

Number 24 of 2001

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**CHILDREN ACT, 2001**

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AN ACT TO MAKE FURTHER PROVISION IN RELATION TO THE CARE,  
PROTECTION AND CONTROL OF CHILDREN AND, IN PARTICULAR, TO  
REPLACE THE CHILDREN ACT, 1908, AND OTHER ENACTMENTS  
RELATING TO JUVENILE OFFENDERS, TO AMEND AND EXTEND THE  
CHILD CARE ACT, 1991, AND TO PROVIDE FOR RELATED MATTERS.  
[8th July, 2001]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

(...)

**PART 3**

**AMENDMENT OF ACT OF 1991**

Amendment (new Parts IV A and IVB) of Act of 1991.

**16.**—The Act of 1991 is hereby amended by the insertion of the following Parts after section 23:

**“PART IVA**

**CHILDREN IN NEED OF SPECIAL CARE OR PROTECTION**

Duty of health board where child requires special care or protection.

23A.—(1) Where it appears to a health board with respect to a child who resides or is found in its area that the child requires special care or protection which he or she is unlikely to receive unless a court makes an order under this Part in respect of the child, being either—

(a) an order under section 23B (in this Part referred to as a ‘special care order’),  
or

(b) an order under section 23C (in this Part referred to as an ‘interim special care order’),

it shall, subject to subsection (2), be the duty of the health board to apply for whichever of such orders is appropriate in the particular circumstances.

(2) Before applying for an order under this Part the health board shall—

(a) arrange for the convening of a family welfare conference (within the meaning of the *Children Act, 2001*) in respect of the child, and

(b) where, on the conclusion of the conference proceedings, it proposes to apply for a special care order in respect of the child, seek the views of the Special Residential Services Board established under *section 226* of that Act on the proposal.

(3) Where a parent or guardian of a child requests a health board to apply for an order under this Part in respect of the child and the board decides not to do so, it shall inform the parent in writing of the reasons for its decision.

Special care order.

23B.—(1) A court may, on the application of a health board with respect to a child who is in its care or who resides or is found within its area and having taken into account the views of the Special Residential Services Board referred to in *section 23A(2)(b)*, make a special care order in respect of the child if it is satisfied that—

(a) the behaviour of the child is such that it poses a real and substantial risk to his or her health, safety, development or welfare, and

(b) the child requires special care or protection which he or she is unlikely to receive unless the court makes such an order.

(2) A special care order shall commit the child to the care of the health board concerned for so long as the order remains in force and shall authorise it to provide appropriate care, education and treatment for the child and, for that purpose, to place and detain the child in a special care unit provided by or on behalf of the health board pursuant to *section 23K*.

(3) Where a child is detained in a special care unit pursuant to a special care order, the health board may take such steps as are reasonably necessary to prevent the child from—

(a) causing injury to himself or herself or to other persons in the unit, or

(b) absconding from the unit.

(4) (a) Subject to subsections (5) and (6), a special care order shall remain in force for a period to be specified in the order, being a period which is not less than 3 months or more than 6 months.

(b) The court may, on the application of the health board concerned, extend the period of validity of a special care order if and so often as the court is satisfied that the grounds for making the order continue to exist with respect to the child concerned.

(5) If, while a special care order is in force in respect of a child, it appears to the health board concerned that the circumstances which led to the making of the order no longer exist with respect to the child, the board shall, as soon as practicable, apply to the court which made the order to have the order discharged.

(6) A special care order shall cease to have effect when the person in respect of whom it was made ceases to be a child.

(7) Where a special care order is in force, the health board may—

(a) as part of its programme for the care, education and treatment of the child, place the child on a temporary basis in such other accommodation as the board is empowered to provide for children in its care under *section 36*, or

- (b) arrange for the temporary release of the child from the unit on health, education or compassionate grounds,

and any such placement or arrangement shall be subject to its control and supervision.

(8) Subject to this section, subsections (3), (4), (6), (7) and (8) of section 18 shall apply in relation to a special care order as they apply in relation to a care order, with any necessary modifications.

Interim special care order.

23C.—(1) Where a judge of the Children Court is satisfied on the application of a health board—

- (a) that the health board is complying with the requirements of section 23A(2) in relation to the making of an application for a special care order in respect of a child, and

- (b) that there is reasonable cause to believe that—

- (i) the behaviour of the child is such that it poses a real and substantial risk to his or her health, safety, development or welfare, and
  - (ii) it is necessary in the interests of the child, pending determination of the application for a special care order, that he or she be placed and detained in a special care unit provided under section 23K,

the judge may make an interim special care order in respect of the child.

(2) An interim special care order shall require that the child named in the order be placed and detained in a special care unit—

- (a) for a period not exceeding twenty-eight days, or

- (b) where the health board and the parent having custody of the child or a person acting *in loco parentis* consent, for a period exceeding twenty-eight days,

and the judge concerned may be order extend any such period, on the application of any of the persons specified in paragraph (b) and, where the period of the extension exceeds twenty-eight days, with the consent of those persons, if he or she is satisfied that the grounds for making the interim special care order continue to exist with respect to the child.

(3) An application for an interim special care order or for an extension of a period mentioned in subsection (2) shall be made on notice to a parent having custody of the child or a person acting *in loco parentis* or, where appropriate, to the health board concerned, except where, having regard to the welfare of the child, the judge otherwise directs.

(4) Subsections (3) to (7) of section 13 shall apply in relation to an interim special care order as they apply in relation to an emergency care order, with any necessary modifications.

Duty of Garda Síochána where child needs special care or protection.

23D.—(1) Where a member of the Garda Síochána has reasonable grounds for believing that—

- (a) the behaviour of a child is such that it poses a real and substantial risk to the child's health, safety, development or welfare,

- (b) the child is not receiving adequate care or protection, and
- (c) it would not be sufficient for the protection of the child from such risk to await the making of an application for an interim special care order by a health board under section 23C,

the member shall endeavour to deliver or arrange for the child to be delivered to the custody of the health board for the area in which the child normally resides and shall inform the board of the circumstances in which the child came to the notice of the Garda Síochána.

(2) Where—

- (a) a child is delivered to the custody of a health board or comes to its notice in the circumstances described in subsection (1), and
- (b) it appears to the health board that the child requires care or protection which he or she is unlikely to receive unless a court makes an order under this Part in respect of the child,

the health board shall proceed in accordance with section 23A.

(...)