



An Bille um Thacaíocht Cúraim Leanaí, 2017
Childcare Support Bill 2017

Meabhrán Mínitheach
Explanatory Memorandum



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EXPLANATORY MEMORANDUM

Purpose of the Bill

The Childcare Support Bill 2017 aims to provide a statutory basis for the Affordable Childcare Scheme, which will replace a number of administrative schemes. The Affordable Childcare Scheme is intended to provide financial support for parents to help meet the cost of childcare. The Scheme will make childcare more affordable for parents through making payments to registered childcare service providers that must be used to offset the fees that the providers charge parents. By making childcare more affordable, the Bill aims to support children's participation in quality childcare, to support parents' participation in the labour market, and – through both these effects – to reduce child poverty.

The Bill provides for both income related financial support, allowing the targeting of support towards parents who face the greatest financial difficulty in affording childcare, and non-income related financial support, allowing a level of support for all parents with children of a prescribed age who use registered childcare services. In addition, the Bill allows for additional support for families where there is an identified need for childcare on grounds of child development or child welfare.

The Bill enables the establishment of an income assessment process that will largely be carried out on an automated basis through data-sharing arrangements with other Government Departments and agencies, thus improving administrative efficiency and streamlining application and registration procedures for parents and for childcare service providers. The Bill provides for the appointment of a scheme administrator; gives a statutory basis for the data-sharing arrangements that will underpin the Scheme; establishes an independent appeals procedure in relation to decisions made under the Scheme; gives statutory powers for authorised officers to examine attendance records and financial records of childcare service providers, in order to ensure the effective use of public funds; and provides for sanctions in the event of fraud or misrepresentation by a parent or by a childcare service provider.

Provisions of the Bill

Section 1: Interpretation

Section 1 provides definitions of key terms used in the Bill. In particular, while “childcare services” include both centre-based childcare and home-based childminding and cover both pre-school and school age childcare, the definition of “childcare services provider” limits participation in the Scheme to childcare services that are registered with the Child and Family Agency under the Child Care Act 1991.

This section also defines “parent” to include a person who is acting *in loco parentis*.

Section 2: Establishment of Scheme

Section 2 provides for the establishment of the Affordable Childcare Scheme (the “Scheme”), to be funded out of monies provided by the Oireachtas each year, and states that the Scheme will be operated by the scheme administrator.

Section 3: Scheme administrator

Section 3 provides for the appointment of the scheme administrator, and limits the type of body that may be the scheme administrator.

Section 4: Functions of scheme administrator

Section 4 describes the functions of the scheme administrator, and provides for the scheme administrator to have necessary powers and to issue guidelines giving practical guidance on the operation of the Scheme.

Section 5: Governance

Section 5 allows the Minister for Children and Youth Affairs (the “Minister”) to issue directions to the scheme administrator and to arrange for inspections, reviews and audits of the scheme administrator in relation to the Scheme.

Section 6: Agreements relating to performance of certain functions

Section 6 allows the scheme administrator (with the consent of the Minister) to enter into agreements with other persons for the provision of some of the scheme administrator’s functions, without removing the scheme administrator’s responsibility for those functions.

Section 7: Persons eligible to apply for financial support

Section 7 sets out the eligibility criteria for parents seeking to apply for financial support under the Scheme. The residency requirements allow for applications not only from parents who are ordinarily resident in the State, but also from EU/EEA citizens who are not resident in the State and from other categories of parents formerly employed or self-employed in the State. In this context, it should be noted that financial support will be limited to childcare services registered under the Child Care Act 1991, which must be located in the State.

Where parents are separated, *section 7* allows both parents to receive financial support, but each parent may only receive support for the days or times that he or she has care of the child.

Section 8: Approved childcare services provider

Section 8 limits participation in the Scheme to “approved” childcare service providers, which must not only be registered with the Child and Family Agency but also have a written agreement with the Minister in relation to the Scheme. This section also specifies the types of provision that may be included within these written agreements.

Section 9: Application for financial support

Section 9 specifies the process by which parents may make applications for financial support under the Scheme, including the information they must provide as part of an application, and allows the scheme administrator to reject an application that does not provide all required information or that is not in the form specified by the scheme administrator.

In particular, this section requires applicants to provide PPS numbers in their application. When applications are for income-related financial support, the Bill enables income data to be gathered through an automated

process involving the Revenue Commissioners and the Department of Employment Affairs and Social Protection on the basis of PPS numbers supplied by the applicant. In such cases, applicants will not be required to supply income information directly. However, this section also allows the scheme administrator to require an applicant to supply additional information – including income information – if this is required in order to determine whether an applicant is eligible for financial support and the amount of support for which they qualify.

Section 10: Information to be given by employers and education and training providers to scheme administrator

As the Bill allows the Minister to vary the number of hours of income related financial support by the extent of parents' participation in the labour market (under *section 13(6)*), there is a requirement that the scheme administrator should be able to verify information on the labour market participation of the applicant (and of his or her partner, where relevant). For the purpose of verification, *section 10* requires employers and education and training providers to provide relevant information to the scheme administrator when requested to do so.

Section 11: Assessment of income

Section 11 requires the scheme administrator to carry out an income assessment, when an application is made for income-related financial support, using the definitions of “income” and “allowable deduction” in *Schedule 1*. This section gives the Minister the power to make regulations on the methodology by which the income assessment should be carried out.

Section 12: Determination of application for financial support

Section 12 specifies the information that the scheme administrator must provide to the applicant after determining the amount of financial support (if any) for which the applicant qualifies, and states that a determination may be valid for 12 months at most.

