CHILD CARE ACT Ireland

1991

Long Title

An Act to provide for the care and protection of children and for related matters [10th July, 1991] be it enacted by the Oireachtas as follows:

PART I - PRELIMINARY

1. Short title and commencement

(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.

2. Interpretation

(1) In this Act, except where the context otherwise requires—
"area", in relation to a health board, means functional area;
"child" means a person under the age of 18 years other than a person who is or has been married;
"functions" includes powers and duties;
"health board" means a health board established under the Health Act, 1970;
"the Minister" means the Minister for Health;
"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;
"prescribed" means prescribed by regulations made by the Minister.
(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

3. Functions of health boards

(1) It shall be a function of every health board to promote the welfare of children in its area who are not receiving adequate care and protection.

(2) In the performance of this function, a health board 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 in its area;
(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) A health board 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) The provisions of the Health Acts, 1947 to 1986, and the Health (Amendment) Act, 1987, shall apply in relation to the functions of health boards and their officers under this Act and the powers of the Minister under those Acts shall have effect accordingly as if those Acts and this Act were one Act.

4. Voluntary car

(1) Where it appears to a health board that a child who resides or is found in its area requires care or protection that he is unlikely to receive unless he is taken into its care, it shall be the duty of the health board to take him into its care under this section.
(2) Without prejudice to the provisions of Parts III, IV and V, nothing in this section shall authorise a health board 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 a health board has taken a child into its care under this section, it shall be the duty of the board—
(a) subject to the provisions of this section, to maintain the child in its care so long as his welfare appears to the board 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 a health board 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, the board shall endeavour to reunite him with that parent where this appears to the board to be in his best interests.

5. Accommodation for homeless children

Where it appears to a health board that a child in its area is homeless, the board shall enquire into the child's circumstances, and if the board is satisfied that there is no accommodation available to him which he can reasonably occupy, then, unless the child is received into the care of the board under the provisions of this Act, the board

shall take such steps as are reasonable to make available suitable accommodation for him.

6. Provision of adoption service

(1) Each health board shall provide or ensure the provision in its area of a service for the adoption of children in accordance with the Adoption Acts, 1952 to 1988.
(2) For the purposes of this section, a health board may enter into arrangements with any adoption society for the time being registered in the Adoption Societies Register maintained by An Bord Uchtála under Part IV of the Adoption Act, 1952.
(3) A health board 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 a health board 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).

7. Child care advisory committees

(1) A health board shall establish a child care advisory committee to advise the health board on the performance of its functions under this Act and the health board shall consider and have regard to any advice so tendered to it.
(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 a health board 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 each health board and child care advisory committee shall comply with any such directions.
(6) A health board may, with the consent of the Minister, and shall, if so directed by the Minister, establish more than one child care advisory committee for its area 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 health board,

(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 in a health board area, the provisions of this subsection shall apply with the necessary modifications.

8. Review of services

(1) A health board shall, within 12 months of the commencement of this Part and annually thereafter, have a report prepared on the adequacy of the child care and family support services available in its area.
(2) Without prejudice to the generality of subsection (1), a health board 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 the board,
(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.
(3) A health board shall give notice of the preparation of a report under subsection (1) to—
(a) any child care advisory committee in its area;
(b) such bodies as the board 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 committee or bodies in the preparation of the report.
(4) A health board 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).

9. Provision of services by voluntary bodies and other persons

(1) A health board may, subject to any general directions given by the Minister and on such terms or conditions as it sees fit, make arrangements with voluntary bodies or other persons for the provision by those bodies or other persons on behalf of the health board of child care and family support services which the board is empowered to provide under this Act.
(2) Nothing in this section shall empower a health board to delegate to a voluntary body or 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 or VI.

10. Assistance for voluntary bodies and other persons

A health board may, subject to any general directions given by the Minister and on such terms or conditions as it thinks fit, assist a voluntary body or any other person who provides or proposes to provide a child care or family support service similar or ancillary to a service which the health board may provide under this Act—
(a) by a periodic contribution to funds of the body or person;
(b) by a grant;

(c) by a contribution in kind (whether by way of materials or labour or any other service).

