



Number 34 of 2021

Child and Family Agency (Amendment) Act 2021



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CHILD AND FAMILY AGENCY (AMENDMENT) ACT 2021

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[No. 34.]

Child and Family Agency (Amendment) Act 2021.

[2021.]

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[2021.]

Child and Family Agency (Amendment) Act 2021.

[No. 34.]

ACTS REFERRED TO

Child and Family Agency Act 2013 (No. 40)

Education (Welfare) Act 2000 (No. 22)



Number 34 of 2021

CHILD AND FAMILY AGENCY (AMENDMENT) ACT 2021

An Act to provide for the transfer of certain functions of the Minister for Children, Equality, Disability, Integration and Youth under the Child and Family Agency Act 2013 to the Minister for Education and for that purpose to amend the Child and Family Agency Act 2013; and to provide for related matters. [24th November, 2021]

Be it enacted by the Oireachtas as follows:

Definition

1. In this Act, “Principal Act” means the Child and Family Agency Act 2013.

Amendment of section 2 of Principal Act

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

“ ‘education welfare functions’ means—

- (a) in the case of the Agency, the functions of the Agency under the Education (Welfare) Act 2000 transferred to it by section 72, and
- (b) in the case of the Minister for Education, the functions of that Minister under the Education (Welfare) Act 2000;”.

Amendment of section 3 of Principal Act

3. Section 3 of the Principal Act is amended by the insertion of “and the Minister for Education” after “Minister” where “Minister” first occurs in that section.

Amendment of section 8 of Principal Act

4. Section 8(1) of the Principal Act is amended—

- (a) in paragraph (f), by the insertion of “or the Minister for Education, having regard to the performance of that Minister’s education welfare functions,” after “the Minister”, and
- (b) in paragraph (g), by the insertion of “or the Minister for Education, in respect of the education welfare functions of the Agency” after “the Agency”.

Amendment of section 13 of Principal Act**5.** Section 13 of the Principal Act is amended—

(a) in subsection (2)—

(i) in paragraph (c), by the insertion of “and the Minister for Education” after “Minister”, and

(ii) by the substitution of the following paragraph for paragraph (f):

“(f) other particulars—

(i) that the Agency considers appropriate,

(ii) as the Minister after consulting the Minister for Health and the Minister for Education may require, and

(iii) as the Minister for Education, having regard to the performance of his or her education welfare functions and his or her functions under this Act, may require,

and”,

and

(b) in subsection (3), by the insertion of “and the Minister for Education” after “the Minister”.

Amendment of section 14 of Principal Act**6.** Section 14 of the Principal Act is amended—

(a) in subsection (1)—

(i) in paragraph (a), by the substitution of “functions,” for “functions, and”,

(ii) in paragraph (b)(ii), by the substitution of “Minister, and” for “Minister.”, and

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

“(c) without delay, furnish the Minister for Education with information regarding—

(i) any occurrence or development that, in the opinion of the Agency, the Minister for Education is likely to consider significant for the performance of his or her functions (whether under this Act or otherwise), or

(ii) any other occurrence or development that falls within a class of occurrences or developments that has, having regard to his or her functions (whether under this Act or otherwise), been specified in writing by the Minister for Education.”,

(b) in subsection (2), by the substitution of “under subsection (1)(b)” for “under subsection (1)”,

- (c) by the insertion of the following subsection after subsection (2):
 - “(2A) The Minister for Education may issue guidelines in relation to the furnishing of information under subsection (1)(c) and, if he or she does so, the Agency shall comply with those guidelines.”,
 - (d) by the insertion of the following subsection after subsection (3):
 - “(3A) The Agency shall submit, when required by the Minister for Education to do so, a report on any matters connected with the education welfare functions of the Agency and specified by the Minister for Education.”,
- and
- (e) in subsection (4)—
 - (i) by the insertion of “or (3A)” after “subsection (3)”, and
 - (ii) by the insertion of “under subsection (3) or (3A)” after “the requirement”.

Amendment of section 15 of Principal Act**7.** Section 15 of the Principal Act is amended—

- (a) by the insertion of the following subsection after subsection (1):
 - “(1A) The Minister for Education may, where he or she considers it necessary in the public interest to do so for the performance of his or her functions (whether under this Act or otherwise), require the Agency to furnish him or her with such information or documents as he or she may specify that are in the Agency’s procurement, possession or control, and the Agency shall do so within any period that the Minister for Education may specify and, in any event, without delay.”,
- (b) in subsection (2), by the insertion “or the Minister for Education with information or documents referred to in subsection (1A)” after “subsection (1)”,
- (c) in subsection (3), by the insertion “or the Minister for Education” after “the Minister”, and
- (d) in subsection (4)(a), by the insertion “or the Minister for Education” after “the Minister”.

