Changes to Legislation: as of 13 October 2026, this Act is up to date with all changes known to be in force.

Number 26 *of* 2007

CHILD CARE (AMENDMENT) ACT 2007

REVISED

Updated to 21 May 2020

This Revised Act is an administrative consolidation of the *Child Care (Amendment) Act 2007*. 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 *Emergency Measures in the Public Interest (Covid-19) Act 2020* (2/2020), enacted 27 March 2020, and all statutory instruments up to and including the *Bovine Viral Diarrhoea (Amendment) Regulations 2020* (S.I. No. 182 of 2020), made 21 May 2020, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.

Number 26 *of* 2007

CHILD CARE (AMENDMENT) ACT 2007

REVISED

Updated to 21 May 2020

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1. Short title, collective citation and commencement.

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6. Amendment of section 50 of Principal Act.

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9. Amendment of section 53 of Principal Act.

10. Amendment of section 55 of Principal Act.

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17. Amendment of section 77 of Act of 2001.

18. Amendment of section 225 of Act of 2001.

19. New section 226A in Act of 2001.

20. Substitution of section 227 of Act of 2001.

21. Amendment of other Acts and of statutory instruments to change name of Special Residential Services Board to Children Acts Advisory Board.

SCHEDULE

Amendment of Acts and Statutory Instruments to Change Name of Special Residential Services Board to Children Acts Advisory Board

PART 1

Amendment of Acts to Change Name of Special Residential Services Board to Children Acts Advisory Board

PART 2

Amendment of Statutory Instruments to Change Name of Special Residential Services Board to Children Acts Advisory Board

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ACTS REFERRED TO

Child Care Act 1991	1991, No. 17
Child Care Acts 1991 and 2001	
Children Act 2001	2001, No. 24
Criminal Justice Act 2006	2006, No. 26
Finance Act 2004	2004, No. 8
Freedom of Information Act 1997	1997, No. 13
Health Act 2004	2004, No. 42
Non-Fatal Offences Against the Person Act 1997	1997, No. 26
Taxes Consolidation Act 1997	1997, No. 39

Number 26 *of* 2007

CHILD CARE (AMENDMENT) ACT 2007

REVISED

Updated to 21 May 2020

AN ACT TO AMEND THE CHILD CARE ACT 1991 AND TO MAKE CONSEQUENTIAL AND OTHER AMENDMENTS TO THE CHILDREN ACT 2001; AND TO PROVIDE FOR RELATED MATTERS.

[8*th May*, 2007]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Annotations

Editorial Notes:

E1 Proceedings under collectively cited *Child Care Acts* excluded from application of *Mediation Act 2017* (1.01.2018) by *Mediation Act 2017* (27/2017), S.I. No. 591 of 2017.

PART 1

Preliminary

Short title, collective citation and commencement.

1.— (1) This Act may be cited as the Child Care (Amendment) Act 2007.

(2) The Child Care Acts 1991 and 2001, section 75 of the Health Act 2004 (in so far as it amends the Child Care Acts 1991 and 2001), *Part 2*, *section 21* (in so far as it amends the Child Care Acts 1991 and 2001) and this subsection may be cited together as the Child Care Acts 1991 to 2007.

(3) The Children Act 2001, section 75 of the Health Act 2004 (in so far as it amends the Children Act 2001), Part 12 of the Criminal Justice Act 2006, *Part 3* (except *section 21*) and this subsection may be cited together as the Children Acts 2001 to 2007.

(4) This Act shall come into operation on such day or days as the Minister for Health and Children may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Annotations

Editorial Notes:

E2 Power pursuant to subs. (4) exercised (23.07.2007) by *Child Care (Amendment) Act 2007 (Commencement) Order 2007* (S.I. No. 509 of 2007).

2.—The 23rd day of July 2007 is appointed as the day on which the following provisions of the Child Care (Amendment) Act 2007 (No. 26 of 2007) shall come into operation:

(a) Sections 1, 2, 3 and 4;

(b) Part 3; and

(c) the Schedule

...

