



**An Bille fán nGníomhaireacht um Leanaí agus
an Teaghlach (Leasú), 2021**
Child and Family Agency (Amendment) Bill 2021

Meabhrán Míniúcháin agus Airgeadais
Explanatory and Financial Memorandum



**AN BILLE FÁN nGNÍOMHAIREACHT UM LEANAÍ AGUS
AN TEAGHLACH (LEASÚ), 2021
CHILD AND FAMILY AGENCY (AMENDMENT) BILL 2021**

EXPLANATORY AND FINANCIAL MEMORANDUM

Purpose of the Bill

The Education Welfare (Transfer of Departmental Administration and Ministerial Functions) Order 2020 (S.I. 588 of 2020) transferred functions vested in the Minister for Children, Equality, Disability, Integration and Youth by or under the Education (Welfare) Act 2000 (No. 22 of 2000) to the Minister for Education with effect from 1 January 2021.

Functions under section 10 of the Education (Welfare) Act 2000 are performed by the Child and Family Agency. The Child and Family Agency Act 2013 provides for the governance and oversight of the Agency by the Minister for Children, Equality, Disability, Integration and Youth in respect of all of the Agency's functions, including those relating to education welfare.

The purpose of this Bill is to amend the Child and Family Agency Act 2013 in order to provide the Minister for Education with appropriate governance and oversight of the education welfare functions performed by the Child and Family Agency in light of the above-mentioned transfer of responsibility for those functions from the Minister for Children, Equality, Disability, Integration and Youth to the Minister for Education.

Financial Implications

From 2021 onward, the funding for the education welfare functions performed by the Child and Family Agency is to be provided by the Minister for Education. The Bill provides that the Minister for Education will, in respect of a financial year of the Agency, determine the maximum amount of net expenditure that may be incurred by the Agency in respect of its education welfare functions for that financial year and that the Minister for Children, Equality, Disability, Integration and Youth will retain responsibility for funding all other functions of the Agency and that the two funding streams to the Agency are not interchangeable.

There are no other financial implications arising from this Bill.

Principal Elements of the Bill

Section 1 provides that in this Bill, 'Principal Act' means the Child and Family Agency Act 2013.

Section 2 amends section 2 of the Principal Act by inserting a definition of education welfare functions in respect of the Child and Family Agency and the Minister for Education.

Section 3 amends section 3 of the Principal Act, for the purpose of including a reference to the Minister for Education into the standard expenses provision of the Principal Act.

Section 4 amends section 8 of the Principal Act (Functions of the Agency). The purpose of the amendment to section 8(1)(f) is to provide that the Minister for Education may request the Agency to undertake or commission research into matters in respect of his or her education welfare functions. The amendment to section 8(1)(g) provides that the Agency may give information or advice, or make proposals, to the Minister for Education, in respect of the education welfare functions of the Agency.

Section 5 amends section 13 of the Principal Act and provides that the annual report of the Child and Family Agency shall include any other particulars that the Minister for Education may require. The amendment also provides that the Agency will submit a copy of the annual report to the Minister for Education at the same time that it submits a copy to the Minister.

Section 6 amends section 14 of the Principal Act by placing an obligation on the Agency to furnish the Minister for Education with information that that Minister is likely to consider significant for the performance of his or her functions under the Principal Act or otherwise. The amendment further provides that the Agency must provide information regarding any other occurrence or development that falls within a class of occurrences or developments that has been specified in writing by the Minister for Education, having regard to his or her functions under the Principal Act or otherwise. The Agency shall, when required by the Minister for Education, submit a report on matters connected with the education welfare functions of the Agency and specified by the Minister for Education.

Section 7 amends section 15 of the Principal Act to provide that the Minister for Education may require the Agency to furnish certain information and documents where he or she considers it necessary in the public interest to do so for the performance of his or her functions under the Principal Act or otherwise. The Agency is required to provide the information within any period specified by the Minister and in any event without delay.

Section 8 amends section 16 of the Principal Act by inserting references to the Minister for Education in order to enable that Minister to share certain information or documents received pursuant to sections 14 or 15 of the Principal Act in the context of an examination or any inquiry.

Section 9 amends section 17 of the Principal Act by inserting a reference to the Minister for Education for the purpose of enabling that Minister to use any information or documents furnished under section 14 or 15 as he or she requires for the performance of his or her functions.

Section 10 amends section 18 of the Principal Act by inserting a reference to the Minister for Education into the Saver section to clarify that nothing in sections 14 - 17 limits the power of that Minister contained elsewhere in the Principal Act or otherwise to require information from or issue directions to the Agency.

Section 11 amends section 19 of the Principal Act and provides that the Minister for Education will nominate a person to be a member of the Board who, in that Minister's opinion, has experience of and expertise in, matters connected to the education welfare functions of the Agency. This section further provides that the Minister will appoint the nominee of the Minister for Education no later than 24 September 2023.

Section 12 amends section 20 of the Principal Act and provides that should a casual vacancy arise in respect of the board member with education welfare experience appointed in accordance with section 19(2A), the Minister for Education will nominate a person who has experience of, and expertise in, matters connected to the education welfare functions of the Agency for appointment by the Minister.

