



Number 19 of 2024

Child Care (Amendment) Act 2024



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CHILD CARE (AMENDMENT) ACT 2024

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ACTS REFERRED TO

Child and Family Agency Act 2013 (No. 40)

Child Care Act 1991 (No. 17)

Child Care Acts 1991 to 2022

Childcare Support Act 2018 (No. 11)

Children First Act 2015 (No. 36)

National Vetting Bureau (Children and Vulnerable Persons) Act 2012 (No. 47)



Number 19 of 2024

CHILD CARE (AMENDMENT) ACT 2024

An Act to provide for additional enforcement measures in respect of the provision, in contravention of Part VIIA of the Child Care Act 1991, of prescribed early years services; to confer additional enforcement powers on the Child and Family Agency in respect of those measures; to provide for the regulation of childminding services; to repeal provisions for exemption, in certain cases, from the application of Part VIIA of the Child Care Act 1991 to the care of children; to provide for transitional arrangements; for those and other purposes to amend the National Vetting Bureau (Children and Vulnerable Persons) Act 2012, the Children First Act 2015 and the Childcare Support Act 2018; and to provide for related matters. [8th July, 2024]

Be it enacted by the Oireachtas as follows:

Definition

1. In this Act, “Principal Act” means the Child Care Act 1991.

Amendment of section 2(1) of Principal Act

2. Section 2(1) of the Principal Act is amended by the insertion of the following definition:

“ ‘personal data’ has the same meaning as it has in the Data Protection Regulation;”.

Amendment of section 29(5B) of Principal Act

3. Section 29(5B) of the Principal Act is amended, in paragraph (d), by the deletion of the definition of “personal data”.

Amendment of section 58A of Principal Act

4. Section 58A of the Principal Act is amended—

(a) in the definition of “early years service”—

(i) in paragraph (a), by the deletion of “or”,

(ii) in paragraph (b), by the substitution of “service, or” for “service;”, and

(iii) by the insertion of the following paragraph after paragraph (b):

“(c) a childminding service;”,

and

(b) by the insertion of the following definitions:

“ ‘childminding service’ means a service that—

- (a) entails an individual taking care, by himself or herself, of children under the age of 15 years, in the home of the individual, and
- (b) is provided to children (other than that individual’s own children) for a total period of not less than 2 hours per day;

‘closure order’ has the meaning assigned to it by section 58JD(1);

‘immediate action notice’ has the meaning assigned to it by section 58JB(1);

‘immediate action order’ has the meaning assigned to it by section 58JB(6);

‘improvement notice’ has the meaning assigned to it by section 58JA(1);

‘improvement order’ has the meaning assigned to it by section 58JA(6);

‘premises’ means any premises, or part thereof, where an early years service is provided or is proposed to be provided, including the area immediately surrounding, or adjacent to, such premises which is used in conjunction with such premises, other than any part of that area that is a public place;

‘registered provider’ has the meaning assigned to it by section 58C(2);

‘relevant person’ has the meaning assigned to it by section 58JD(1)(b);

‘temporary prohibition order’ has the meaning assigned to it by section 58JC(1);”.

Amendment of section 58B of Principal Act

5. Section 58B of the Principal Act is amended—

(a) in subsection (2)—

(i) in paragraph (e), by the substitution of “early years service,” for “early years service, and”,

(ii) in paragraph (f), by the substitution of “register,” for “register.”, and

(iii) by the insertion of the following paragraphs after paragraph (f):

“(g) prescribe a class or classes of persons who, in the opinion of the Minister, are fit and proper persons—