PART 2

Amendment of Child Care Act 1991

Definition of "Principal Act".

2.— In this Part, " Principal Act " means the Child Care Act 1991.

Amendment of section 29 of Principal Act.

3.— Section 29 of the Principal Act is amended by inserting the following subsections after subsection (4):

"(5) Nothing contained in this section shall operate to prohibit—

(*a*) the preparation of a report of proceedings under Part III, IV or VI by—

(i) a barrister or a solicitor,

(ii) subject to subsection (6), a person falling within a class of persons representing, and authorised in writing by, the Board, within the meaning of section 225(1) (as amended by *section 18* of the *Child Care (Amendment) Act 2007*) of the Children Act 2001, for the purposes of this subsection, or

(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 relevant court documents,

subject to any directions the court may give in that behalf.

(6) The Board referred to in subsection (5)(*a*)(ii) shall consult with the Minister before authorising a class of persons for the purposes of subsection (5).

(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.".

Amendment of Part VI of Principal Act.

4.— The following sections are inserted into the Principal Act after section 43:

"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 Health Service Executive 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 Health Service Executive has consented in advance to the granting of the order,

(*d*) the Health Service Executive 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 Health Service Executive, 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 Health Service Executive, 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 Health Service Executive, 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 Health Service Executive 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 Health Service Executive.

(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.

Variation, discharge or cessation of order under section 43A.

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 Health Service Executive;

(*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 Health Service Executive 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 Health Service Executive 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.".

Substitution of section 49 of Principal Act.

5.—F1**[**...**]**

Annotations

Amendments:

F1 Repealed (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 5 and sch. 3, S.I. No. 502 of 2013.

Amendment of section 50 of Principal Act.

6.—F1**[**...**]**

Annotations

Amendments:

F1 Repealed (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 5 and sch. 3, S.I. No. 502 of 2013.

Amendment of section 51 of Principal Act.

7.—F1**[**...**]**

Annotations

Amendments:

F1 Repealed (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 5 and sch. 3, S.I. No. 502 of 2013.

Amendment of section 52 of Principal Act.

8.—F1**[**...**]**

Annotations

Amendments:

F1 Repealed (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 5 and sch. 3, S.I. No. 502 of 2013.

Amendment of section 53 of Principal Act.

9.—F1**[**...**]**

Annotations

Amendments:

F1 Repealed (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 5 and sch. 3, S.I. No. 502 of 2013.

Amendment of section 55 of Principal Act.

10.—F1**[**...**]**

Annotations

Amendments:

F1 Repealed (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 5 and sch. 3, S.I. No. 502 of 2013.

Amendment of section 56 of Principal Act.

11.—F1**[**...**]**

Annotations

Amendments:

F1 Repealed (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 5 and sch. 3, S.I. No. 502 of 2013.

Amendment of section 57 of Principal Act.

12.—F1**[**...**]**

Annotations

Amendments:

F1 Repealed (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 5 and sch. 3, S.I. No. 502 of 2013.

Substitution of section 58 of Principal Act.

13.—F1**[**...**]**

Annotations

Amendments:

F1 Repealed (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 5 and sch. 3, S.I. No. 502 of 2013.

PART 3

Consequential and other Amendments to Children Act 2001

Definition of "Act of 2001".

14.— In this Part, "Act of 2001" means the Children Act 2001.

Amendment of section 16 of Act of 2001.

15.— Section 16 of the Act of 2001 is amended by repealing it only to the extent that it provides for the insertion of section 23D, as set out in such section 16, into the Child Care Act 1991.

Amendment of section 76A of Act of 2001.

16.— Section 76A(1)(*c*) (inserted by section 132 of the Criminal Justice Act 2006) of the Act of 2001 is amended by deleting "and, pending its outcome, to make an emergency care order or a supervision order under the Act of 1991 in respect of the child".

Amendment of section 77 of Act of 2001.

