4) For the purposes of this section, a person shall be deemed to have been given or shown a copy of an order made under *subsection (2)* if that person was present at the sitting of the court at which such an order was made.

(5) Where a child is removed from the custody of a person in pursuance of this section, any contract between F350**[**the F351**[**Child and Family Agency**]]** and that person in respect of the child shall terminate immediately upon the removal.

(6) The provisions of this section are without prejudice to the power of F350**[**the F351**[**Child and Family Agency**]]** to apply for an order under *Part III* or *IV*.

F355**[**Orders relating to children in care of same foster parent or relative for five years or more.

43A.— (1) This section applies to a child in the care of the F356**[**Child and Family Agency**]** whether in care under *section 4* or under *section 18* and whether the child has been placed under *section 36(1)(a)* with a foster parent or under *section 36(1)(d)* with a relative.

(2) On the application of a foster parent or relative with whom the child has been placed, the court may grant an order under this section, but only if it is satisfied that—

(*a*) the foster parent or relative has been taking care of the child for a period of not less than five years beginning on the date of placement in accordance with this Act and ending on the date of application,

(*b*) the granting of the order is in the child's best interests,

(*c*) the F356**[**Child and Family Agency**]** has consented in advance to the granting of the order,

(*d*) the F356**[**Child and Family Agency**]** has, on behalf of the foster parent or relative—

(i) if the child is in its care under *section 4*, obtained the consent to the granting of the order of a parent having custody of the child at the relevant time or of a person (other than the foster parent or relative) acting *in loco parentis* to the child, or

(ii) if the child is in its care under *section 18*, given notice of the application to a parent having custody of the child at the relevant time or of a person (other than the foster parent or relative) acting *in loco parentis* to the child, and

(*e*) the child's wishes have, in so far as is practicable, been given due consideration having regard to the age and understanding of the child.

(3) In determining whether a foster parent or relative has been taking care of a child for the period required by *subsection (2)(a)*, any interruption of the placement during that period shall be disregarded unless the total number of days of interruption, whether consecutive or not, exceeds 30.

(4) The requirement of *subsection (2)(d)* as to the consent or notification of a parent or other person does not apply if—

(*a*) the court is satisfied that he or she is missing and cannot be found by the F356**[**Child and Family Agency**]**, or

(*b*) the court, having regard to the child's welfare, so directs.

(5) Subject to any conditions or restrictions imposed under *subsection (6)*, an order under this section shall authorise the foster parent or relative to whom it is granted—

(*a*) to have, on behalf of the F356**[**Child and Family Agency**]**, the like control over the child as if the foster parent or relative were the child's parent, and

(*b*) to do, on behalf of the F356**[**Child and Family Agency**]**, what is reasonable (subject to the provisions of this Act and of the regulations for the time being in force under this Act) in all the circumstances of the case for the purpose of safeguarding and promoting the child's health, development or welfare and, in particular, give consent to—

(i) any necessary medical or psychiatric examination, treatment or assessment with respect to the child, and

(ii) the issue of a passport to, or the provision of passport facilities for, the child to enable the child to travel abroad for a limited period.

(6) In granting the order, the court may impose any conditions or restrictions it thinks fit as to the extent of the authority of the foster parent or relative to whom the order is granted.

(7) Any consent given by a foster parent or relative of the child in accordance with an order under this section shall be sufficient authority for the carrying out of a medical or psychiatric examination or assessment, the provision of medical or psychiatric treatment, the issue of a passport or the provision of passport facilities, as the case may be.

(8) In the absence of a consent referred to in *subsection (5)* being given by the foster parent or relative to whom an order under this section was granted, the F356**[**Child and Family Agency**]** has authority to give consent in accordance with *section 18(3)* in relation to the child.

(9) Nothing in this section or *section 18* shall be construed as making ineffective any consent that, by virtue of section 23 of the Non-Fatal Offences Against the Person Act 1997, would otherwise be an effective consent.

(10) Any arrangement that is in place or order that is in force under *section 37* with respect to access to the child immediately before an order under this section is granted continues in place or in force, unless when granting the order—

(*a*) in the case of an arrangement under *subsection (1)* of *section 37*, the court makes an order under *subsection (2)* of that section, or

(*b*) in the case of an order under *subsection (2)* or *(3)* of *section 37*, the court varies or discharges that order.

(11) *Subsection (10)* is without prejudice to the jurisdiction of the court to make, at any time, an order under *section 37* with respect to access to the child or to vary or discharge such an order, including an order continued or varied pursuant to that subsection.

(12) This section and *section 43B* are without prejudice to any other provisions of this Act, or any provisions of the regulations for the time being in force under this Act, that in the interests of a child in care assign functions to the F356**[**Child and Family Agency**]**.

(13) For the purpose of this section and *section 43B*, "relevant time" means—

(*a*) in relation to a child in care under *section 4*, immediately before the child was taken into care under that section, and

(*b*) in relation to a child in care under *section 18*, immediately before a care order was made in relation to the child.**]**

F357**[**Variation, discharge or cessation of order under *section 43*A.

43B.— (1) The court may vary or discharge an order under *section 43A* or any condition or restriction attaching to that order on the application of any of the following persons:

(*a*) the F358**[**Child and Family Agency**]**;

(*b*) a foster parent or relative to whom the order was granted;

(*c*) a parent having custody of the child concerned at the relevant time;

(*d*) a person (other than the foster parent or relative to whom the order was granted) acting *in loco parentis* to the child concerned;

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

(2) An order under *section 43A* ceases to have effect—

(*a*) if the child concerned is in care under *section 4*, when care of the child is resumed by the parent or other person whose wishes the F358**[**Child and Family Agency**]** is required under that section to have regard to,

(*b*) if the child concerned is the subject of a care order, when the care order is discharged under *section 22* or ceases to have effect under *section 44(2)*,

(*c*) if the child concerned is, in accordance with *section 43* and regulations made by the Minister, removed from the custody of the foster parent or relative to whom the order under *section 43A* was granted, immediately on the child's removal,

(*d*) if the foster parent or relative to whom the order under *section 43A* was granted requests the F358**[**Child and Family Agency**]** to remove the child concerned from his or her custody, when the child is removed in accordance with the request, or

(*e*) when the child concerned attains the age of 18 years or marries,

whichever is the sooner.**]**

Children who become adopted.

44.—F359**[**(1) Where a child is adopted under the Adoption Act 2010 and the child, immediately before the adoption, was being maintained in foster care by the F360**[**Child and Family Agency**]** with the adopter or adopters, the F360**[**Child and Family Agency**]**, subject to—

(*a*) any general directions that may be given by the Minister, and

(*b*) any conditions that may be imposed by the F360**[**Child and Family Agency**]**,

may contribute to the child's maintenance as if the child continued to be in foster care.

(2) Where a child is adopted under the Adoption Act 2010, any care order in force in respect of the child ceases to have effect.**]**

F361**[**Aftercare plan

45.—(1) Subject to *section 45A* and *subsection (3)*, the Child and Family Agency shall, in accordance with *sections 45B* or *45C*, prepare an aftercare plan for an eligible child or an eligible adult, as the case may be, setting out the assistance that may be provided by the Agency to the eligible child on or after he or she attains the age of 18 years or to the eligible adult.

(2) The Child and Family Agency shall, in accordance with *section 45D*, update an aftercare plan referred to in *subsection (1)*.

(3) The assistance that may be provided by the Child and Family Agency to an eligible child or an eligible adult, as the case may be, in accordance with an aftercare plan referred to in *subsection (1)* or an updated aftercare plan referred to in *subsection (2)* may be provided for so long as—

(*a*) the Agency is satisfied as to his or her need for the assistance, and

(*b*) subject to *subsection (4)*, he or she has not attained the age of 21 years.

(4) Where the Child and Family Agency is providing assistance to a person in accordance with an aftercare plan or an updated aftercare plan by arranging for

the completion of his or her education and by contributing to his or her maintenance while he or she is completing his or her education, and that person attains the age of 21 years, the Child and Family Agency may continue to provide that assistance until—

(*a*) the completion of the course of education in which he or she is engaged, or

(*b*) the end of the academic year during which the person attains the age of 23,

whichever is the earlier.

(5) The Child and Family Agency may, subject to its available resources, implement an aftercare plan or an updated aftercare plan.**]**

F362**[**Assessment of need

45A.—(1) The Child and Family Agency shall, prior to preparing an aftercare plan under *section 45B* or *45C*, carry out an assessment (in this Act referred to as an "assessment of need") of the needs of an eligible child on attaining the age of 18 years or an eligible adult, as the case may be.

(2) The Child and Family Agency shall record the needs identified by an assessment of need in writing.