11. Research

(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) A health board may conduct or assist other persons in conducting research into any matter connected with the functions assigned to the board under this Act.

PART III - PROTECTION OF CHILDREN IN EMERGENCIES

12. Power of Garda Síochána to take a child to safety

(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 a health board under section 13, 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 health board for the area in which the child is for the time being.
(4) Where a child is delivered up to the custody of a health board in accordance with subsection (3), the health board shall, unless it returns the child to the parent having custody of him or a person acting in loco parentis, 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 the health board, 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 the health board to retain custody of the child pending the hearing of that application.

13. Emergency care order

(1) If a justice of the District Court is of opinion on the application of a health board 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 a health board, 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 the health board for the area in which the child is for the time being 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 health board.
(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.

14. Notification to be given by health board

(1) Where a child is delivered up to, or placed in the custody of, a health board under this Part, the board 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 a health board 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.

15. Provision of accommodation for purposes of Part III

A health board 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

16. Duty of health board to institute proceedings

Where it appears to a health board with respect to a child who resides or is found in its area that he 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 health board to make application for a care order or a supervision order, as it thinks fit.

17. Interim care order

(1) Where a justice of the District Court is satisfied on the application of a health board 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 the health board 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 health board—
(a) for a period not exceeding eight days, or
(b) where the health board and the parent having custody of the child or person acting in loco parentis consent, for a period exceeding eight days, and an extension or extensions of any such period may be granted (with the consent, where an extension is to exceed eight 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.

18. Care order

(1) Where, on the application of a health board with respect to a child who resides or is found in its area, 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 health board 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 health board 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 a health board 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 the health board, 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 health board 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 health board.

19. Supervision order

(1) Where, on the application of a health board, with respect to a child who resides in its area, 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 the health board, 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 the health board 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 a health board 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 the health board 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 the health board, 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 the health board 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 the health board with effect from the expiration of the first mentioned order.

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

(1) Where, in any proceedings under section 7, 8 or 11 or Part III of the Guardianship of Infants Act, 1964, or in any case to which section 3 (3), 11 (b) or 16 (g)of the Judicial Separation and Family Law Reform Act, 1989, 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 the health board for the area in which the child resides or is for the time being 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 health board.
(3) Where the court gives a direction under subsection (1), the health board concerned 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 a health board 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.

21. Effect of appeal form orders

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.

22. Variation or discharge of orders etc.

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.

23. Powers of court in case of invalidity of orders.

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 a health board 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 therefore was made; and where the matter has been so remitted the health board 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.

PART V - JURISDICTION AND PROCEDURE

24. Welfare of child to be paramount

In any proceedings before a court under this Act in relation to the care and protection of a child, the court, having regard to the rights and duties of parents, whether under the Constitution or otherwise, shall—
(a) regard the welfare of the child as the first and paramount consideration, and
(b) in so far as is practicable, give due consideration, having regard to his age and understanding, to the wishes of the child.

25. Power of court to join child as a party and costs of child as a party

(1) If in any proceedings under Part IV 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 health board concerned. The health board 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 a health board, order any other party to the proceedings in question to pay to the board any costs or expenses payable by that board under subsection (4).

26. Appointment of guardian ad litem for a child

(1) If in any proceedings under Part IV or VI the child to whom the proceedings relate is not a party, the court may, if it is satisfied that it is necessary in the interests of the child and in the interests of justice to do so, appoint a guardian ad litem for the child.
(2) Any costs incurred by a person in acting as a guardian ad litem under this section shall be paid by the health board concerned. The health board may apply to the court to have the amount of any such costs or expenses measured or taxed.
(3) The court which has made an order under subsection (1) may, on the application to it of a health board, order any other party to the proceedings in question to pay to the board any costs or expenses payable by that board under subsection (2).