Section 13: Calculation of amount of financial support

Section 13 gives the Minister the power to make regulations that determine the amount of financial support for which an applicant qualifies, and sets out the factors to which the Minister must have regard when making those regulations. Under this section, the regulations may set out the maximum amounts of financial support (both income-related and non-income related), as well as the methodology for determining what proportion of the maximum amount an applicant qualifies for (which may depend on the applicant's income and the number of children in the family). This section also allows the Minister to vary the number of hours of financial support each week by the extent of labour market participation of the applicant (and his or her partner), and to define “work” and “study” for the purpose of assessing labour market participation under the Scheme.

Section 14: Provision for vulnerable children

Section 14 provides for additional support where there is an identified need for childcare on grounds of child development or child welfare. Additional support may take the form of higher rates of payment (e.g. provision of childcare at no cost to parents), more hours of financial support each week, or wider age-limits for participation in the Scheme.

This section allows the Minister to sign agreements with statutory bodies that specify the procedures by which those statutory bodies may refer children or families for additional childcare support, and the additional support to be provided. *Schedule 2* lists the relevant statutory bodies and the purposes for which they may make referrals under this section. As the nature of the referrals varies between the statutory bodies named in

Schedule 2, this section allows the Minister to sign a separate agreement with each statutory body.

When a child is referred for additional support under a *section 14* agreement, the child's parents do not fall within the definition of an "applicant" in *section 1*. As a result, the eligibility requirements under *section 7*, the application requirements under *section 9* and the assessment and determination provisions under *sections 11-13* are not relevant in such cases.

Section 15: Payment of financial support

Section 15 provides for payment to be made to an approved childcare service provider when a child at that service is the subject of financial support under the Scheme (including additional support under *section 14*), and gives the Minister power to make regulations on the conditions under which payment will be made and on the requirements that both applicants and childcare service providers must meet in order for payments to be made.

Section 16: Changes of circumstances

Section 16 requires an applicant to notify the scheme administrator if he or she is no longer eligible for financial support under the Scheme, or if he or she (or his or her partner) ceases to be engaged in work or study.

Section 17: Reviews

Section 17 allows for parents and childcare service providers to request reviews of decisions made by the scheme administrator and of the amounts paid under the Scheme, and gives the Minister power to make regulations on procedures to be followed in reviews. In cases where an application has been assessed through an automated process, a review allows a parent to request an administrative officer to examine the application. A review is the first stage of the appeals process; a person who wishes to appeal a decision must first seek a review.

This section also allows the scheme administrator to carry out reviews of its own initiative.

Sections 18 and 19: Authorised officers and Powers of authorised officers

Sections 18 and *19* enable the scheme administrator (with the consent of the Minister) to appoint authorised officers who may enter the premises of childcare service providers in order to examine attendance records, financial records and other documents relevant to the Scheme. *Section 19* requires childcare service providers to assist the authorised officers, and makes it an offence to obstruct an authorised officer or to fail to comply with requests for information. Where the premises of a childcare service provider are a dwelling and the occupier does not allow entry to an authorised officer, the authorised officer may seek a warrant from a judge of the District Court authorising entry. *Section 19* also allows an authorised officer to be accompanied by members of the Garda Síochána, where necessary.

Section 20: Appeals

Section 20 establishes an appeals process. (A review under *section 17* must be carried out before an appeal can be made.) *Section 20* requires the scheme administrator, with the consent of the Minister, to appoint a panel of suitable persons to consider appeals, and requires the members of the panel to be independent in the performance of their functions. Persons aggrieved by a decision of the panel will have recourse to the High Court (on a point of law).

Section 21: Recovery of payment of financial support

Section 21 allows the scheme administrator to recover money from parents and from childcare service providers, both in cases of fraud or misrepresentation and in cases of overpayment.

Section 22: Amendment of section 265 of Act of 2005

Section 22 amends the Social Welfare Consolidation Act 2005 so as to refer to the Scheme as a “relevant purpose” for which specified bodies may share information on the basis of a PPS number.

Section 23: Processing of personal data

Section 23 allows the sharing of data between the bodies specified in *Schedule 3* for the purposes identified in *section 23(5)*, which include verifying information provided in an application, assessing the income of an applicant and his or her partner, registering a child at an approved childcare service provider, making payments to a childcare service provider, verifying attendance of children at the provider, and carrying out a review, an appeal or the prosecution of an offence.

Section 24: Regulations

Section 24 describes the power of the Minister to make regulations under the Act.

Section 25: Review of Scheme

Section 25 allows the Minister to conduct a review of the operation of the Scheme and to make a report on its findings to the Oireachtas.

Section 26: Transitional provision

Section 26 allows beneficiaries of the administrative schemes being replaced by the new Scheme to continue receiving the same level of financial support for a transitional period.

Section 27: Expenses

Section 27 provides for expenses incurred by the Minister in the administration of the Scheme to be paid out of monies provided by the Oireachtas.

Section 28: Offences

Section 28 creates sanctions for persons guilty of offences under the Act.

Section 29: Short title and commencement

Section 29 allows commencement of different provisions of the Act at different times.

Schedule 1

Schedule 1 defines “income” and “allowable deductions” for the purpose of income assessments carried out under *section 11*.

Schedule 2

Schedule 2 lists the statutory bodies with which the Minister may make an agreement under *section 14* for additional support, and the purposes for which the additional support may be provided.

Schedule 3

Schedule 3 lists the bodies that may share data under *section 23*.

An Roinn Leanaí agus Gnóthaí Óige,
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