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*Number 26 of 2007*

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**CHILD CARE (AMENDMENT) ACT 2007**

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Section

1. Short title, collective citation and commencement.

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AMENDMENT OF CHILD CARE ACT 1991

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3. Amendment of section 29 of Principal Act.
4. Amendment of Part VI of Principal Act.
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6. Amendment of section 50 of Principal Act.
7. Amendment of section 51 of Principal Act.
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9. Amendment of section 53 of Principal Act.
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12. Amendment of section 57 of Principal Act.
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16. Amendment of section 76A of Act of 2001.
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



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*Number 26 of 2007*

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**CHILD CARE (AMENDMENT) ACT 2007**

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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.

[8th May, 2007]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY

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

Short title, collective citation and commencement.

(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.

PART 2

AMENDMENT OF CHILD CARE ACT 1991

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

Definition of “Principal Act”.

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.”.

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

“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.