(4) Where a child in respect of whom an order has been made under subsection (1) becomes a party to the proceedings in question (whether by virtue of an order under section 25 (1) or otherwise) then that order shall cease to have effect.

27. Power to procure reports on children

(1) In any proceedings under Part IV 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.

28. Jurisdiction

(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.
(2) Proceedings under Part III, IV or VI 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.

29. Hearing of proceedings

(1) Proceedings under Part III, IV or VI shall be heard otherwise than in public.
(2) The provisions of sections 33 (1) of the Judicial Separation and Family Law Reform Act, 1989, shall apply to proceedings under Part III, IV 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.

30. Power to proceed in absence of child

(1) It shall not be necessary in proceedings under Part III, IV 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.

31. Prohibition on publication or broadcast of certain matters

(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 or VI shall be published in a written publication available to the public or be 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, any body corporate 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, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 12 months or both.
(4) Nothing in this section shall affect the law as to contempt of court.
(5) In this section—
"broadcast" means the transmission, relaying or distribution by wireless telegraphy of communications, sounds, signs, visual images or signals, intended for direct reception by the general public whether such communications, sounds, signs, visual images or signals are actually received or not;
"written publication" includes a film, a sound track and any other record in permanent form (including a record that is not in a legible form but which is capable of being reproduced in a legible form) but does not include an indictment or other document prepared for use in particular legal proceedings.

32. Presumption and determination of age

In any application for an order under Part III, IV or VI, the 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 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.

33. Rules of court

(1) For the purpose of ensuring the expeditious hearing of applications under Part III, IV 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.
(2) Rules of court may make provision for the furnishing of information and documents by parties to proceedings under Part III, IV 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.

34. Failure or refusal to deliver up a child

(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 a health board, 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 the health board, to give up the child to that board, 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.

35. Warrant to search for and deliver up a child

(1) Where a justice has made an order under Part IV directing that a child be placed or maintained in the care of a health board, 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 the health board.

PART VI - CHILDREN IN THE CARE OF HEALTH BOARDS

36. Accommodation and maintenance of children in care

(1) Where a child is in the care of a health board, the health board 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 by a health board 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) as the health board 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 a health board in accordance with regulations made under section 39 and " foster care" shall be construed accordingly.

(3) Nothing in this section shall prevent a health board 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.

37. Access to children in care

(1) Where a child is in the care of a health board whether by virtue of an order under Part III or IV or otherwise, the board 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 the board, has a bona fide interest in the child and such access may include allowing the child to reside temporarily with any such person.
(2) Any person who is dissatisfied with arrangements made by a health board under subsection (1) 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 a health board, 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 the board 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).

38. Provision of residential care by health boards

(1) A health board 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) A health board 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 health boards 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.

39. Regulations as to foster care

(1) The Minister shall make regulations in relation to the placing of children in foster care by health boards 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 a health board with foster parents;
(c) provide for the supervision and visiting by a health board of children in foster care.

40. Regulations as to residential care

(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 health boards 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 a health board with persons providing residential care;
(c) provide for the supervision and visiting by a health board of children in residential care.

41. Regulations as to placement with relatives

(1) The Minister shall make regulations in relation to the making of arrangements by health boards 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 health boards with relatives;
(b) prescribe the form of contract to be entered into by a health board with relatives;
(c) provide for the supervision and visiting by a health board of children placed with relatives.

42. Review of cases of children in care

(1) The Minister shall make regulations requiring the case of each child in the care of a health board 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 board to consider whether it would be in the best interests of the child to be given into the custody of his parents.

43. Removal from placement

(1) A health board may, in accordance with regulations made by the Minister, remove a child in its care from the custody of any person with whom he has been placed by the board under section 36.
(2) Where a person refuses or neglects to comply with a request of a health board to deliver up a child in accordance with regulations made under subsection (1), the board may apply to the District Court for an order directing that person to deliver up the child to the custody of the board 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 a health board), 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 the health board, to give up the child to that board, 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 the board 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 a health board to apply for an order under Part III or IV.