Amendment of section 16 of Principal Act**8.** Section 16 of the Principal Act is amended—

- (a) in subsection (1)—
 - (i) by the insertion of “or the Minister for Education” after “Minister” where “Minister” first occurs in that subsection, and
 - (ii) by the insertion of “or the Minister for Education, as the case may be,” after “Minister” where “Minister” secondly occurs in that subsection,

- (b) in subsection (2), by the insertion of “or the Minister for Education” after “Minister”, and
- (c) in subsection (3), by the insertion of “or the Minister for Education” after “Minister”.

Amendment of section 17 of Principal Act

9. Section 17(1) of the Principal Act is amended—

- (a) by the insertion of “and the Minister for Education” after “Minister”, and
- (b) by the substitution of “the Minister concerned” for “he or she”.

Amendment of section 18 of Principal Act

10. Section 18 of the Principal Act is amended—

- (a) by the insertion of “or the Minister for Education” after “Minister” where “Minister” first occurs in that section, and
- (b) by the substitution of “the Agency, the Minister or the Minister for Education” for “the Agency or the Minister”.

Amendment of section 19 of Principal Act

11. Section 19 of the Principal Act is amended by the insertion of the following subsections after subsection (2):

“(2A) Subject to subsection (2B), one member of the Board appointed under subsection (2) shall be a nominee of the Minister for Education who, in the opinion of that Minister, has experience of, and expertise in, matters connected to the education welfare functions of the Agency.

(2B) The Minister shall appoint the first person as a member of the Board, in accordance with subsection (2A), no later than 24 September 2023.”.

Amendment of section 20 of Principal Act

12. Section 20 of the Principal Act is amended—

- (a) in subsection (1), by the insertion of “, subject to subsection (1A),” after “appoint”, and
- (b) by the insertion of the following subsection after subsection (1):

“(1A) Where a casual vacancy arises in respect of a member of the Board appointed in accordance with section 19(2A), the person appointed under subsection (1) to fill the casual vacancy shall be a nominee of the Minister for Education who, in the opinion of that Minister, has experience of, and expertise in, matters connected to the education welfare functions of the Agency.”.

Amendment of section 21 of Principal Act

13. Section 21 of the Principal Act is amended—

(a) by the substitution of the following subsection for subsection (3):

“(3) The Board of the Agency shall be accountable—

(a) to the Minister for the performance of its functions, and

(b) to the Minister for Education in respect of the performance by the Agency of its education welfare functions.”,

(b) in subsection (6), by the insertion of “or, in respect of any education welfare functions of the Agency, the Minister for Education,” after “the Minister”,

(c) in subsection (7)—

(i) by the insertion of “or the Minister for Education” after “Minister”, and

(ii) by the substitution of “attention of the Minister concerned” for “Minister’s attention”,

and

(d) in subsection (8), by the insertion of “or, in respect of any education welfare functions of the Agency, the Minister for Education,” after “The Minister”.

Amendment of section 29 of Principal Act

14. Section 29(2) of the Principal Act is amended—

(a) in paragraph (d), by the substitution of “time to time,” for “time to time, and”,

(b) in paragraph (e), by the substitution of “may require, and” for “may require.”, and

(c) by the insertion of the following paragraph after paragraph (e):

“(f) supply the Minister for Education with such information 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 as he or she may require.”.

Amendment of section 40 of Principal Act

15. Section 40(2) of the Principal Act is amended, in paragraph (b), by the insertion of “or the Minister for Education” after “Minister”.

Amendment of section 41 of Principal Act

16. Section 41 of the Principal Act is amended—

(a) by the insertion of the following subsections after subsection (1):

“(1A) 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.

(1B) The Minister for Education shall provide the Minister with policy guidance, direction and prioritisation parameters referred to in subsection (1A) within 4 months before the end of the period to which the current corporate plan relates.”,

and

(b) in subsection (3), by the substitution of “Minister for Education” for “Minister for Education and Skills”.

Amendment of section 42 of Principal Act

17. Section 42 of the Principal Act is amended—

(a) in subsection (2)(e), by the insertion of “, the Minister for Education” after “Minister”,

(b) by the insertion of the following subsections after subsection (3):

“(3A) The Agency shall provide a copy of a corporate plan to the Minister for Education at the same time as it submits the corporate plan to the Minister under subsection (2)(d)(ii).