(i) to be registered providers and to carry on a prescribed early years service,

(ii) to be in charge of a prescribed early years service, or

- (iii) to participate in the management of an early years service,
 - (h) specify the requirements that a member of a class or classes prescribed under subparagraph (i), (ii) or (iii) of paragraph (g) shall satisfy in order to be considered fit and proper persons for the purposes of the subparagraph concerned,
 - (i) require persons carrying on prescribed early years services to make adequate arrangements, including publication of such arrangements, to make publicly known to the parents and guardians of children attending the service and the persons working in the service any of the following matters—
 - (i) a decision under section 58D to remove the name of the registered provider from the register,
 - (ii) a decision under section 58D to attach a condition, or amend or revoke a condition attached, to the registration of the registered provider,
 - (iii) a decision to issue an improvement notice in respect of the prescribed early years service provided by the registered provider,
 - (iv) the grant of an improvement order in respect of the prescribed early years service provided by the registered provider,
 - (v) a decision to issue an immediate action notice in respect of the prescribed early years service provided by the registered provider,
 - (vi) the grant of an immediate action order in respect of the prescribed early years service provided by the registered provider,
 - (vii) a decision to issue a temporary prohibition order in respect of a prescribed early years service provided by the registered provider, or
 - (viii) the grant of a closure order in respect of the prescribed early years service provided by the registered provider,
 - and
 - (j) prescribe such particulars, including personal data, of parents and guardians of children attending prescribed early years services, as are necessary and proportionate for the performance by the Agency of its functions under this Part, that shall, at the request of the Agency, be provided to the Agency by registered providers.”,
- and
- (b) in subsection (3)—

- (i) in paragraph (c), by the substitution of “early years services, and” for “early years services.”, and
- (ii) by the insertion of the following paragraph after paragraph (c):

“(d) provide for exemptions, from any requirement in regulations under paragraph (i) of subsection (2) to make arrangements to make publicly known any of the matters specified in subparagraphs (i) to (viii) of that paragraph, for different circumstances or classes of circumstances or for different cases or classes of cases.”.

Amendment of section 58C(2) of Principal Act

6. Section 58C(2) of the Principal Act is amended by the substitution of “(in this Part referred to as a ‘registered provider’)” for “(‘registered providers’)”.

Amendment of section 58D of Principal Act

7. Section 58D of the Principal Act is amended—

- (a) in subsection (7), by the substitution of “shall” for “may”,
- (b) in subsection (9), by the substitution of “may” for “shall” in both places where it occurs,
- (c) in subsection (12)(b), by the substitution of “section 58F(1)” for “section 58F”, and
- (d) by the insertion of the following subsection after subsection (14):

“(15) Where the Agency proposes to make a decision under this section in respect of a registered provider, it shall, without prejudice to any other legal basis for the exercise of its powers under this section, have regard to—

- (a) the issue of an improvement order or an immediate action order in respect of a prescribed early years service provided by the registered provider,
- (b) any failure of the registered provider to comply with an order referred to in paragraph (a),
- (c) the issue of a temporary prohibition order in respect of a prescribed early years service provided by the registered provider,
- (d) the carrying on of activities by the registered provider in contravention of a temporary prohibition order,
- (e) any failure of the registered provider to remedy the matters specified in a temporary prohibition order, and
- (f) the grant of a closure order in respect of an early years service provided by the registered provider.”.

Publication of decisions under Part VIIA

8. The Principal Act is amended by the insertion of the following section after section 58D:

- “58DA. (1) The Agency shall make such arrangement as the Agency considers appropriate and necessary to bring any matter specified in subsection (2) to the attention of the public where to do so is in the interests of the health, safety and welfare of children attending early years services.
- (2) The following matters are specified for the purposes of subsection (1):
- (a) a decision under section 58D to remove the name of a registered provider from the register;
 - (b) a decision under section 58D to attach a condition, or amend or revoke a condition attached, to a registration;
 - (c) a decision to issue an improvement notice in respect of a prescribed early years service;
 - (d) the grant of an improvement order in respect of a prescribed early years service;
 - (e) a decision to issue an immediate action notice in respect of a prescribed early years service;
 - (f) the grant of an immediate action order in respect of a prescribed early years service;
 - (g) a decision to issue a temporary prohibition order in respect of a prescribed early years service;
 - (h) the grant of a closure order in respect of an early years service.”.

Amendment of section 58F of Principal Act

9. Section 58F of the Principal Act is amended—

- (a) by the insertion of the following subsections after subsection (2):
- “(2A) A registered provider may, within 7 days of the date on which a temporary prohibition order is served on him or her, appeal to the District Court against the decision to issue the order.
- (2B) The bringing of an appeal under subsection (2A) against a temporary prohibition order which is to take effect in accordance with section 58JC(3)(a) shall not have the effect of suspending the operation of the order.
- (2C) Without prejudice to subsection (2B), a person who brings an appeal under subsection (2A) against a temporary prohibition order may apply to the District Court to have the operation of the order suspended until the appeal is withdrawn or determined and, on such application, the court may, if it thinks proper to do so, direct that the

operation of the order be suspended until the appeal is withdrawn or determined.