(3) Without prejudice to the generality of *subsection (1)*, an assessment of need shall include an assessment by the Child and Family Agency of the needs (if any) of the person being assessed in relation to—

(*a*) education,

(*b*) financing and budgeting matters,

(*c*) training and employment,

(*d*) health and well-being,

(*e*) personal and social development,

(*f*) accommodation, and

(*g*) family support.**]**

F363**[**Aftercare plan - eligible child

45B.—(1) The Child and Family Agency shall, where any need is identified in an assessment of need carried out in respect of an eligible child in the care of the Agency, prepare an aftercare plan for that child.

(2) An eligible child who is no longer in the care of the Child and Family Agency, or his or her parent, guardian or a person acting in loco parentis to him or her, may request the Agency to prepare an aftercare plan for that eligible child.

(3) Upon receipt of a request under *subsection (2)*, the Child and Family Agency shall, where any need is identified in an assessment of need carried out in respect of the eligible child to whom the request relates, prepare an aftercare plan for that child.

(4) An aftercare plan prepared under *subsection (1)* or *(3)* shall set out the assistance that the Child and Family Agency may provide to the eligible child on or after that child attaining the age of 18 years to meet his or her needs as identified in the assessment of need, being assistance which may be provided to that person—

(*a*) directly by the Agency, or

(*b*) in accessing a service which is provided by—

(i) a public body or a person on behalf of the public body, where he or she may be eligible for the service, or

(ii) any other person, not being a public body, referred to in *subsection (7)(b)*.

(5) The Child and Family Agency shall prepare an aftercare plan under *subsection (1)* —

(*a*) at least 6 months before he or she attains the age of 18 years, or

(*b*) within 3 months of that child having become an eligible child,

whichever is the later.

(6) Where the Child and Family Agency is required, in accordance with *subsection (3)*, to prepare an aftercare plan following receipt of a request under *subsection (2)*, the Agency shall prepare that plan—

(*a*) at least 6 months before the eligible child referred to in *subsection (2)* attains the age of 18 years, or

(*b*) within 3 months of receipt of that request,

whichever is the later.

(7) The Child and Family Agency, in preparing an aftercare plan for an eligible child under *subsection (1)* or *(3)* —

(*a*) shall consult with a public body which provides, or any person who provides on behalf of the public body, a service for which the child may be eligible, and

(*b*) may consult with any person, not being a public body, which provides or arranges to provide a service.

(8) Notwithstanding section 9 of the Child and Family Agency Act 2013, where the Child and Family Agency, in preparing an aftercare plan under *subsection (1)* or *(3)* has been unable, after reasonable efforts have been made, to ascertain the views of the eligible child to whom the plan relates, the Agency shall prepare an aftercare plan for that eligible child.

(9) The Child and Family Agency, in preparing an aftercare plan under *subsection (1)* or *(3)* for an eligible child—

(*a*) shall take all reasonable steps to consult with each parent and guardian of, and person acting in loco parentis to, that child, and

(*b*) may consult with any other person who the Child and Family Agency considers has a close personal or professional relationship with that child,

unless the Agency considers that in all the circumstances it is not in the best interests of that child to consult with any of those persons.

(10) The Child and Family Agency shall, in preparing an aftercare plan for an eligible child under *subsection (1)* or *(3)*, have due regard to the resources available to the Agency to implement that plan.

(11) In this section—

"guardian", in relation to an eligible child, means a person who—

(*a*) is a guardian of the child pursuant to the Guardianship of Infants Act 1964 and who—

(i) is a parent of the child and has custody of that child, or

(ii) not being a parent of the child, has custody of that child to the exclusion of any living parent of that child, or

(*b*) is appointed to be a guardian of the child by—

(i) deed or will, or

(ii) order of a court in the State,

and has not been removed from office;

"public body" has the same meaning as it has in section 2 of the Child and Family Agency Act 2013;

"service" means a service or support, available to or accessible by the public generally or a section of the public, where the service or support would assist in meeting any need of a person identified in the assessment of need carried out in respect of that person.**]**

F364**[**Aftercare plan - eligible adult

45C.—(1) An eligible adult or a person authorised in writing to make a request on behalf of an eligible adult may request the Child and Family Agency to prepare an aftercare plan for the eligible adult where the Agency has not previously prepared a plan for that eligible adult.

(2) Upon receipt of a request under *subsection (1)*, the Child and Family Agency shall, where any need is identified in an assessment of need carried out in respect of the eligible adult, prepare an aftercare plan setting out the assistance that the Agency may provide to the eligible adult to meet the needs as identified in the assessment, being assistance which may be provided to that eligible adult—

(*a*) directly by the Agency, or

(*b*) in accessing a service which is provided by—

(i) a public body or a person on behalf of the public body, where that eligible adult may be eligible for the service, or

(ii) any other person, not being a public body, referred to in *subsection (4)(b)*.

(3) The Child and Family Agency shall prepare an aftercare plan under *subsection (2)* within 3 months of receipt of a request made under *subsection (1)*.

(4) The Child and Family Agency in preparing an aftercare plan under *subsection (2)*—

(*a*) shall consult with a public body which provides, or any person who provides on behalf of the public body, a service for which the eligible adult may be eligible, and

(*b*) may consult with any person, not being a public body, which provides, or arranges to provide, a service.

(5) The Child and Family Agency may, with the consent of the eligible adult, consult with any person who the Agency considers may be of assistance to the Agency in preparing the aftercare plan.

(6) The Child and Family Agency shall, in preparing an aftercare plan under *subsection (2)*, have due regard to the resources available to the Agency to implement that plan.

(7) Where on the coming into operation of this section the Child and Family Agency is providing assistance to a person in accordance with *section 45* (prior to the amendment of that section by section 5 of the Child Care (Amendment) Act 2015)—

(*a*) the Agency shall continue to provide such assistance in accordance with that section as if it had not been so amended, and

(*b*) if that person is an eligible adult he or she may make a request under *subsection (1)*.

(8) In this section, "public body" and "service" have the same meaning as they have in *section 45B*.**]**

F365**[**Review and update of after-care plan

45D.—(1) A person in respect of whom an aftercare plan is in operation, or a person who is authorised in writing to make a request on his or her behalf, may request the Child and Family Agency to review the operation of the plan where—

(*a*) there has been a significant change in the circumstances of the person to whom the plan relates since the preparation of, or last review of, that plan,

(*b*) the assistance being provided under that plan is not meeting a need of the person as identified in the assessment of need, or

(*c*) the person requires additional assistance—

(i) to that set out in that plan to meet the needs identified in the assessment of need, or

(ii) to meet any additional need which has arisen since that assessment of need was carried out.

(2) Where the person referred to in *subsection (1)* satisfies the Child and Family Agency that paragraph *(a)*, *(b)* or *(c)* of *subsection (1)* applies in respect of a request under that subsection, the Agency shall carry out a review of the operation of the aftercare plan within 3 months of receipt of a request made under that subsection.

(3) In carrying out a review under *subsection (2)*, the Child and Family Agency shall consult with any public body which provides, or any person who provides on behalf of the public body, a service—

(*a*) referred to in the aftercare plan and identified by the Agency as being relevant to the review, or

(*b*) which is part of the additional assistance referred to in *subsection (1)(c)* and is additional to any service identified in the aftercare plan.

(4) In carrying out a review under *subsection (2)*, the Child and Family Agency may consult with any person, not being a public body which provides a service—

(*a*) referred to in the aftercare plan and identified by the Agency as being relevant to the review, or

(*b*) which is part of the additional assistance referred to in *subsection (1)(c)* and is additional to any service identified in the aftercare plan.

(5) The Child and Family Agency shall, in reviewing an aftercare plan under *subsection (2)*, take all reasonable steps to consult, with the consent of the person to whom the plan relates, with any person who the Agency considers may be of assistance to the Agency in reviewing that plan.

(6) The Child and Family Agency may update an aftercare plan following a review under *subsection (2)*.

(7) The Child and Family Agency shall, in updating an aftercare plan under *subsection (6)*, have due regard to the resources available to the Agency to implement any updated plan.

(8) In this section—

"public body" has the same meaning as it has in *section 45B*;

"service" has the same meaning as it has in *section 45B* save that for the purposes of this section the reference to "any need of a person identified in the assessment of need carried out in respect of that person" shall be taken to include any additional need of that person identified in a request under *subsection (1)(c)(ii)*.**]**

Recovery of children removed from care etc.

46.—(1) The provisions of this section shall apply to any child who is in the care of F366**[**the F367**[**Child and Family Agency**]]** F368**[**, other than special care under *Part IVA*,**]** and who is, without lawful authority, removed from the custody of F366**[**the F369**[**Agency**]]** or from the custody of any person who is taking care of him on behalf of F366**[**the F369**[**Agency**]]** or prevented from returning to such custody at the end of any period of leave.

(2) The F366**[**the F369**[**Agency**]]** may request the Garda Síochána to search for the child and to deliver him up to the custody of the F369**[**Agency**]** and the Garda Síochána may take all reasonable measures to comply with such a request.