Section 13 amends section 21 of the Principal Act by providing that the Board of the Agency is accountable to the Minister for Education in respect of the performance of its education welfare functions. It places a requirement on the Board of the Agency to inform the Minister for Education of any delegation or revocation which relates to the education welfare function of the Agency. It further provides for the Minister for Education to issue directions to the Board in relation to delegation of education welfare function to the chief executive and it also requires the Agency to bring any matter to the attention of the Minister for Education that it considers requires that Ministers attention.

Section 14 amends section 29 of the Principal Act. The purpose of this amendment is to place a requirement on the chief executive to provide the Minister for Education with information that he or she may require relating to the performance of his or her education welfare functions and the implementation of that Minister's policies and priorities with regard to those functions.

Section 15 amends section 40 of the Principal Act. The purpose of this amendment is to ensure that a person making a disclosure of confidential information to the Minister for Education does not contravene section 40(1).

Section 16 amends section 41 of the Principal Act and provides that the Performance Framework shall include such policy guidance, direction and prioritisation parameters for the preparation of the corporate plan of the Agency as the Minister for Education, in respect of his or her education welfare functions, shall provide to the Minister within the timeframe specified.

Section 17 amends section 42 of the Principal Act to provide that the corporate plan of the Agency will accord with the policies and objectives of the Minister, the Minister for Education and the Government as they relate to the functions of the Agency. The corporate plan will be submitted to the Minister for Education at the same time that it is submitted to the Minister. Furthermore, within the timeframe specified, the Minister for Education may, in so far as the corporate plan relates to the education welfare functions of the Agency, issue directions regarding amendments to the proposed plan. Any amendments to an approved corporate plan, by the Minister or the Agency, and that relate to education welfare functions are to be made with the consent of the Minister for Education.

Section 18 amends section 44 of the Principal Act by providing that the Minister for Education shall, in respect of the education welfare functions of the Agency, develop an annual Performance Statement. This Performance Statement will provide the Agency with specific policy guidance, direction, prioritisation and resource parameters in respect of each year for the preparation of its annual business plan.

Section 19 amends section 45 of the Principal Act to provide that the Minister for Education will, in respect of a financial year of the Agency, determine the maximum amount of net expenditure that may be incurred by the Agency in respect of its education welfare functions for that financial

year, and notify the Agency of the determination of net expenditure in the context of the Performance Statement developed under section 44(1A).

Section 20 amends section 46 of the Principal Act to provide that, within the timeframe specified, the Agency will submit a business plan to the Minister for Education, prepared in accordance with the Performance Statement developed by that Minister. The business plan must contain any other information specified by the Minister for Education in respect of the education welfare functions of the Agency, and accord with the policies and objectives of that Minister as they relate to the functions of the Agency. The Minister for Education may, in certain specified circumstances, direct the Agency to amend the business plan.

Section 21 amends section 47 of the Principal Act and provides that the Minister for Education, may, in respect of the education welfare functions of the Agency, give an additional direction in writing to the Agency. The Agency will be required to comply with such a direction and the chairperson shall inform the Minister for Education of the measures taken by the Agency to comply with such a direction.

Section 22 amends section 48 of the Principal Act by providing that the Minister for Education may at any time issue additional guidelines in writing to the Agency in respect of the education welfare functions of the Agency.

Section 23 amends section 51 of the Principal Act by placing an obligation on the Agency, if required to do so by the Minister for Education, to furnish him or her with information in respect of the education welfare functions of the Agency as that Minister may require in respect of any balance sheet, account or report of the Agency.

Section 24 amends section 52 of the Principal Act and provides that the Minister for Education, in respect of the education welfare functions of the Agency, may, with the consent of the Minister for Public Expenditure and Reform, advance sums to the Agency, on terms and conditions as that Minister thinks fit, for the purposes of expenditure by the Agency in the performance of its functions.

Section 25 amends section 56 of the Principal Act to provide that a direction issued by the Minister for Education under section 47 is one of the matters to which the Agency must have regard before entering into an arrangement with a not for profit service provider. The amendments also provide that the Minister for Education may make regulations in respect of arrangements between the Agency and education welfare service providers.

Section 26 amends section 59 of Principal Act by inserting a reference to the Minister for Education. The amendment provides that the Agency may give assistance to a person that provides, or proposes to provide, a not for profit service which is supplemental to services provided by the Agency subject to any directions given by Minister for Education in accordance with section 47.

Section 27 amends section 70 of the Principal Act in order to provide that the Agency will submit, as part of its annual report, a general report to the Minister and the Minister for Education on the performance of its functions under Part 9 of the Principal Act (Complaints) and that it will contain such information as the Agency considers appropriate, or as the Minister, or Minister for Education may specify.

Section 28 amends section 94 of the Principal Act by providing that if the Agency adopts a report which relates to the education welfare functions of the Agency, it shall submit a copy of that report to the Minister for Education.

Section 29 amends section 95 of the Principal Act by inserting a reference to the Minister for Education in order to provide that where the Agency is performing its functions relating to education welfare, the Agency may, with the consent of the Minister and the Minister for Education, make regulations specifying such charges as it considers necessary and appropriate.

Section 30 is a standard provision that provides for the short title and commencement of the Bill.

An Roinn Leanaí, Comhionannais, Míchumais, Lánpháirtíochta, agus Óige, Iúil 2021.