(2D) The court may, on an appeal under subsection (2A)—

- (a) confirm the temporary prohibition order, with or without modification, or
- (b) cancel the temporary prohibition order.”,

and

- (b) in subsection (3), by the substitution of “this section and sections 58JA, 58JB and 58JD” for “this section”.

Amendment of section 58J of Principal Act

10. Section 58J of the Principal Act is amended—

- (a) in subsection (2), by the substitution of “to enter, at any time or times from the date of issue of the warrant, and” for “to enter and”,
- (b) by the insertion of the following subsections after subsection (2):

“(2A) The period of validity of a warrant under subsection (2) shall be 28 days from its date of issue, but that period of validity may be extended in accordance with subsections (2B) and (2C).

(2B) An authorised person may, during the period of validity of a warrant under subsection (2) (including such period as previously extended under subsection (2C)), apply to a judge of the District Court for an order extending the period of validity of the warrant and such an application shall be grounded on information on oath stating, by reference to the purpose for which the warrant was issued, the reasons why the authorised person considers the extension to be necessary.

(2C) If, on the making of an application under subsection (2B), the judge of the District Court is satisfied that there are reasonable grounds for believing, having regard to that information so laid, that further time is needed so that the purpose for which the warrant was issued can be fulfilled, the judge may make an order extending the period of validity of the warrant by such period as, in the opinion of the judge, is appropriate and just; and where such an order is made, the judge shall cause the warrant to be suitably endorsed to indicate its extended period of validity.

(2D) Nothing in subsections (2) to (2C) prevents a judge of the District Court from issuing, on the making of a further application under subsection (2), a further search warrant under this section in relation to the same premises.”,

and

- (c) by the insertion of the following subsection after subsection (3A):

- “(3B) Without prejudice to subsections (3) and (3A), an authorised person who enters any premises in accordance with subsection (1), (1A) or (2), may—
- (a) require any person at the premises to produce to him or her any documents or records that the authorised person may reasonably require for the purposes of ensuring compliance with this Part,
 - (b) examine any document or record produced to him or her under paragraph (a), and take copies of, or extracts from, such document or record or have the document or record made available in a form to facilitate its removal from the location at which the document or record is made available,
 - (c) take possession of any document or record produced to him or her under paragraph (a) that, in the opinion of the authorised person, is relevant to ensuring compliance with this Part, and, for those purposes, remove the document or record and retain such document or record in his or her possession for a reasonable period, and
 - (d) require any person on the premises to give to him or her any information relating to the provision of a prescribed early years service on the premises that the authorised person may reasonably require for the purpose of the performance of his or her functions or the functions of the Agency under this Act.”.

Improvement notice and improvement order

11. The Principal Act is amended by the insertion of the following section after section 58J:

“**58JA.** (1) Where an authorised person is of the opinion, following the exercise of any of his or her powers under section 58J relating to a premises in which a registered provider is providing a prescribed early years service, that there is an issue of significant concern that is of such a nature that if it persists it will, or is likely to, pose a risk of harm to a child attending the service, he or she may issue a notice (in this Part referred to as an ‘improvement notice’).

- (2) An improvement notice shall—
 - (a) identify the issue of significant concern giving rise to the risk referred to in subsection (1),
 - (b) require that action be taken to address the issue referred to in paragraph (a) and, if appropriate, specify the nature or details of such remedial action, and
 - (c) specify a time limit by which the action referred to in paragraph (b) is to be completed or implemented by the registered provider.
- (3) An improvement notice shall be served on the registered provider of the prescribed early years service to which it relates or the person in

charge of the premises from which that service is provided and shall be effective immediately or, as appropriate, from a date specified in the notice.