F370**[**(2A) A request made by the Health Service Executive to the Garda Síochána under *subsection (2)* before the establishment of the Child and Family Agency shall be deemed to have been made by the Child and Family Agency if the child in respect of whom the request was made is not delivered up to the Health Service Executive before the establishment day of the Agency.**]**

(3) A justice of the District Court may, if satisfied by information on oath that there are reasonable grounds for believing that a person specified in the information can produce the child named in the application, make an order directing that person to deliver up the child to the custody of the F366**[**the F367**[**Child and Family Agency**]]**.

(4) Without prejudice to the law as to contempt of court where the District Court has made an order under *subsection (3)* directing that a child be delivered up to the care of F366**[**the F367**[**Child and Family Agency**]]**, any person having the actual custody of the child who, having been given or shown a copy of the order and having been required, by or on behalf of F366**[**the F369**[**Agency**]]**, to give up the child to F366**[**the F369**[**Agency**]]**, fails or refuses to comply with the requirement shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £500 or, at the discretion of the court, to imprisonment for a term not exceeding 6 months or both such fine and such imprisonment.

(5) For the purposes of this section, a person shall be deemed to have been given or shown a copy of an order made under *subsection (3)* if that person was present at the sitting of the court at which such an order was made.

(6) A justice of the District Court may, if satisfied by information on oath that there are reasonable grounds for believing that the child named in the application is in any house or other place (including any building or part of a building, tent, caravan or other temporary or moveable structure, vehicle, vessel, aircraft or hovercraft) specified in the information, issue a warrant authorising a member of the Garda Síochána, accompanied by such other members of the Garda Síochána or such other persons as may be necessary to enter (if need be by force) and to search the house or other place for the child; and if the child is found he shall be returned to the custody of F366**[**the F367**[**Child and Family Agency**]]**.

(7) An application for an order under *subsection (3)* may, if the justice is satisfied that the urgency of the matter so requires, be made *ex parte*.

(8) An application for an order under *subsection (3)* or for a warrant under *subsection (6)* may, if the justice is satisfied that the urgency of the matter so requires, be heard and an order made thereon elsewhere than at a public sitting of the District Court.

(9) Without prejudice to *section 28*—

(*a*) an order under *subsection (3)* may be made by a justice of the District Court for the time being assigned to the district court district where the person specified in the information resides or is for the time being, and

(*b*) a warrant under *subsection (6)* may be issued by a justice for the time being assigned to the district where the house or other place specified in the information is situated,

and, in either case, where such justice is not immediately available the order may be made, or the warrant issued, by any justice of the District Court.

Application for directions.

47.—Where a child is in the care of F373**[**the F374**[**Child and Family Agency**]]** F375**[**, other than special care under *Part IVA*,**]**, the District Court may, of its own motion or on the application of any person, give such directions and make such order on any question affecting the welfare of the child as it thinks proper and may vary or discharge any such direction or order.

Transitional provisions.

48.—(1) On the commencement of *Part IV* any child who is in the care of a health board pursuant to an order made under *Part II* or *IV* of the Children Act, 1908 shall be deemed to be the subject of a care order committing him to the care of that health board and the provisions of *Part IV* shall apply with the necessary modifications.

(2) Where, on the commencement of *Part IV*, a child is in the care of a health board pursuant to an order made under section 21 or 24 of the Children Act, 1908 in respect of the commission of an offence against him and the person charged with the commission of the offence is acquitted of the charge or the charge is dismissed for want of prosecution, any care order to which the child is deemed to be subject under *subsection (1)* shall forthwith be void, but without prejudice to anything that may have been lawfully done under it.

(3) Nothing in this Act shall affect an order made under *Part II* or *IV* of the Children Act, 1908 committing a child to the care of a relative or fit person other than a health board.

(4) On the commencement of *Part III*, any child who is being detained in a place of safety under any provision of the Children Act, 1908 shall be deemed to have been received into that place pursuant to an emergency care order on the date of such commencement.

(5) Where, on the commencement of *Part II*, a child is in the care of a health board otherwise than by virtue of a court order, he shall be deemed to have been taken into care under *section 4* on the date of such commencement.

(6) Where, on the commencement of *Part VI*, a child is boarded-out by a health board, he shall be deemed to have been placed by the health board in foster care under an arrangement made under *section 36*.

(7) Where, on the commencement of *Part VI*, a health board is contributing towards the maintenance of a child in accordance with section 55 (9) (*c*) of the Health Act, 1953, the board may, subject to such conditions as it sees fit, continue to contribute to the maintenance of the child as if he were in foster care.

(8) Where, on the commencement of *Part VI*, a child is being maintained by a health board in a home or school approved by the Minister for the purposes of section 55 of the Health Act, 1953, he shall be deemed to have been placed in residential care by the health board under an arrangement made under *section 36*.

(9) Nothing in *section 67* shall affect the operation of an order committing a child to a certified industrial school to which that section applies.

PART VII

Supervision of Pre-School Services

Definitions for Part VII.

49.—F377**[**...**]**

Regulations as to pre-school services.

50.—F378**[**...**]**

F379**[**Notice to Health Service Executive.

51.—F380**[**...**]]**

Duty of person carrying on pre-school service.

52.—F381**[**...**]**

Supervision of pre-school services.

53.—F382**[**...**]**

Authorised persons.

54.—F383**[**...**]**

Inspection by authorised persons.

55.—F384**[**...**]**

Provision by health boards of pre-school services and information.

56.—F385**[**...**]**

Offences under *Part VII*.

57.—F386**[**...**]**

Exemptions from provisions of this Part.

58.—F387**[**...**]**

F388**[**PART VIIA

SUPERVISION OF EARLY YEARS SERVICES**]**

F389**[**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;

F390**[**"childminding service" means a service that—

(*a*) entails an individual taking care, by himself or herself, of children under the age of 15 years, in the home of the individual, and

(*b*) is provided to children (other than that individual's own children) for a total period of not less than 2 hours per day;**]**

F391**[**"closure order" has the meaning assigned to it by *section 58JD(1)*;**]**

"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, F392**[**...**]**

(*b*) a school age F393**[**service, or**]**

F394**[**(*c*) a childminding service;**]**

F391**[**"immediate action notice" has the meaning assigned to it by *section 58JB(1)*;**]**

F391**[**"immediate action order" has the meaning assigned to it by *section 58JB(6)*;**]**

F391**[**"improvement notice" has the meaning assigned to it by *section 58JA(1)*;**]**

F391**[**"improvement order" has the meaning assigned to it by *section 58JA(6)*;**]**

F390**[**"premises" means any premises, or part thereof, where an early years service is provided or is proposed to be provided, including the area immediately surrounding, or adjacent to, such premises which is used in conjunction with such premises, other than any part of that area that is a public place;**]**

"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*;

F390**[**"registered provider" has the meaning assigned to it by *section 58C(2)*;**]**

F391**[**"relevant person" has the meaning assigned to it by *section 58JD(1)(b)*;**]**

F395**[**"school" has the same meaning as it has in the Education Act 1998;**]**

"school age child" means a child who is attending a school age service;

F396**[**"school age service" means any early years service, play group, day nursery, crèche, day-care or other similar service which—

(*a*) caters for children under the age of 15 years enrolled in a school providing primary or post-primary education,

(*b*) provides a range of activities that are developmental, educational and recreational in manner, which take place outside of school hours, the primary purpose of which is to care for children where their parents are unavailable, 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,

(IV) tuition, or

(V) religious teaching,

or

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

F391**[**"temporary prohibition order" has the meaning assigned to it by *section 58JC(1)*;**]**

"youth work" has the same meaning as it has in the Youth Work Act 2001.**]**

F397**[**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,

(*e*) prescribe the minimum level of qualifications for any class or classes of persons working in an F398**[**early years service,**]**

(*f*) prescribe any additional particulars and details required in relation to the F398**[**register,**]**

F399**[**(*g*) prescribe a class or classes of persons who, in the opinion of the Minister, are fit and proper persons—

(i) to be registered providers and to carry on a prescribed early years service,

(ii) to be in charge of a prescribed early years service, or

(iii) to participate in the management of an early years service,

(*h*) specify the requirements that a member of a class or classes prescribed under *subparagraph (i)*, *(ii)* or *(iii)* of *paragraph (g)* shall satisfy in order to be considered fit and proper persons for the purposes of the subparagraph concerned,**]**

F400**[**(*i*) require persons carrying on prescribed early years services to make adequate arrangements, including publication of such arrangements, to make publicly known to the parents and guardians of children attending the service and the persons working in the service any of the following matters—

(i) a decision under *section 58D* to remove the name of the registered provider from the register,

(ii) a decision under *section 58D* to attach a condition, or amend or revoke a condition attached, to the registration of the registered provider,

(iii) a decision to issue an improvement notice in respect of the prescribed early years service provided by the registered provider,

(iv) the grant of an improvement order in respect of the prescribed early years service provided by the registered provider,

(v) a decision to issue an immediate action notice in respect of the prescribed early years service provided by the registered provider,

(vi) the grant of an immediate action order in respect of the prescribed early years service provided by the registered provider,

(vii) a decision to issue a temporary prohibition order in respect of a prescribed early years service provided by the registered provider, or

(viii) the grant of a closure order in respect of the prescribed early years service provided by the registered provider, and

(*j*) prescribe such particulars, including personal data, of parents and guardians of children attending prescribed early years services, as are necessary and proportionate for the performance by the Agency of its functions under this Part, that shall, at the request of the Agency, be provided to the Agency by registered providers.**]**

(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 F401**[**early years services, and**]]**

F402**[**(*d*) provide for exemptions, from any requirement in regulations under *paragraph (i)* of *subsection (2)* to make arrangements to make publicly known any of the matters specified in *subparagraphs (i)* to *(viii)* of that paragraph, for different circumstances or classes of circumstances or for different cases or classes of cases.**]**

F403**[**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 F404**[**(in this Part referred to as a "registered provider")**]**, 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.**]**

F405**[**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,

(*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 F406**[**shall**]** 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.