17.— Section 77(1) (as amended by item 13 of Part 11 of Schedule 7 to the Health Act 2004) of the Act of 2001 is amended—

(*a*) in paragraph (*a*), by deleting ", and" and substituting "if in the Court's view it is practicable for the Health Service Executive to hold such a conference having regard to the age of the child and his or her family and other circumstances,", and

(*b*) by deleting paragraph (*b*).

Amendment of section 225 of Act of 2001.

18.— Section 225(1) of the Act of 2001 is amended, in the definition of "Board", by inserting "and known, after the commencement of section 226A, as the Children Acts Advisory Board" after "section 226".

New section 226A in Act of 2001.

19.— The following section is inserted in the Act of 2001 after section 226:

"Change of name of Board.

226A.— On the commencement of this section, the Board shall be known as the Children Acts Advisory Board, or in the Irish language An Bord Comhairleach um Achtanna na Leanaí.".

Substitution of section 227 of Act of 2001.

20.— Section 227 (as amended by item 17 of Part 11 of Schedule 7 to the Health Act 2004 and section 156 of the Criminal Justice Act 2006) of the Act of 2001 is repealed and the following section substituted:

"Functions of Board.

227.— (1) The Board shall—

(*a*) on request advise the Ministers on policy issues relating to the coordinated delivery of services under this Act and the Act of 1991 (including residential accommodation and support services to children detained in children detention schools and special care units),

(*b*) publish guidance on the qualifications, criteria for appointment, training and role of any guardian *ad litem* appointed for children in proceedings under the Act of 1991,

(*c*) in consultation with the Health Service Executive, prepare and publish criteria for the admission to and discharge from special care units of children subject to special care and interim special care orders,

(*d*) subject to subsection (6) of section 29 (as amended by *section 3* of the *Child Care (Amendment) Act 2007*) of the Act of 1991, authorise in writing a class or classes of persons representing the Board to prepare reports referred to in, and for the purposes of, subsection (5) of that section 29,

(*e*) give its views on any proposal of the Health Service Executive, pursuant to section 23A(2)(*b*) (inserted by section 16 of this Act), to apply for a special care order under Part IVA of the Act of 1991,

(*f*) using published sources, report on the level and nature of residential accommodation and support services to children detained in children detention schools and special care units,

(*g*) promote enhanced inter-agency co-operation (including the sharing of information) under this Act and the Act of 1991,

(*h*) promote, organise or take part in meetings, seminars, conferences, lectures or demonstrations (whether in the State or elsewhere) in relation to its functions set out in paragraphs (*a*) to (*g*), and

(*i*) conduct or commission research, and collect, maintain, research and evaluate statistics and other data, relating to its functions set out in paragraphs (*a*) to (*h*).

(2) The Board, in performing its functions, shall have regard to the policies and objectives of the Government or any Minister of the Government in so far as they may affect or relate to those functions.

(3) The Board shall have all such powers as are necessary or expedient for the exercise of its functions.".

Amendment of other Acts and of statutory instruments to change name of Special Residential Services Board to Children Acts Advisory Board.

21.— (1) The Acts specified in *Part 1* of the *Schedule* are amended as indicated in that Part.

(2) The statutory instruments specified in *Part 2* of the *Schedule* are amended as indicated in that Part.

Section 21.

SCHEDULE

AMENDMENT OF ACTS AND STATUTORY INSTRUMENTS TO CHANGE NAME OF SPECIAL RESIDENTIAL SERVICES BOARD TO CHILDREN ACTS ADVISORY BOARD

PART 1

AMENDMENT OF ACTS TO CHANGE NAME OF SPECIAL RESIDENTIAL SERVICES BOARD TO CHILDREN ACTS ADVISORY BOARD

Item	Provision affected	Amendment
1.	Section 23A(2)(*b*) (as inserted by section 16 of the Children Act 2001 and amended by section 75 of the Health Act 2004) of the Child Care Act 1991	Delete "Special Residential Services Board" and substitute "Children Acts Advisory Board".
2.	Section 23B(1) (as inserted by section 16 of the Children Act 2001 and amended by section 75 of the Health Act 2004) of the Child Care Act 1991	Delete "Special Residential Services Board" and substitute "Children Acts Advisory Board".
3.	Paragraph 143 (inserted by section 5(*e*) of the Finance Act 2004) of the Taxes Consolidation Act 1997	Delete "Special Residential Services Board" and substitute "Children Acts Advisory Board".