44. Children who become adopted

(1) Where a child becomes adopted under the Adoption Acts, 1952 to 1988, and the child was, immediately before the adoption, being maintained in foster care by a health board with the adopter or adopters, the health board may, subject to any general directions given by the Minister and subject to such conditions as the health board sees fit, contribute to the maintenance of the child as if he continued to be in foster care.
(2) Where a child becomes adopted under the Adoption Acts, 1952 to 1988, any care order in force in respect of the child shall cease to have effect.

45. Aftercare

(1) (a) Where a child leaves the care of a health board, the board may, in accordance with subsection (2), assist him for so long as the board is satisfied as to his need for assistance and, subject to paragraph (b), he has not attained the age of 21 years.
(b) Where a health board is assisting a person in accordance with subsection

(2) (b), and that person attains the age of 21 years, the board may continue to provide such assistance until the completion of the course of education in which he is engaged.
(2) A health board may assist a person under this section in one or more of the following ways—
(a) by causing him to be visited or assisted;
(b) by arranging for the completion of his education and by contributing towards his maintenance while he is completing his education;
(c) by placing him in a suitable trade, calling or business and paying such fee or sum as may be requisite for that purpose;
(d) by arranging hostel or other forms of accommodation for him;
(e) by co-operating with housing authorities in planning accommodation for children leaving care on reaching the age of 18 years.
(3) Any arrangement made by a health board under section 55 (4) or (5) of the Health Act, 1953, in force immediately before the commencement of this section shall continue in force as if made under this section.
(4) In providing assistance under this section, a health board shall comply with any general directions given by the Minister.

46. Recovery of children removed form care etc.

(1) The provisions of this section shall apply to any child who is in the care of a health board and who is, without lawful authority, removed from the custody of the board or from the custody of any person who is taking care of him on behalf of the board or prevented from returning to such custody at the end of any period of leave.
(2) The health board may request the Garda Síochána to search for the child and to deliver him up to the custody of the board and the Garda Síochána may take all reasonable measures to comply with such a request.
(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 board.
(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 a health board, 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 the health board, to give up the child to that board, 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 the board.
(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 lime 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.

47. Application for directions

Where a child is in the care of a health board, 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.

48. Transitional provisions

(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

49. Definitions for Part VII

In this Part—
"authorised person" means a person appointed under section 54 to be an authorised person for the purposes of this Part;
"national school" has the meaning assigned to it in the School Attendance Act, 1926;
"pre-school child" means a child who has not attained the age of six years and who is not attending a national school or a school providing an educational programme similar to a national 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, including those grant-aided by health boards;
"relevant health board" means the health board for the area in which a pre-school service is being or is proposed to be carried on.

50. Regulations as to pre-school services

(1) The Minister shall, after consultation with the Minister for Education and the Minister for the Environment, make regulations for the purpose of securing the health, safety and welfare and promoting the development of pre-school children attending pre-school services.
(2) Without prejudice to the generality of subsection (1), regulations may—
(a) prescribe requirements as to the heating, lighting, ventilation, cleanliness, repair and maintenance of premises in which pre-school services are carried on and as to the equipment and facilities to be provided;
(b) provide for the enforcement and execution of the regulations by health boards;
(c) prescribe the annual fees to be paid to health boards by persons carrying on pre school services towards the cost of inspections under this Part.
(3) Regulations under this section may—
(a) make different provision for different classes of pre-school services;
(b) prescribe different requirements for different classes of pre-school services;
(c) provide for exemptions from any provision or provisions of the regulations for a specified class or classes of pre-school services.
(4) The Public Offices Fees Act, 1879, shall not apply in respect of any fees paid under regulations under this section.

51. Giving of notice to health board

(1) A person carrying on a pre-school service on the commencement of this Part shall give notice to the relevant health board in the prescribed manner.
(2) A person who, after the commencement of this Part, proposes to carry on a pre-school service shall give notice to the relevant health board in the prescribed manner.