F407**[**(8A) The Agency shall refuse to register an applicant where the applicant—

(*a*) refuses to allow an authorised person, in accordance with *subsection (1A)* of *section 58J*, to enter the premises in which the applicant proposes to provide the prescribed early years service, or

(*b*) obstructs or impedes an authorised person in the exercise of any of his or her powers under *subsection (3A)* of that section.**]**

(9) The Agency F406**[**may**]** refuse to register an applicant and F406**[**may**]** 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.

(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 F406**[***section 58F(1)***]** 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.**]**

F408**[**(15) Where the Agency proposes to make a decision under this section in respect of a registered provider, it shall, without prejudice to any other legal basis for the exercise of its powers under this section, have regard to—

(*a*) the issue of an improvement order or an immediate action order in respect of a prescribed early years service provided by the registered provider,

(*b*) any failure of the registered provider to comply with an order referred to in paragraph (a),

(*c*) the issue of a temporary prohibition order in respect of a prescribed early years service provided by the registered provider,

(*d*) the carrying on of activities by the registered provider in contravention of a temporary prohibition order,

(*e*) any failure of the registered provider to remedy the matters specified in a temporary prohibition order, and

(*f*) the grant of a closure order in respect of an early years service provided by the registered provider.**]**

F409**[**Publication of decisions under *Part VIIA*

58DA.—(1) The Agency shall make such arrangement as the Agency considers appropriate and necessary to bring any matter specified in *subsection (2)* to the attention of the public where to do so is in the interests of the health, safety and welfare of children attending early years services.

(2) The following matters are specified for the purposes of *subsection (1)*:

(*a*) a decision under section 58D to remove the name of a registered provider from the register;

(*b*) a decision under section 58D to attach a condition, or amend or revoke a condition attached, to a registration;

(*c*) a decision to issue an improvement notice in respect of a prescribed early years service;

(*d*) the grant of an improvement order in respect of a prescribed early years service;

(*e*) a decision to issue an immediate action notice in respect of a prescribed early years service;

(*f*) the grant of an immediate action order in respect of a prescribed early years service;

(*g*) a decision to issue a temporary prohibition order in respect of a prescribed early years service;

(*h*) the grant of a closure order in respect of an early years service.**]**

F410**[**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.**]**

F411**[**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.

F412**[**(2A) A registered provider may, within 7 days of the date on which a temporary prohibition order is served on him or her, appeal to the District Court against the decision to issue the order.

(2B) The bringing of an appeal under *subsection (2A)* against a temporary prohibition order which is to take effect in accordance with *section 58JC(3)(a)* shall not have the effect of suspending the operation of the order.

(2C) Without prejudice to *subsection (2B)*, a person who brings an appeal under *subsection (2A)* against a temporary prohibition order may apply to the District Court to have the operation of the order suspended until the appeal is withdrawn or determined and, on such application, the court may, if it thinks proper to do so, direct that the operation of the order be suspended until the appeal is withdrawn or determined.

(2D) The court may, on an appeal under *subsection (2A)*—

(*a*) confirm the temporary prohibition order, with or without modification, or

(*b*) cancel the temporary prohibition order.**]**

(3) The jurisdiction conferred on the District Court by F413**[**this section and *sections 58JA*, *58JB* and *58JD***]** 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.**]**

F414**[**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.**]**

F415**[**Supervision of early years services

58H.—F416**[**(1)**]** 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.**]**

F416**[**(2) The Agency may cause to be visited the premises in which an applicant proposes to provide a prescribed early years service to ascertain if the premises comply with this Part.**]**

F417**[**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.**]**

F418**[**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.

F419**[**(1A) An authorised person may, at all reasonable times, enter any premises in which an applicant proposes to provide a prescribed early years service for the purpose of ascertaining if the premises comply 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 F420**[**to

enter, at any time or times from the date of issue of the warrant, and**]** inspect the premises.

F421**[**(2A) The period of validity of a warrant under *subsection (2)* shall be 28 days from its date of issue, but that period of validity may be extended in accordance with *subsections (2B)* and *(2C)*.

(2B) An authorised person may, during the period of validity of a warrant under *subsection (2)* (including such period as previously extended under *subsection (2C)*), apply to a judge of the District Court for an order extending the period of validity of the warrant and such an application shall be grounded on information on oath stating, by reference to the purpose for which the warrant was issued, the reasons why the authorised person considers the extension to be necessary.

(2C) If, on the making of an application under *subsection (2B)*, the judge of the District Court is satisfied that there are reasonable grounds for believing, having regard to that information so laid, that further time is needed so that the purpose for which the warrant was issued can be fulfilled, the judge may make an order extending the period of validity of the warrant by such period as, in the opinion of the judge, is appropriate and just; and where such an order is made, the judge shall cause the warrant to be suitably endorsed to indicate its extended period of validity.

(2D) Nothing in *subsections (2)* to *(2C)* prevents a judge of the District Court from issuing, on the making of a further application under *subsection (2)*, a further search warrant under this section in relation to the same 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.

F419**[**(3A) An authorised person who enters any premises in accordance with *subsection (1A)* may make such examination into the condition of the premises as may be necessary for the purposes of this Part.**]**

F421**[**(3B) Without prejudice to *subsections (3)* and *(3A)*, an authorised person who enters any premises in accordance with *subsection (1)*, *(1A)* or *(2)*, may—

(*a*) require any person at the premises to produce to him or her any documents or records that the authorised person may reasonably require for the purposes of ensuring compliance with this Part,

(*b*) examine any document or record produced to him or her under paragraph (a), and take copies of, or extracts from, such document or record or have the document or record made available in a form to facilitate its removal from the location at which the document or record is made available,

(*c*) take possession of any document or record produced to him or her under paragraph (a) that, in the opinion of the authorised person, is relevant to ensuring compliance with this Part, and, for those purposes, remove the document or record and retain such document or record in his or her possession for a reasonable period, and

(*d*) require any person on the premises to give to him or her any information relating to the provision of a prescribed early years service on the premises that the authorised person may reasonably require for the purpose of the performance of his or her functions or the functions of the Agency under this Act.**]**

(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.**]**

F422**[**Improvement notice and improvement order

58JA.—(1) Where an authorised person is of the opinion, following the exercise of any of his or her powers under *section 58J* relating to a premises in which a registered provider is providing a prescribed early years service, that there is an issue of significant concern that is of such a nature that if it persists it will, or is

likely to, pose a risk of harm to a child attending the service, he or she may issue a notice (in this Part referred to as an "improvement notice").

(2) An improvement notice shall—

(*a*) identify the issue of significant concern giving rise to the risk referred to in *subsection (1)*,

(*b*) require that action be taken to address the issue referred to in *paragraph (a)* and, if appropriate, specify the nature or details of such remedial action, and

(*c*) specify a time limit by which the action referred to in *paragraph (b)* is to be completed or implemented by the registered provider.

(3) An improvement notice shall be served on the registered provider of the prescribed early years service to which it relates or the person in charge of the premises from which that service is provided and shall be effective immediately or, as appropriate, from a date specified in the notice.

(4) An improvement notice may be varied or withdrawn.

(5) Where an improvement notice has not been complied with or the authorised person has reasonable grounds to believe that it has not been complied with, the Agency may apply to the District Court for an improvement order.

(6) A judge of the District Court may, on application in that behalf by the Agency, where the judge is of the opinion that an improvement notice has not been complied with or that there are reasonable grounds for the authorised person's belief that it has not been complied with, make an order (in this Part referred to as an "improvement order") directing the registered provider to comply with the improvement notice.