- (4) An improvement notice may be varied or withdrawn.
- (5) Where an improvement notice has not been complied with or the authorised person has reasonable grounds to believe that it has not been complied with, the Agency may apply to the District Court for an improvement order.
- (6) A judge of the District Court may, on application in that behalf by the Agency, where the judge is of the opinion that an improvement notice has not been complied with or that there are reasonable grounds for the authorised person's belief that it has not been complied with, make an order (in this Part referred to as an 'improvement order') directing the registered provider to comply with the improvement notice.
- (7) An improvement order shall specify—
 - (a) the action required to be taken by the registered provider,
 - (b) a time limit by which the action referred to in paragraph (a) is to be completed or implemented by the registered provider, and
 - (c) such other requirement, if any, as the court may consider appropriate.”.

Immediate action notice and immediate action order

- 12.** The Principal Act is amended by the insertion of the following section after section 58JA (inserted by *section 11*):

“58JB. (1) Where an authorised person is of the opinion, following the exercise of any of his or her powers under section 58J relating to a premises in which a registered provider is providing a prescribed early years service, that immediate action is required by the registered provider in order to address an issue that poses an immediate risk of harm to a child attending the service, he or she may issue a notice (in this Part referred to as an 'immediate action notice').

- (2) An immediate action notice shall—
 - (a) identify the issue that poses an immediate risk of harm referred to in subsection (1),
 - (b) require that action be taken to address the issue referred to in paragraph (a) and, if appropriate, specify the nature or details of such remedial action, and
 - (c) specify a time limit by which the action referred to in paragraph (b) is to be completed or implemented by the registered provider.

- (3) An immediate action notice shall be served on the registered provider of the prescribed early years service to which it relates or the person in charge of the premises from which that service is provided and shall be effective immediately or, as appropriate, from a date specified in the notice.
- (4) An immediate action notice may be varied or withdrawn.
- (5) Where an immediate action notice has not been complied with or the authorised person has reasonable grounds to believe that it has not been complied with, the Agency may apply to the District Court for an immediate action order.
- (6) A judge of the District Court may, on application in that behalf by the Agency, where the judge is of the opinion that an immediate action notice has not been complied with or that there are reasonable grounds for the authorised person's belief that it has not been complied with, make an order (in this Part referred to as an 'immediate action order') directing the registered provider to comply with the immediate action notice.
- (7) An immediate action order shall specify—
 - (a) the action required to be taken by the registered provider,
 - (b) a time limit by which the action referred to in paragraph (a) is to be completed or implemented by the registered provider, and
 - (c) such other requirement, if any, as the court may consider appropriate.”.

Temporary prohibition order

13. The Principal Act is amended by the insertion of the following section after section 58JB (inserted by *section 12*):

- “58JC. (1) Where an authorised person is of the opinion that the continued provision of a prescribed early years service poses an immediate and grave risk to the health, safety or welfare of children attending the service, he or she may, subject to subsection (2), serve, or arrange to have served, on the registered provider or person in charge of the service a notice (in this Part referred to as a ‘temporary prohibition order’) stating that he or she is of that opinion and the temporary prohibition order shall—
- (a) state that the authorised person is of the opinion that the provision of the service should be prohibited for a specified period not exceeding 6 weeks,
 - (b) specify the matters which in his or her opinion give rise to the said risk, and

- (c) direct that the provision of the service be prohibited unless and until the matters specified under paragraph (b) have been remedied.
- (2) Before serving a temporary prohibition order under subsection (1), an authorised person shall consult with the chief executive officer or such other employee of the Agency designated in that behalf by the chief executive officer.
- (3) A temporary prohibition order shall take effect—
 - (a) where it so declares, immediately on and from the date that the order is received by the person on whom it is served, or
 - (b) in any other case—
 - (i) where no appeal is taken against the order, on the expiration of the period during which such an appeal may be taken or the day specified in the order as the day on which it is to come into effect, whichever is the later, or
 - (ii) in case such an appeal is taken, on the day next following the day on which the order is confirmed on appeal or the appeal is withdrawn or the day specified in the order as that on which it is to come into effect, whichever is the later.
- (4) The chief executive officer or such other employee of the Agency designated in that behalf by the chief executive officer may vary or withdraw a temporary prohibition order.
- (5) The Board of the Agency shall be notified at its next available meeting of the service under subsection (1) of a temporary prohibition order or any variation or withdrawal of such an order under subsection (4).
- (6) Where an authorised person is of the opinion that the matters specified under subsection (1)(b) have not been remedied, the authorised person may extend the period during which the temporary prohibition order shall have effect by such further period as he or she considers necessary for the purpose for which the order was issued, provided that the total period during which an order to which this subsection applies shall have effect shall not exceed 12 weeks.
- (7) Subsections (1) to (5) shall apply to a decision under subsection (6) to extend the period of temporary prohibition order as they apply to a decision to issue a temporary prohibition order and a reference in those subsections to such an order shall be construed as a reference to an order that is extended under subsection (6).
- (8) In this section, ‘chief executive officer’ means the person appointed under section 28 of the Child and Family Agency Act 2013 to be the chief executive officer of the Agency.”