(3B) Within 30 days of receiving a copy of a corporate plan under subsection (3A), 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.”,

(c) in subsection (4)(c), by the insertion of “or the Minister for Education” after “Minister”, and

(d) in subsection (5)—

(i) in paragraph (a), by the insertion of “with, in so far as the corporate plan relates to the education welfare functions of the Agency, the consent of the Minister for Education” after “the Minister”, and

(ii) in paragraph (b)(ii), by the insertion of “with, in so far as the corporate plan relates to the education welfare functions of the Agency, the consent of the Minister for Education” after “the Minister”.

Amendment of section 44 of Principal Act

18. Section 44 of the Principal Act is amended—

(a) in subsection (1)—

(i) by the insertion of “, in respect of the functions of the Agency other than its education welfare functions,” after “shall”, and

- (ii) by the substitution of “(in this subsection and subsection (1A) referred to as a ‘Performance Statement’)” for “(‘Performance Statement’)”,
- (b) by the insertion of the following subsection after subsection (1):
 - “(1A) The Minister for Education shall, in respect of the education welfare functions of the Agency, develop an annual Performance Statement to 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.”,
- (c) in subsection (2), by the substitution of “and the Minister for Education shall provide the Performance Statement developed by the respective Minister concerned” for “shall provide the Performance Statement”,
- (d) in subsection (3), by the substitution of “Statements” for “Statement”, and
- (e) in subsection (4), by the substitution of “Neither the Minister nor the Minister for Education shall” for “The Minister shall not”.

Amendment of section 45 of Principal Act

19. Section 45 of the Principal Act is amended—

- (a) in subsection (1)—
 - (i) in paragraph (a), by the insertion of “, in respect of its functions other than its education welfare functions,” after “the Agency”, and
 - (ii) by the substitution of the following paragraph for paragraph (b):
 - “(b) notify the Agency of the determination of net expenditure referred to in paragraph (a) in the context of the Performance Statement developed under section 44(1).”,
- (b) by the insertion of the following subsection after subsection (1):
 - “(1A) Subject to subsection (2), the Minister for Education shall, in respect of a financial year of the Agency—
 - (a) 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
 - (b) notify the Agency of the determination of net expenditure referred to in paragraph (a) in the context of the Performance Statement developed under section 44(1A).”,
- (c) in subsection (2)—
 - (i) by the insertion of “or the Minister for Education” after “Minister” where “Minister” first occurs in that subsection, and

(ii) by the substitution of “the Minister concerned may specify in a notification under subsection (1) or (1A), as the case may be” for “the Minister may specify in a notification under subsection (1)”,

and

(d) in subsection (3)—

(i) by the insertion of “and the Minister for Education may amend a determination under subsection (1A)” after “subsection (1)”, and

(ii) by the substitution of “the Minister concerned varies that amount, that Minister” for “the Minister varies that amount, the Minister”.

Amendment of section 46 of Principal Act

20. Section 46 of the Principal Act is amended—

(a) in subsection (1)—

(i) by the substitution of “Statements” for “Statement”, and

(ii) by the insertion of “and the Minister for Education” after “the Minister”,

(b) in subsection (2)—

(i) in paragraph (a)—

(I) by the substitution of “Statements” for “Statement”, and

(II) by the insertion of “and the Minister for Education” after “Minister”,

(ii) in paragraph (e), by the insertion of “or, in respect of the education welfare functions of the Agency, the Minister for Education” after “Minister”, and

(iii) in paragraph (f), by the insertion of “, the Minister for Education” after “Minister”,

(c) in subsection (3)—

(i) by the substitution of “Statements” for “Statement”,

(ii) by the insertion of “and the Minister for Education” after “Minister”, where “Minister” first occurs in that subsection, and

(iii) by the substitution of “the Minister concerned” for “the Minister” where “Minister” secondly occurs in that subsection,

(d) in subsection (4)—

(i) by the insertion of “or, in respect of the functions of the Minister for Education under this Act, the Minister for Education” after “Minister”, and

(ii) the substitution of “in the opinion of the Minister concerned” for “in the Minister’s opinion”,

(e) in subsection (5), by the insertion of “or the Minister for Education, as the case may be,” after “the Minister”, and

- (f) in subsection (8)—
 - (i) in paragraph (a), by the insertion of “and, in respect of the education welfare functions of the Agency, the Minister for Education,” after “the Minister”, and
 - (ii) in paragraph (b), by the insertion of “concerned” after “the Minister”.