52. Duty of person carrying on pre-school service

It shall be the duty of every person carrying on a pre-school service to take all reasonable measures to safeguard the health, safety and welfare of pre-school children attending the service and to comply with regulations made by the Minister under this Part.

53. Supervision of pre-school services

A health board shall cause to be visited from time to time each pre-school service in its area in order to ensure that the person carrying on the service is fulfilling the duties imposed on him under section 52.

54. Authorised persons

(1) A health board shall appoint such and so many of its officers as it thinks fit to be authorised persons for the purposes of this Part.
(2) A health board may, with the consent of the Minister for Education, appoint an officer of that Minister to be an authorised person for the purposes of this Part.
(3) Every authorised person shall be furnished with a warrant of his 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.

55. Inspection by authorised persons

(1) Where the relevant health board has received notification in accordance with section 51 in respect of a pre-school service, an authorised person shall be entitled at all reasonable times to enter any premises (including a private dwelling) in which the service is being carried on.
(2) A justice of the District Court may, if satisfied on information on oath that there are reasonable grounds for believing that a pre-school service is being carried on in any premises (including a private dwelling) in respect of which notice has not been received by the relevant health board in accordance with section 51, issue a warrant authorising a person appointed by the health board in accordance with section 54 to enter and inspect the premises.
(3) An authorised person who enters any premises in accordance with subsection (1) or (2) may make such examination into the condition of the premises and the care and attention which the pre-school children are receiving as may be necessary for the purposes of this Part.
(4) A warrant under subsection (2) may be issued by a justice of the District Court for the time being assigned to the district court district where the premises are situated.

56. Provision by health boards of pre-school services and information

(1) A health board may, subject to any general directions given by the Minister, provide pre-school services in its area and provide and maintain premises for that purpose.
(2) The Minister may, after consultation with the Minister for Education and the Minister for the Environment, make regulations for the purpose of securing the health, safety and welfare and promoting the development of children attending pre-school services provided by health boards.
(3) A health board shall make available to any interested person information on pre-school services in its area, whether provided by the board or otherwise.

57. Offences under Part VII

(1) A person who—
(a) refuses to allow an authorised person to enter any premises in accordance with subsection (1) or (2) of section 55 or who obstructs or impedes an authorised person in the exercise of any of his powers under subsection (3) of that section, or
(b) 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 fine not exceeding £1,000.
(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 a pre-school 5 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 fine not exceeding £1,000 or to imprisonment for a term not exceeding 12 months or both.

58. Exemptions from provisions of this Part

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 pre-school children undertaken by a relative of the child or children or the spouse of such relative,
(b) a person taking care of one or more pre-school children of the same family and no other such children (other than that person's own such children) in that person's home,
(c) a person taking care of not more than 3 pre-school children of different families (other than that person's own such children) in that person's home.

PART VIII - CHILDREN'S RESIDENTIAL CENTRES

59. Definitions for Part VIII.

In this Part—
"children's residential centre" means any home or other institution for the residential care of children in the care of health boards 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 a health board,

(b) an institution in which a majority of the children being maintained are being treated for acute illnesses,
(c) an institution for the care and maintenance of physically or mentally handicapped children,
(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;
"register" means a register of children's residential centres established under section 61 and, in relation to a particular health board, means the register established by that board 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.

60. Prohibition of unregistered children's residential centres

(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.

61. Registration of children's residential centres

(1) Each health board shall establish and maintain a register of children's residential centres in its functional area (referred to subsequently in this Act as "a register").
(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) A health board may, on application to it in that behalf by a person who proposes to carry on a centre in its functional area, 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.
(4) A health board may remove a centre from the register.
(5) A health board 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 board with information requested by it pursuant to subsection (8) or has furnished the board 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) A health board 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.
(7) An application for registration shall be in the prescribed form or in a form to the like effect.
(8) (a) A health board 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 a health board 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 to the board, 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 health board concerned not less than 2 months before such expiration for the registration of the centre and, if the board 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 the health board concerned 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 a health board 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 health board concerned and the board 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 a health board under subsection (11) shall include a statement that the person concerned may make representations to the board within 21 days of the receipt by him of the notification and a notification of a decision of a health board 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.