(7) An improvement order shall specify—

(*a*) the action required to be taken by the registered provider,

(*b*) a time limit by which the action referred to in *paragraph (a)* is to be completed or implemented by the registered provider, and

(*c*) such other requirement, if any, as the court may consider appropriate.**]**

F423**[**Immediate action notice and immediate action order

58JB.—(1) Where an authorised person is of the opinion, following the exercise of any of his or her powers under *section 58J* relating to a premises in which a registered provider is providing a prescribed early years service, that immediate action is required by the registered provider in order to address an issue that poses an immediate risk of harm to a child attending the service, he or she may issue a notice (in this Part referred to as an "immediate action notice").

(2) An immediate action notice shall—

(*a*) identify the issue that poses an immediate risk of harm referred to in *subsection (1)*,

(*b*) require that action be taken to address the issue referred to in *paragraph (a)* and, if appropriate, specify the nature or details of such remedial action, and

(*c*) specify a time limit by which the action referred to in *paragraph (b)* is to be completed or implemented by the registered provider.

(3) An immediate action notice shall be served on the registered provider of the prescribed early years service to which it relates or the person in charge of the premises from which that service is provided and shall be effective immediately or, as appropriate, from a date specified in the notice.

(4) An immediate action notice may be varied or withdrawn.

(5) Where an immediate action notice has not been complied with or the authorised person has reasonable grounds to believe that it has not been complied with, the Agency may apply to the District Court for an immediate action order.

(6) A judge of the District Court may, on application in that behalf by the Agency, where the judge is of the opinion that an immediate action notice has not been complied with or that there are reasonable grounds for the authorised person's belief that it has not been complied with, make an order (in this Part referred to as an "immediate action order") directing the registered provider to comply with the immediate action notice.

(7) An immediate action order shall specify—

(*a*) the action required to be taken by the registered provider,

(*b*) a time limit by which the action referred to in *paragraph (a)* is to be completed or implemented by the registered provider, and

(*c*) such other requirement, if any, as the court may consider appropriate.**]**

F424**[**Temporary prohibition order

58JC.—(1) Where an authorised person is of the opinion that the continued provision of a prescribed early years service poses an immediate and grave risk to the health, safety or welfare of children attending the service, he or she may, subject to *subsection (2)*, serve, or arrange to have served, on the registered provider or person in charge of the service a notice (in this Part referred to as a "temporary prohibition order") stating that he or she is of that opinion and the temporary prohibition order shall—

(*a*) state that the authorised person is of the opinion that the provision of the service should be prohibited for a specified period not exceeding 6 weeks,

(*b*) specify the matters which in his or her opinion give rise to the said risk, and

(*c*) direct that the provision of the service be prohibited unless and until the matters specified under *paragraph (b)* have been remedied.

(2) Before serving a temporary prohibition order under *subsection (1)*, an authorised person shall consult with the chief executive officer or such other employee of the Agency designated in that behalf by the chief executive officer.

(3) A temporary prohibition order shall take effect—

(*a*) where it so declares, immediately on and from the date that the order is received by the person on whom it is served, or

(*b*) in any other case—

(i) where no appeal is taken against the order, on the expiration of the period during which such an appeal may be taken or the day specified in the order as the day on which it is to come into effect, whichever is the later, or

(ii) in case such an appeal is taken, on the day next following the day on which the order is confirmed on appeal or the appeal is withdrawn or the day specified in the order as that on which it is to come into effect, whichever is the later.

(4) The chief executive officer or such other employee of the Agency designated in that behalf by the chief executive officer may vary or withdraw a temporary prohibition order.

(5) The Board of the Agency shall be notified at its next available meeting of the service under *subsection (1)* of a temporary prohibition order or any variation or withdrawal of such an order under *subsection (4)*.

(6) Where an authorised person is of the opinion that the matters specified under *subsection (1)(b)* have not been remedied, the authorised person may extend the period during which the temporary prohibition order shall have effect by such further period as he or she considers necessary for the purpose for which the order

was issued, provided that the total period during which an order to which this subsection applies shall have effect shall not exceed 12 weeks.

(7) *Subsections (1)* to *(5)* shall apply to a decision under *subsection (6)* to extend the period of temporary prohibition order as they apply to a decision to issue a temporary prohibition order and a reference in those subsections to such an order shall be construed as a reference to an order that is extended under *subsection (6)*.

(8) In this section, "chief executive officer" means the person appointed under section 28 of the Child and Family Agency Act 2013 to be the chief executive officer of the Agency.**]**

F425**[**Closure order

58JD.—(1) The Agency may apply to the District Court for an order prohibiting the continuance of the provision of an early years service (in this Part referred to as a "closure order") where—

(*a*) a temporary prohibition order has been served on the registered provider of the service and—

(i) activities are carried on in contravention of the order, or

(ii) the matters specified under *paragraph (b)* of *section 58JC(1)* have not been remedied before the expiry of the period during which the temporary prohibition order has effect,

or

(*b*) the Agency has reason to believe that a person (in this Part referred to as a "relevant person") is providing a prescribed early years service and his or her name is not entered in the register as a provider of that service.

(2) An application for a closure order under *subsection (1)(b)* may be made ex parte.

(3) A closure order shall specify the ground for making it and such an order shall take effect—

(*a*) where the order so declares, upon receipt by the person on whom it is served, or

(*b*) in any other case—

(i) where no appeal is taken against the order, on the expiration of the period permitted under *section 58JE(1)* to appeal or the day specified in the order as the day on which it is to come into effect, whichever is the later, or

(ii) in case such an appeal is taken, on the day next following the day on which the order is confirmed on appeal or the appeal is withdrawn or the day specified in the order as the day on which it is to come into effect, whichever is the later.

(4) The District Court may, when granting a closure order, make such other order as it considers appropriate, including, on application by the Agency, an order directing a registered provider or relevant person, as the case may be, to provide the Agency with such particulars, including personal data, of parents and guardians of children attending the early years service in relation to which a closure order has been granted as are necessary and proportionate for the performance by the Agency of its functions under this Part.

(5) Where an application for a closure order under *subsection (1)(b)* is heard ex parte, the Agency shall notify the relevant person forthwith of the making of a closure order.

(6) Where a closure order has been made ex parte, the relevant person may apply, on notice to the Agency, to the District Court to have the order discharged.

(7) The District Court may, on application to it under subsection (6), discharge a closure order where the Court is satisfied that the discharge of the order is appropriate in the circumstances.**]**

F426**[**Appeal against closure order

58JE.—(1) A registered provider and a relevant person may, within 7 days of the date on which a closure order is served on him or her, appeal to the Circuit Court against the decision.

(2) The bringing of an appeal against a closure order shall not have the effect of suspending the operation of the closure order.

(3) On the hearing of the appeal, the Circuit Court may—

(*a*) confirm the closure order, with or without modification, or

(*b*) cancel the closure order.**]**

F427**[**Offences under *Part VIIA*

58K.—(1) A person who—

(*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 F428**[***subsection (3)*, *(3A)* or *(3B)***]** of that section,

(*b*) contravenes a condition of registration under F429**[***section 58D*,**]**

F430**[**(*ba*) fails to comply with an improvement order,

(*bb*) fails to comply with an immediate action order,

(*bc*) fails to comply with a temporary prohibition order,

(*bd*) fails to comply with a closure order, 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.**]**

F431**[**Exemptions from provisions of this Part

58L.—F432**[**(1)**]** 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*) F433**[**...**]**

F434**[**(*c*) F433**[**...**]]]**

F432**[**(2) Notwithstanding *paragraph (a)* of *subsection (1)*, an application under *section 58D(2)* to be registered in the register may be made by—

(*a*) a relative to whom that paragraph applies, other than a parent of the child, or

(*b*) the spouse of such relative, other than where the relative is a parent of the child.

(3) In this section, "parent" includes a person acting *in loco parentis*.**]**

F435**[**Transitional provisions (*Part VIIA*)

58M.—(1) Notwithstanding the repeal of the relevant exemptions by section 22 of the Act of 2024, this Part shall, subject to *subsection (2)*, continue to apply for the duration of the transitional period as if the relevant exemptions had not been repealed, to—

(*a*) a person who, immediately before that repeal, was taking care of children and was exempt from the provisions of this Part pursuant to the application of either of those exemptions and continues to be so exempt, and

(*b*) a person who commences taking care of children during the transitional period and who would have been exempt from the provisions of this Part prior to that repeal.

(2) Notwithstanding the exemption pursuant to *subsection (1)* for the duration of the transitional period from the provisions of this Part of a person referred to in *paragraph (a)* or *(b)* of that subsection, the person may, during the transitional period, make an application under *section 58D(2)* to be registered in the register.

(3) Where, immediately before the date of coming into operation of section 22 of the Act of 2024, the name of a person stands entered in the register as a registered provider of a *section 58M* childminding service, then on and from that date of coming into operation, the name of that person shall be deemed to be entered in the register as a registered provider of a childminding service.