Amendment of section 47 of Principal Act**21.** Section 47 of the Principal Act is amended—

- (a) in subsection (1)—
 - (i) by the insertion of “or, in respect of the education welfare functions of the Agency, the Minister for Education” after “Minister” where “Minister” first occurs in that subsection, and
 - (ii) in paragraph (b), by the insertion of “, the Minister for Education” after “Minister”,
- (b) in subsection (2), by the insertion of “or the Minister for Education” after “Minister”,
- (c) in subsection (3), by the insertion of “or the Minister for Education, in respect of a direction given by the Minister concerned,” after “Minister”,
- (d) in subsection (4), by the substitution of “or the Minister for Education in the direction, inform the Minister concerned” for “in the direction, inform the Minister”,
- (e) in subsection (5), by the insertion of “or the Minister for Education” after “Minister”, and
- (f) in subsection (6), by the substitution of “Neither the Minister nor the Minister for Education shall” for “The Minister shall not”.

Amendment of section 48 of Principal Act**22.** Section 48 of the Principal Act is amended—

- (a) in subsection (1)—
 - (i) by the substitution of “the Performance Statements” for “a Performance Statement”, and
 - (ii) by the insertion of “or, in respect of the education welfare functions of the Agency, the Minister for Education,” after “Minister”,
- and
- (b) in subsection (3), by the insertion of “or the Minister for Education” after “Minister”.

Amendment of section 51 of Principal Act

23. Section 51 of the Principal Act is amended by the insertion of the following subsection after subsection (8):

“(8A) If required by the Minister for Education, the Agency shall furnish to that Minister the 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.”.

Amendment of section 52 of Principal Act

24. Section 52 of the Principal Act is amended—

- (a) by the insertion of “or, in respect of the education welfare functions of the Agency, the Minister for Education,” after “Minister” where “Minister” first occurs in that section, and
- (b) by the substitution of “the Minister concerned may think” for “the Minister may think”.

Amendment of section 56 of Principal Act

25. Section 56 of the Principal Act is amended—

- (a) in subsection (1), by the insertion of “or the Minister for Education” after “Minister”,
- (b) by the substitution of the following subsection for subsection (11):

“(11) When requested to do so by the Minister or, where the request relates to the provision of services by a service provider in respect of the education welfare functions of the Agency, the Minister for Education, the Agency shall supply the Minister concerned with any information obtained in response to a request under subsection (8).”.
- (c) in subsection (13), by the insertion of “, other than in relation to the matters referred to in subsection (13A),” after “may”, and
- (d) by the insertion of the following subsections after subsection (13):

“(13A) The Minister for Education may make regulations to provide for the requirements in respect of—

 - (a) the expenditure incurred by the Agency in the provision of services by service providers in respect of the education welfare functions of the Agency, and
 - (b) the provision of those services by service providers.

(13B) Regulations under subsection (13A) may contain such incidental, supplementary and consequential provisions as appear to the Minister for Education to be necessary or expedient for the purposes of the regulations.

- (13C) Every regulation made by the Minister for Education under subsection (13A) 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 such House within the next 21 days on which that House sits after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.”.

Amendment of section 59 of Principal Act

26. Section 59(1) of the Principal Act is amended by the insertion of “or the Minister for Education” after “the Minister”.

Amendment of section 70 of Principal Act

27. Section 70(1) of the Principal Act is amended—
- (a) by the insertion of “and the Minister for Education” after “Minister” where “Minister” first occurs in that subsection, and
 - (b) by the insertion of “or the Minister for Education” after “Minister” where “Minister” secondly occurs in that subsection.

Amendment of section 94 of Principal Act

28. Section 94 of the Principal Act is amended—
- (a) in subsection (2), by the insertion of “and, in a case where that report relates to the education welfare functions of the Agency, the Minister for Education” after “the Minister”, and
 - (b) in subsection (3)—
 - (i) by the insertion of “and, where required under subsection (2), to the Minister for Education” after “Minister” where “Minister” first occurs in that subsection, and
 - (ii) by the insertion of “or, where a report has been submitted to the Minister for Education, that Minister,” after “Minister” where “Minister” secondly occurs in that subsection.

Amendment of section 95 of Principal Act

29. Section 95(1) of the Principal Act is amended by the insertion of “and, in respect of the performance by the Agency of its education welfare functions, with the consent of the Minister for Education,” after “Minister”.

Short title and commencement

30. (1) This Act may be cited as the Child and Family Agency (Amendment) Act 2021.

- (2) This Act shall come into operation on such day or days as the Minister for Children, Equality, Disability, Integration and Youth, following consultation with the Minister for Education, 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 provisions.