62. Appeals

(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 a health board 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 the health board, 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 health board concerned 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 health board 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 health board concerned 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.

63. Regulations in relation to children's residential centres

(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 officers of health boards,
(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 a health board to be premises in which a centre is being carried on and otherwise for the enforcement and execution of the regulations by the appropriate health boards and their officers.
(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 health board concerned, 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 a health board or an officer of a health board in the performance of functions under the regulations or who fails or refuses to comply with a requirement of a health board or an officer of a health board under such regulations shall be guilty of an offence.

64. Offences under Part VIII

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.

65. Discontinuance of centre

(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 health board for the area in which the centre is situated 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) A health board 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.

66. Superannuation of certain staff

(1) An employee of a children's residential centre to which this section applies shall, for the purposes of the Local Government (Superannuation) Act, 1980, be deemed to be employed by the health board for the area in which the centre is situated subject to any modifications (including modifications to any scheme or regulations made under the said Act of 1980 and modifications as to service reckonable as pensionable service) which may, with the consent of the Minister for the Environment, be specified in an order made by the Minister.

(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 health board for the area in which the centre is situated, 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 a health board,
(b) is funded by a health board, and
(c) is specified by the Minister for the purpose of this section.

67. Transitional provisions

(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

68. Regulations

(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.

69. Powers of the Minister

(1) The Minister may give general directions to a health board in relation to the performance of the functions assigned to it by or under this Act and the health board shall comply with any such direction.
(2) The Minister may cause to be inspected any service provided or premises maintained by a health board under this Act.

(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 maintained by a health board under this Act 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 such members of the staff of the board as he thinks fit.
(5) The Minister may direct a health board 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 a health board shall comply with any such direction.

70. Charges for certain services

(1) In making available a service under section 3, 4 or 56, the health board 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) a health board 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, a health board 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 a health board as entitled, because of specified circumstances, to a service without charge, he shall notify the board of any relevant change in those circumstances.
(5) Any charge which may be made by a health board 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.

71. Prosecution of offences

(1) Summary proceedings for an offence under this Act may be brought and prosecuted by the health board for the area in which the offence is alleged to have been committed 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.

72. Functions of chief executive officer

(1) The following functions relating to a health board shall be functions of the chief executive officer of the board:
(a) any function with respect to a decision as to whether or not to provide a service or make facilities available to any particular person;
(b) any function with respect to a decision as to the making or recovery of a charge or the amount of any charge for a service provided in a particular case under section 3, 4 or 56;
(c) any function in relation to whether or not to receive a child into care under section 4;
(d) any function in relation to the payment of a grant or allowance to a voluntary body or any other person;
(e) any function with respect to legal proceedings in relation to the care and protection of a child;
(f) any function in relation to a particular child in the care of the board or in relation to the provision of aftercare;
(g) any function in relation to the supervision of pre-school services;
(h) any function in relation to the registration and regulation of children's residential centres;
(i) such other functions as may be prescribed.
(2) Any question as to whether or not a particular function is a function of the chief executive officer shall be determined by the Minister.
(3) In this section "chief executive office includes a person acting as deputy chief executive officer in accordance with section 13 of the Health Act, 1970.

73. Expenses

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

74. Sale etc of solvents

(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.

75. Amendment of section 17 of the School Attendance Act, 1926

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.".

76. Amendment of section 15 of the Guardianship of Infants Act, 1964

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 ".

77. Amendment of section 16 of the Guardianship of Infants Act, 1964

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.

78. Maintenance-saver in relation to members of Defence Forces

(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.

79. Repeals

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 YearShort TitleExtent of Repeal4 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.