(4) In this section—

"Act of 2024" means the Child Care (Amendment) Act 2024;

"*section 58M* childminding service" means a pre-school service or a school age service, which may include an overnight pre-school service or an overnight school age service, offered by a person who single handedly takes care of pre-school children or school age children, as the case may be, which may include the person's own children, in the person's home for a total of more than 2 hours per day, except where either of the relevant exemptions or *paragraph (a)* of *section 58L* apply;

"relevant exemptions" means *paragraphs (b)* and *(c)* of *section 58L* as if the amendments of that section by section 17 of the Act of 2024 had not been made;

"transitional period" means the period of 3 years commencing on the date of coming into operation of section 22 of the Act of 2024.**]**

PART VIII

Children's Residential Centres

Definitions for *Part VIII*

59.—In this Part—

"children's residential centre" means any home or other institution for the residential care of children F436**[**in the care of F437**[**the Child and Family Agency**]]** or other children who are not receiving adequate care and protection excluding—

(*a*) an institution managed by or on behalf of a Minister of the Government or F437**[**the Child and Family Agency**]**,

(*b*) an institution in which a majority of the children being maintained are being treated for acute illnesses,

(*c*) F438**[**...**]**

(*d*) a mental institution within the meaning of the Mental Treatment Acts, 1945 to 1966,

(*e*) an institution which is a "certified school" within the meaning of Part IV of the Children Act, 1908, functions in relation to which stand vested in the Minister for Education;

"centre" means a children's residential centre;

F439**[**"register" means a register of children's residential centres that is established or deemed to have been established by the Child and Family Agency under *section 61*, and cognate words shall be construed accordingly;**]**

"registered proprietor", in relation to a registered children's residential centre, means the person whose name is entered in the register as the person carrying on the centre;

"the regulations" means the regulations under *section 63*.

Prohibition of unregistered children's residential centres.

60.—(1) A person shall not carry on a children's residential centre unless the centre is registered and the person is the registered proprietor thereof.

(2) A person shall not be in charge of a centre unless the centre is registered.

(3) Any person who contravenes a provision of this section shall be guilty of an offence.

Registration of children's residential centres.

61.—F442**[**(1) The Child and Family Agency shall establish and maintain a register of children's residential services.**]**

F442**[**(1A) For the purpose of *subsection (1)*, each register of children's residential centres established by the Health Service Executive before the establishment day of the Child and Family Agency shall be deemed to have been established by the Child and Family Agency and shall be maintained by the Agency.**]**

(2) (*a*) There shall be entered in a register in respect of each centre registered therein the name of the person by whom it is carried on, the name of the person who is in charge of it, the address of the premises in which it is carried on, a statement of the number of children who can be accommodated in the centre, the date on which the registration is to take effect (referred to subsequently in this section as "the date of registration") and such other (if any) particulars as may be prescribed.

(*b*) A register maintained under this section shall be made available for inspection free of charge by members of the public at all reasonable times.

(3) (*a*) F443**[**The F444**[**Child and Family Agency**]]** may, on application to it in that behalf by a person who proposes to carry on a centre F445**[**...**]**, register or refuse to register the centre.

(*b*) Subject to the provisions of this section, the period of a registration shall be 3 years from the date of registration.

F446**[**(c) An application for registration made to the Health Service Executive before the establishment of the Child and Family Agency shall be deemed to have been made to the Child and Family Agency if the Health Service Executive has not, before the establishment day of the Agency, registered or refused to register the centre in relation to which the application was made.**]**

(4) F447**[**The F444**[**Child and Family Agency**]]** may remove a centre from the register.

(5) F448**[**The F444**[**Child and Family Agency**]]** shall not—

(*a*) refuse to register a centre in relation to which an application for its registration has been duly made, or

(*b*) remove a centre from the register,

unless—

(i) it is of opinion that—

(I) the premises to which the application or, as the case may be, the registration relates do not comply with the regulations, or

(II) the carrying on of the centre will not be or is not in compliance with the regulations, or

(ii) the applicant or the registered proprietor, as the case may be, or the person in charge or, as the case may be, proposed to be in charge of the centre has been convicted of an offence under this Part or of any other offence that is such as to render the person unfit to carry on or, as the case may be, to be in charge of the centre, or

(iii) the applicant or the registered proprietor, as the case may be, has failed or refused to furnish the F444**[**Child and Family Agency**]** with information requested by it pursuant to *subsection (8)* or has furnished the F444**[**Child and Family Agency**]** with information that is false or misleading in a material particular, or

(iv) the registered proprietor has, not more than one year before the date from which the registration or removal from the register would take effect, contravened a condition under *subsection (6)*.

(6) (*a*) F449**[**The F444**[**Child and Family Agency**]]** may—

(i) at the time of registration or subsequently attach to the registration conditions in relation to the carrying on of the centre concerned and such other matters as it considers appropriate having regard to its functions under this Part,

(ii) attach different conditions to the registration of different centres, and

(iii) amend or revoke a condition of registration.

(*b*) Conditions imposed under this subsection or amendments and revocations under this subsection shall be notified in writing to the registered proprietor of the centre concerned.

F450**[**(6A) Conditions imposed, amended or revoked by a health board before the amendment of this subsection by the F451**[**Child and Family Agency Act 2013**]** shall be deemed to have been imposed, amended or revoked by the F451**[**Child and Family Agency**]**.**]**

(7) An application for registration shall be in the prescribed form or in a form to the like effect.

(8) (*a*) F452**[**The F444**[**Child and Family Agency**]]** may request an applicant for registration or, as the case may be, a registered proprietor to furnish it with such information as it considers necessary for the purposes of its functions under this Part.

(*b*) A person who, whether in pursuance of a request or otherwise, furnishes information to F453**[**the F444**[**Child and Family Agency**]]** for the purposes of this Part that is false or misleading in a material particular shall be guilty of an offence unless he shows that, at the time the information was furnished F453**[**to the F454**[**Agency**]]**, he was not aware that it was false or misleading in a material particular.

(9) The registered proprietor of a centre who proposes to carry on the centre immediately after the expiration of the period of registration of the centre may apply under *subsection (3)* to the F444**[**Child and Family Agency**]** not less than 2 months before such expiration for the registration of the centre and, F455**[**if the F454**[**Agency**]]** does not notify him before such expiration that it proposes to refuse to register the centre, it shall register the centre and its date of registration shall be the day following the day of such expiration.

(10) (*a*) Where a registered children's residential centre commences to be carried on by a person other than the registered proprietor—

(i) the centre shall thereupon cease to be registered,

(ii) the person shall (if he has not done so before such commencement) apply not later than 4 weeks after it to F456**[**the F444**[**Child and Family Agency**]]** for the registration of the centre, and, if the application is granted, the date of registration of the centre shall be that of the day following the day of the cesser aforesaid,

(iii) if the application aforesaid is duly made, and is not refused then, during the period from the commencement aforesaid until the centre is registered, it shall be deemed, for the purposes of section 60 to be registered and there shall be deemed to be attached to the registration any conditions attached to the previous registration.

(*b*) A person who contravenes *paragraph (a) (ii)* shall be guilty of an offence.

(11) (*a*) Where F457**[**the F444**[**Child and Family Agency**]]** proposes to refuse to register a children's residential centre, to remove a centre 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 proprietor, as the case may be, of its proposal and of the reasons for it.

(*b*) A person who has been notified of a proposal under *paragraph (a)* may, within 21 days of the receipt of the notification, make representations in writing to the F444**[**Child and Family Agency**]**F458**[** and the F454**[**Agency**]]** shall—

(i) before deciding the matter, take into consideration any representations duly made to it under this paragraph in relation to the proposal, and

(ii) notify the person in writing of its decision and of the reasons for it.

(12) A notification of a proposal of F459**[**the F444**[**Child and Family Agency**]]** under *subsection (11)* shall include a statement that the person concerned may make representations to F459**[**the F444**[**Child and Family Agency**]]** within 21 days of the receipt by him of the notification and a notification of a decision of F459**[**the F444**[**Child and Family Agency**]]** under *subsection (11)* shall include a statement that the person concerned may appeal to the District Court under *section 62* against the decision within 21 days from the receipt by him of the notification.

(13) Where, in relation to a children's residential centre, there is a contravention of a condition of registration, the registered proprietor and the person in charge of the centre shall be guilty of an offence.

Appeals.

62.—(1) A person, being the registered proprietor or, as the case may be, the person intending to be the registered proprietor, of a children's residential centre, may appeal to the District Court against a decision of F461**[**the F462**[**Child and Family Agency**]]** to refuse to register the centre, to remove the centre from the register or to attach a condition, or to amend or revoke a condition attached, to the registration of the centre and such an appeal shall be brought within 21 days of the receipt by the person of the notification of the decision under *section 61* and that court may, as it thinks proper, confirm the decision or direct F461**[**the F462**[**Child and Family Agency**]]**, as may be appropriate, to register, or to restore the registration of, the centre, to withdraw the condition or the amendment to or revocation of a condition, to attach a specified condition to the registration or to make a specified amendment to a condition of the registration.