Closure order

14. The Principal Act is amended by the insertion of the following section after section 58JC (inserted by *section 13*):

“58JD. (1) The Agency may apply to the District Court for an order prohibiting the continuance of the provision of an early years service (in this Part referred to as a ‘closure order’) where—

(a) a temporary prohibition order has been served on the registered provider of the service and—

(i) activities are carried on in contravention of the order, or

(ii) the matters specified under paragraph (b) of section 58JC(1) have not been remedied before the expiry of the period during which the temporary prohibition order has effect,

or

(b) the Agency has reason to believe that a person (in this Part referred to as a ‘relevant person’) is providing a prescribed early years service and his or her name is not entered in the register as a provider of that service.

(2) An application for a closure order under subsection (1)(b) may be made *ex parte*.

(3) A closure order shall specify the ground for making it and such an order shall take effect—

(a) where the order so declares, upon receipt by the person on whom it is served, or

(b) in any other case—

(i) where no appeal is taken against the order, on the expiration of the period permitted under section 58JE(1) to appeal or the day specified in the order as the day on which it is to come into effect, whichever is the later, or

(ii) in case such an appeal is taken, on the day next following the day on which the order is confirmed on appeal or the appeal is withdrawn or the day specified in the order as the day on which it is to come into effect, whichever is the later.

(4) The District Court may, when granting a closure order, make such other order as it considers appropriate, including, on application by the Agency, an order directing a registered provider or relevant person, as the case may be, to provide the Agency with such particulars, including personal data, of parents and guardians of children attending the early years service in relation to which a closure order has been granted as are necessary and proportionate for the performance by the Agency of its functions under this Part.

- (5) Where an application for a closure order under subsection (1)(b) is heard *ex parte*, the Agency shall notify the relevant person forthwith of the making of a closure order.
- (6) Where a closure order has been made *ex parte*, the relevant person may apply, on notice to the Agency, to the District Court to have the order discharged.
- (7) The District Court may, on application to it under subsection (6), discharge a closure order where the Court is satisfied that the discharge of the order is appropriate in the circumstances.”.

Appeal against closure order

15. The Principal Act is amended by the insertion of the following section after section 58JD (inserted by *section 14*):

- “**58JE.** (1) A registered provider and a relevant person may, within 7 days of the date on which a closure order is served on him or her, appeal to the Circuit Court against the decision.
- (2) The bringing of an appeal against a closure order shall not have the effect of suspending the operation of the closure order.
 - (3) On the hearing of the appeal, the Circuit Court may—
 - (a) confirm the closure order, with or without modification, or
 - (b) cancel the closure order.”.

Amendment of section 58K(1) of Principal Act

16. Section 58K(1) of the Principal Act is amended—

- (a) in paragraph (a), by the substitution of “subsection (3), (3A) or (3B)” for “subsection (3)”,
- (b) in paragraph (b), by the substitution of “section 58D,” for “section 58D, or”, and
- (c) by the insertion of the following paragraphs after paragraph (b):
 - “(ba) fails to comply with an improvement order,
 - (bb) fails to comply with an immediate action order,
 - (bc) fails to comply with a temporary prohibition order,
 - (bd) fails to comply with a closure order, or”.