PART 2

AMENDMENT OF STATUTORY INSTRUMENTS TO CHANGE NAME OF SPECIAL RESIDENTIAL SERVICES BOARD TO CHILDREN ACTS ADVISORY BOARD

Item	Provision affected	Amendment
1.	Regulation 3 of the Child Care (Special Care) Regulations 2004 (S.I. No. 550 of 2004)	(*a*) Insert the following after the definition of "authorised officer":
		" "Children Acts Advisory Board" means the Board within the meaning of section 225 (1) (as amended by *section 18* of the *Child Care (Amendment) Act 2007*) of the Children Act 2001;".
		(*b*) Delete the definition of "Special Residential Services Board".
2.	Regulation 25 (2)(*o*) of the Child Care (Special Care) Regulations 2004	Delete "Special Residential Services Board" and substitute "Children Acts Advisory Board".

Item	Provision affected	Amendment
3.	Regulation 26 of the Child Care (Special Care) Regulations 2004	(*a*) In paragraph (3)(*b*)(iv), delete "Special Residential Services Board" and substitute "Children Acts Advisory Board".
		(*b*) In paragraph (9), delete "Special Residential Services Board" and substitute "Children Acts Advisory Board".
4.	Schedule to the Ethics in Public Office (Prescribed Public Bodies, Designated Directorships of Public Bodies and Designated Positions in Public Bodies) Regulations 2004	In column (2), opposite reference number 182, delete "Special Residential Services Board" and substitute "Children Acts Advisory Board".
5.	Schedule to the Freedom of Information Act 1997 (Prescribed Bodies) Regulations 2006	Delete "Special Residential Services Board" and substitute "Children Acts Advisory Board".

Number 26 *of* 2007

CHILD CARE (AMENDMENT) ACT 2007

REVISED

Updated to 21 May 2020

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 passed.

Related legislation

Child Care Acts 1991 to 2015: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Child Care (Amendment) Act 2015* (45/2015), s. 16(2)). The Acts in this group are:

- *Child Care Act 1991* (17/1991)
- *Children Act 2001* (24/2001), ss. 7-15 and 267
- *Health Act 2004* (42/2004), s. 75 in so far as it amends *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 s. 21 amends *Child Care Acts 1991 and 2001*
- *Child Care (Amendment) Act 2011* (19/2011), ss. 1-26, 28 to 31, 34, 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 and 15

Children Acts 2001 to 2015: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Children (Amendment) Act 2015* (30/2015), s. 1(2)). The Acts in this group are:

- *Children Act 2001* (24/2001)
- *Health Act 2004* (42/2004), s. 75 in so far as it amends *Children Act 2001*
- *Criminal Justice Act 2006* (26/2006), ss. 120-158
- *Child Care (Amendment) Act 2007* (26/2007), ss. 1(3), 14-20
- *Child Care (Amendment) Act 2011* (19/2011), ss. 27, 32, 33, 37-45, 47
- *Children (Amendment) Act 2015* (30/2015), Parts 1 and 2

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

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.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to 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.

Acts which affect or previously affected this revision

- *Child and Family Agency Act 2013* (40/2013)
- *Child Care (Amendment) Act 2013* (5/2013)
- *Child Care (Amendment) Act 2011* (19/2011)

All Acts up to and including *Emergency Measures in the Public Interest (Covid-19) Act 2020* (2/2020), enacted 27 March 2020, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Child Care (Amendment) Act 2007 (Commencement) Order 2007* (S.I. No. 509 of 2007)

All statutory instruments up to and including *Bovine Viral Diarrhoea (Amendment) Regulations 2020* (S.I. No. 182 of 2020), made 21 May 2020, were considered in the preparation of this revision.