(2) The jurisdiction conferred on the District Court by this section shall be exercised by the justice of the District Court for the time being assigned to the district court district in which the centre concerned is situated.

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

(4) Where a notification of a decision specified in *subsection (1)* (other than a decision to refuse to register a centre which was not registered or deemed to be registered at the time of the relevant application for registration) is given under *section 61*, then—

(*a*) during such period from such notification (not being less than 21 days) as the F462**[**Child and Family Agency**]** considers reasonable and specifies in the notification, the centre shall be treated as if the decision had not been made and, if the decision was to refuse an application under *paragraph (a)* of *section 61 (10)* for registration, be treated as if it had been registered and the registration had attached to it any conditions attached to the relevant registration that had ceased by virtue of *subparagraph (i)* of the said paragraph (a), and

(*b*) if an appeal against the decision is brought under this section, during—

(i) the period from the end of the period aforesaid until the determination or withdrawal of the appeal or any appeal therefrom or from any such appeal, and

(ii) such further period (if any) as the court concerned considers reasonable and specifies in its decision, the centre shall—

(I) be treated for the purposes of *section 61* as if the appeal had been upheld, and

(II) if the appeal was against a decision of the F462**[**Child and Family Agency**]** to refuse an application under *paragraph (a)* of *section 61 (10)* for registration, be treated as if the registration had attached to it any conditions attached to the relevant registration that had ceased by virtue of *subparagraph (i)* of the said *paragraph (a)*.

(5) The F462**[**Child and Family Agency**]** shall be given notice of an appeal under this section and shall be entitled to appear, be heard and adduce evidence on the hearing of the appeal.

Regulations in relation to children's residential centres.

63.—(1) The Minister shall, for the purpose of ensuring proper standards in relation to children's residential centres, including adequate and suitable accommodation, food and care for children while being maintained in centres, and the proper conduct of centres, make such regulations as he thinks appropriate in relation to centres.

(2) Without prejudice to the generality of *subsection (1)*, regulations under this section may—

(*a*) prescribe requirements as to the maintenance, care and welfare of children while being maintained in centres,

(*b*) prescribe requirements as to the numbers, qualifications and availability of members of the staffs of centres,

(*c*) prescribe requirements as to the design, maintenance, repair, cleaning and cleanliness, ventilation, heating and lighting of centres,

(*d*) prescribe requirements as to the accommodation (including the amount of space in bedrooms, the washing facilities and the sanitary conveniences) provided in centres,

(*e*) prescribe requirements as to the food provided for children while being maintained in centres,

(*f*) prescribe requirements as to the records to be kept in centres and for the examination and copying of any such records or of extracts therefrom by F464**[**employees of the F465**[**Child and Family Agency**]]**,

(*g*) provide for the inspection of premises in which centres are being carried on or are proposed to be carried on or that are reasonably believed by F466**[**the F465**[**Child and Family Agency**]]** to be premises in which a centre is being carried on and otherwise for the enforcement and execution of the regulations by F466**[**the F467**[**Agency**]** and its employees**]**.

(3) (*a*) Where, in relation to a centre, there is a failure or refusal to comply with a provision of the regulations, the registered proprietor and the person in charge of the centre shall be guilty of an offence.

(*b*) A person who fails or refuses to comply with a provision of the regulations shall be guilty of an offence.

(4) (*a*) Where a person is convicted of an offence under this section, the Circuit Court may, on the application of the F465**[**Child and Family Agency**]**, brought not more than six months after the conviction or, in the case of an appeal against the conviction, the final determination of it or of any further appeal (if it is a determination affirming the conviction) or the withdrawal of any such appeal therefrom, by order declare that the person shall be disqualified during such period as may be specified in the order from carrying on, being in charge, or concerned with the management, of the centre to which the conviction related or, at the discretion of that Court, any centre.

(*b*) A person in respect of whom an order is made under this subsection shall not during the period specified in the order carry on, be in charge, or concerned with the management, of the centre specified in the order or, if the order so specifies, of any centre.

(*c*) A person who contravenes *paragraph (b)* shall be guilty of an offence.

(*d*) Notice of an application under this subsection shall be given to the person convicted of the offence concerned and he shall be entitled to appear, be heard and adduce evidence on the hearing of the application.

(*e*) The jurisdiction conferred on the Circuit Court by this subsection shall be exercised by the judge of the Circuit Court for the time being assigned to the circuit in which the premises concerned are situated.

(5) A person who wilfully obstructs or interferes with F468**[**the F465**[**Child and Family Agency**]** or any of its employees**]** in the performance of functions under the regulations or who fails or refuses to comply with a requirement of F468**[**the F465**[**Child and Family Agency**]** or any of its employees**]** under such regulations shall be guilty of an offence.

Offences under *Part VIII*.

64.—A person guilty of an offence under this Part shall be liable on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 12 months or to both.

Discontinuance of centre.

65.—(1) Where the registered proprietor of a children's residential centre intends to cease to carry on the centre, he shall give six months' notice in writing to the F471**[**Child and Family Agency**]** and at the expiration of six months from the date of the notice (unless before that time the notice is withdrawn or the period of registration has expired) the centre shall cease to be registered under this Part.

(2) F472**[**The F471**[**Child and Family Agency**]]** may, if it so thinks fit, accept a shorter period of notice for the purposes of *subsection (1)* and the provisions of that subsection shall apply with the necessary modifications.

F473**[**(3) A notice given to the Health Service Executive before the establishment day of the Child and Family Agency in accordance with *subsection (1)* shall be deemed to have been given to the Child and Family Agency.**]**

Superannuation of certain staff.

66.—F475**[**(1) An employee of a children's residential centre to which this section applies shall, for the purposes of sections 23, 60(6) and 61 of the Health Act 2004, be deemed to be employed by the F476**[**Child and Family Agency**]**.**]**

(2) In this section, "employee" means a person employed by a children's residential centre who is the holder in a wholetime capacity of a position, the establishment, remuneration and conditions of service of which have been approved by the F476**[**Child and Family Agency**]**, with the consent of the Minister.

(3) This section applies to a children's residential centre which—

(*a*) is not directly operated or administered by F477**[**the F476**[**Child and Family Agency**]]**,

(*b*) is funded by F477**[**the F476**[**Child and Family Agency**]]**, and

(*c*) is specified by the Minister for the purpose of this section.

Transitional provisions.

67.—(1) On the commencement of this Part, every institution which, immediately before such commencement, was an industrial school certified in accordance with Part IV of the Children Act, 1908, functions in relation to which stood vested in the Minister, shall cease to be so certified and shall be deemed to be registered under this Part as a children's residential centre.

(2) On the commencement of this Part, every school which, immediately before such commencement, was a school approved (or deemed to be approved) for the purposes of section 55 of the Health Act, 1953 shall be deemed to be registered under this Part as a children's residential centre.

PART IX

ADMINISTRATION

Regulations.

68.—(1) The Minister may make regulations—

(*a*) for any purpose in relation to which regulations are provided for by any of the provisions of this Act, and

(*b*) for prescribing any matter or thing referred to in this Act as prescribed or to be prescribed.

(2) Every order and regulation made under any provision of an enactment repealed by this Act and in force immediately before such repeal shall continue in force under the corresponding provision, if any, of this Act, subject to such adaptations and modifications as the Minister may by regulations make to enable any such order or regulation to have effect in conformity with this Act.

(3) Every regulation made under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

Powers of the Minister.

69.—(1) The Minister may give general directions to F478**[**the F479**[**Child and Family Agency**]]** in relation to the performance of the functions assigned to it by or under this Act and F478**[**the F480**[**Agency**]]** shall comply with any such direction.

(2) The Minister may cause to be inspected any service provided or premises F481**[**maintained by the F479**[**Child and Family Agency**]**, or by a person who is taking care of a child on behalf of the F479**[**Child and Family Agency**]**, under this Act, or by a person referred to in *section 23B(4)* (inserted by section 10 of the Child Care (Amendment) Act 2011)**]**.

(3) An inspection under this section shall be conducted by a person authorised in that behalf by the Minister (in this section referred to as an authorised person).

(4) An authorised person conducting an inspection under this section may—

(*a*) enter any premises F482**[**maintained by the F479**[**Child and Family Agency**]**, or by a person who is taking care of a child on behalf of the F479**[**Child and Family Agency**]**, under this Act, or by a person referred to in *section 23B(4)* (inserted by section 10 of the Child Care (Amendment) Act 2011)**]** and make such examination into the state and management of the premises and the treatment of children therein as he thinks fit, and

(*b*) examine such records and interview F483**[**employees of the F479**[**Child and Family Agency**]** or of a person referred to in *paragraph (a)***]** as he thinks fit.