Amendment of section 58L of Principal Act

17. Section 58L of the Principal Act is amended—

- (a) by the designation of that section as subsection (1), and
- (b) by the addition of the following subsections after subsection (1):

- “(2) Notwithstanding paragraph (a) of subsection (1), an application under section 58D(2) to be registered in the register may be made by—
- (a) a relative to whom that paragraph applies, other than a parent of the child, or
 - (b) the spouse of such relative, other than where the relative is a parent of the child.
- (3) In this section, ‘parent’ includes a person acting in loco parentis.”.

Transitional provisions (Part VIIA)

18. The Principal Act is amended by the insertion of the following section after section 58L:

- “**58M.** (1) Notwithstanding the repeal of the relevant exemptions by *section 22* of the *Act of 2024*, this Part shall, subject to subsection (2), continue to apply for the duration of the transitional period as if the relevant exemptions had not been repealed, to—
- (a) a person who, immediately before that repeal, was taking care of children and was exempt from the provisions of this Part pursuant to the application of either of those exemptions and continues to be so exempt, and
 - (b) a person who commences taking care of children during the transitional period and who would have been exempt from the provisions of this Part prior to that repeal.
- (2) Notwithstanding the exemption pursuant to subsection (1) for the duration of the transitional period from the provisions of this Part of a person referred to in paragraph (a) or (b) of that subsection, the person may, during the transitional period, make an application under section 58D(2) to be registered in the register.
- (3) Where, immediately before the date of coming into operation of *section 22* of the *Act of 2024*, the name of a person stands entered in the register as a registered provider of a section 58M childminding service, then on and from that date of coming into operation, the name of that person shall be deemed to be entered in the register as a registered provider of a childminding service.
- (4) In this section—

‘*Act of 2024*’ means the *Child Care (Amendment) Act 2024*;

‘section 58M childminding service’ means a pre-school service or a school age service, which may include an overnight pre-school service or an overnight school age service, offered by a person who single-handedly takes care of pre-school children or school age children, as the case may be, which may include the person’s own children, in the person’s home for a total of more than 2 hours per day,

except where either of the relevant exemptions or paragraph (a) of section 58L apply;

‘relevant exemptions’ means paragraphs (b) and (c) of section 58L as if the amendments of that section by *section 17* of the *Act of 2024* had not been made;

‘transitional period’ means the period of 3 years commencing on the date of coming into operation of *section 22* of the *Act of 2024*.”.

Amendment of Schedule 1 to National Vetting Bureau (Children and Vulnerable Persons) Act 2012

- 19.** Schedule 1 to the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 is amended, in paragraph 1(a) of Part 1, by the substitution of “early years services within the meaning of Part VIIA” for “pre-school services within the meaning of Part VII”.

Amendment of Schedule 2 to Children First Act 2015

- 20.** Schedule 2 to the Children First Act 2015 is amended—
- (a) in paragraph 15(j), by the substitution of “an early years service” for “a pre-school service”, and
 - (b) in paragraph 18, by the substitution of “an early years service” for “a pre-school service”.

Amendment of Childcare Support Act 2018

- 21.** The Childcare Support Act 2018 is amended—
- (a) in section 1(1)—
 - (i) by the substitution of the following definition for the definition of “childcare service”:

“ ‘childcare service’ means an early years service;”,
 - (ii) in the definition of “childcare services provider”, by the substitution of “an early years service” for “a pre-school service or a school age service”, and
 - (iii) by the insertion of the following definition:

“ ‘early years service’ has the same meaning as it has in Part VIIA of the Act of 1991;”,
- and
- (b) in Schedule 2, by the addition of the following item:

“

Minister for Further and Higher Education, Research, Innovation and Science	To support parents under the age of 18 years to remain in education or training through access to childcare services.
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”.

Repeals

22. Subject to section 58M of the Principal Act, paragraphs (b) and (c) of section 58L (as if the amendments of that section by *section 17* had not been made) of the Principal Act are repealed.

Short title, collective citation and commencement

23. (1) This Act may be cited as the Child Care (Amendment) Act 2024.
- (2) The Child Care Acts 1991 to 2022 and this Act may be cited together as the Child Care Acts 1991 to 2024.
- (3) This Act shall come into operation on such day or days as the Minister for Children, Equality, Disability, Integration and Youth may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.