(5) The Minister may direct F478**[**the F479**[**Child and Family Agency**]]** to supply him with such reports and statistics in relation to the performance of the functions assigned to it by or under this Act as he may require and F478**[**the F479**[**Child and Family Agency**]]** shall comply with any such direction.

Charges for certain services.

70.—(1) In making available a service under *section 3*, *4* or *56*, the F484**[**Child and Family Agency**]** shall from time to time determine in each case whether such service shall be provided without charge or at such charge as it considers appropriate.

(2) In making a determination in accordance with *subsection (1)* F485**[**the F484**[**Child and Family Agency**]]** shall comply with any general directions given by the Minister with the consent of the Minister for Finance.

(3) For the purposes of determining what charge, if any, should be made on any person for a service, F485**[**the F484**[**Child and Family Agency**]]** may require that person to make a declaration in such form as it considers appropriate in relation to his means and may take such steps as it thinks fit to verify the declaration.

(4) Where a person is recorded by F485**[**the F484**[**Child and Family Agency**]]** as entitled, because of specified circumstances, to a service without charge, he shall notify F485**[**the F486**[**Agency**]]** of any relevant change in those circumstances.

(5) Any charge which may be made by F485**[**the F484**[**Child and Family Agency**]]** under this Act may, in default of payment, be recovered as a simple contract debt in any court of competent jurisdiction from the person on whom the charge is made or, where the person has died, from his legal personal representative.

Prosecution of offences.

71.—(1) Summary proceedings for an offence under this Act may be brought and prosecuted by the F487**[**Child and Family Agency**]** or by any other person.

(2) Notwithstanding section 10 (4) of the Petty Sessions (Ireland) Act, 1851, summary proceedings for an offence under this Act may be instituted within 12 months from the date of the offence.

(3) Where an offence under this Act is committed by a body corporate or by a person purporting to act on behalf of a body corporate or an unincorporated body of persons and is proved to have been committed with the consent or approval of, or to have been attributable to any neglect on the part of, any person who, when the offence was committed, was director, member of the committee of management or other controlling authority of the body concerned, or the manager, secretary or other officer of the body, that person shall also be deemed to have committed the offence and may be proceeded against and punished accordingly.

Functions of chief executive officer.

72.—F488**[**...**]**

Expenses.

73.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

PART X

Miscellaneous and Supplementary

Sale etc. of solvents.

74.—(1) It shall be an offence for a person to sell, offer or make available a substance to a person under the age of eighteen years or to a person acting on behalf of that person if he knows or has reasonable cause to believe that the substance is, or its fumes are, likely to be inhaled by the person under the age of eighteen years for the purpose of causing intoxication.

(2) In proceedings against any person for an offence under *subsection (1)*, it shall be a defence for him to prove that at the time he sold, offered or made available

the substance he was under the age of eighteen years and was acting otherwise than in the course of or furtherance of a business.

(3) In proceedings against any person for an offence under *subsection (1)* it shall be a defence for him to prove that he took reasonable steps to assure himself that the person to whom the substance was sold, offered or made available, or any person on whose behalf that person was acting, was not under the age of eighteen years.

(4) A person who is guilty of an offence under *subsection (1)* shall be liable on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 12 months or to both.

(5) Subject to *subsection (6)*, a court by which a person is convicted of an offence under this section may order anything shown to the satisfaction of the court to relate to the offence to be forfeited and either destroyed or dealt with in such other manner as the court thinks fit.

(6) A court shall not order anything to be forfeited under this section unless an opportunity is given to any person appearing to the court to be the owner of or otherwise interested in it to show cause why the order should not be made.

(7) A member of the Garda Síochána may seize any substance which is in the possession of a child in any public place and which the member has reasonable cause to believe is being inhaled by that child in a manner likely to cause him to be intoxicated. Any substance so seized may be destroyed or otherwise disposed of in such a manner as a member of the Garda Síochána not below the rank of Superintendent may direct.

(8) This section is without prejudice to the provisions of the Misuse of Drugs Acts, 1977 and 1984.

Amendment of section 17 of the School Attendance Act, 1926.

75.—Section 17 of the School Attendance Act, 1926 (which deals with the failure of a parent to comply with the Act) is hereby amended by the substitution for paragraph (*b*) of subsection (4) of the following:—

"(*b*) having heard the health board for the area in which he is resident, make a care order committing him to the care of that board and in such case the provisions of *Part IV* of the *Child Care Act, 1991* shall apply as if the order were an order made thereunder.".

Amendment of section 15 of the Guardianship of Infants Act, 1964.

76.—Section 15 of the Guardianship of Infants Act, 1964 (which gives power to the court to order repayment of costs of bringing up an infant) is hereby amended by the insertion in paragraph (*b*) after the words "assistance has been provided for the infant by a health authority under section 55 of the Health Act, 1953," of the words "or that at any time the infant has been maintained in the care of a health board under *section 4* of the *Child Care Act, 1991*".

Amendment of section 16 of the Guardianship of Infants Act, 1964.

77.—Section 16 of the Guardianship of Infants Act, 1964 (which requires the court in making an order for the delivery of an infant to its parent to have regard to the conduct of the parent) is hereby amended by the insertion in paragraph (*b*) after the words "or to be provided with assistance by a health authority under section 55 of the Health Act, 1953" of the words "or to be maintained in the care of a health board under *section 4* of the *Child Care Act, 1991*".

Maintenance — saver in relation to members of Defence Forces.

78.—(1) Section 98 of the Defence Act, 1954 (which provides for deductions from pay of members of the Permanent Defence Force and reservists called out on permanent service in respect of court orders under sections 75, 82 or 99 of the Children Act, 1908) shall apply in like manner to an order made under *section 18*.

(2) Section 107 of the Defence Act, 1954 (which provides that court orders made under the aforementioned sections against a member of the Permanent Defence Force or a reservist during any period when he is called out on permanent service shall not be enforceable by imprisonment) shall apply in like manner in the case of an order made under *section 18*.

Repeals.

79.—The enactments specified in the *Schedule* are hereby repealed to the extent specified in the *third column*.

Section 79.

SCHEDULE

Enactments Repealed

Session and Chapter or Number and Year	Short Title	Extent of Repeal
4 Edw. 7, c.15.	Prevention of Cruelty to Children Act, 1904	The whole Act.
8 Edw. 7, c.67.	Children Act, 1908.	Part 1, Sections 13 and 15, Sections 20 to 26, Sections 34, 36 and 38 (1), Section 58 (1), (5), (6), (7) and (8), Section 59, Section 74 (11), Sections 118, 119, 122 and 126.
3 & 4 Geo. 5, c.7.	Children (Employment Abroad) Act, 1913.	The whole Act.
No. 15 of 1934.	Children Act, 1934.	The whole Act.
No. 12 of 1941.	Children Act, 1941.	Section 10 (1).
No. 25 of 1952.	Adoption Act, 1952.	Section 31 (2).
No. 26 of 1953.	Health Act, 1953.	Sections 55, 56, 57 and 65 (2).
No. 28 of 1957.	Children (Amendment) Act, 1957.	Sections 2, 3 and 10.
No. 2 of 1964.	Adoption Act, 1964.	Section 10.

Number 17 *of* 1991

CHILD CARE ACT 1991

REVISED

Updated to 21 July 2026

About this Revised Act

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was first passed.

Related legislation

Child Care Acts 1991 to 2026: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Guardianship of Infants and Child Care (Amendment) Act 2026* (30/2026), s. 1(2)). The Acts in this group are:

- *Child Care Act 1991* (17/1991)
- *Children Act 2001* (24/2001), ss. 7-15, 267
- *Health Act 2004* (42/2004), s. 75 in so far as it amends the *Child Care Acts 1991 and 2001*
- *Child Care (Amendment) Act 2007* (26/2007), s. 1(2), Part 2 and s. 21 in so far as it amends the *Child Care Acts 1991 and 2001*
- *Child Care (Amendment) Act 2011* (19/2011), ss. 1-26, 28-31, 34, 36, 46, 48
- *Child Care (Amendment) Act 2013* (5/2013)
- *Children and Family Relationships Act 2015* (9/2015), s. 175
- *Child Care (Amendment) Act 2015* (45/2015), other than ss. 14, 15
- *Child Care (Amendment) Act 2022* (21/2022), other than ss. 9, 10, 11, 12
- *Child Care (Amendment) Act 2024* (19/2024)
- *Guardianship of Infants and Child Care (Amendment) Act 2026* (30/2026), Part 3

Annotations

This Revised Act is not annotated and only shows textual amendments. An annotated version of this revision is also available which shows textual and non-textual amendments and their sources. It also shows editorial notes including statutory instruments made pursuant to the Act and previous affecting provisions.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available. A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.