



Children (Leaving Care) Act (Northern Ireland) 2002

2002 CHAPTER 11

An Act to make provision about children and young persons who are being, or have been, looked after by an authority within the meaning of the Children (Northern Ireland) Order 1995; to replace Article 35 of that Order; and for connected purposes. [22nd November 2002]

Further duties of authorities towards children whom they are looking after

1. After Article 34 of the Children (Northern Ireland) Order 1995 (NI 2) (“the Children Order”) there shall be inserted the following Article—

“Preparation for ceasing to be looked after

34A.—(1) Where a child is being looked after by an authority, the authority shall advise, assist and befriend him with a view to promoting his welfare when the authority has ceased to look after him.

(2) Where a child who is being looked after by an authority is an eligible child, the authority shall have the following additional duties in relation to him.

(3) In paragraph (2) “eligible child” means, subject to paragraph (4), a child who—

- (a) is aged 16 or 17; and
- (b) has been looked after by an authority for a prescribed period, or periods amounting in all to a prescribed period, which began after

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he reached a prescribed age and ended after he reached the age of 16.

- (4) The Department may prescribe—
- (a) additional categories of eligible children; and
 - (b) categories of children who are not to be eligible children despite falling within paragraph (3).
- (5) For each eligible child, the authority shall carry out an assessment of his needs with a view to determining what advice, assistance and support it would be appropriate for the authority to provide him under this Order—
- (a) while it is still looking after him; and
 - (b) after it ceases to look after him,
- and shall then prepare a pathway plan for him.
- (6) The authority shall keep the pathway plan under regular review.
- (7) Any such review may be carried out at the same time as a review of the child's case carried out by virtue of Article 45.
- (8) The Department may by regulations make provision as to assessments for the purposes of paragraph (5).
- (9) The regulations may in particular make provision about—
- (a) who is to be consulted in relation to an assessment;
 - (b) the way in which an assessment is to be carried out, by whom and when;
 - (c) the recording of the results of an assessment;
 - (d) the considerations to which the authority is to have regard in carrying out an assessment.
- (10) The authority shall arrange for each eligible child whom it is looking after to have a personal adviser.”

Additional functions of authorities in respect of certain children

2.—(1) In Article 25 of the Children Order (interpretation), at the end of paragraph (2) there shall be added the words “ but does not include accommodation provided under Article 34C or 35B ”.

(2) At the end of the cross-heading preceding Article 35 of the Children Order there shall be added the words “ and young persons ”.

(3) After the cross-heading there shall be inserted the following Articles—

“The responsible authority and relevant children

34B.—(1) The responsible authority shall have the functions set out in Article 34C in respect of a relevant child.

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(2) In paragraph (1) “relevant child” means (subject to paragraph (3)) a child who—

- (a) is not being looked after by an authority;
- (b) was, before last ceasing to be looked after, an eligible child for the purposes of Article 34A; and
- (c) is aged 16 or 17.

(3) The Department may prescribe—

- (a) additional categories of relevant children; and
- (b) categories of children who are not to be relevant children despite falling within paragraph (2).

(4) In paragraph (1) the “responsible authority” is the one which last looked after the child.

(5) If under paragraph (3)(a) the Department prescribes a category of relevant children which includes children who do not fall within paragraph (2) (b) (for example, because they were being looked after by a local authority in Great Britain), the Department may in the regulations also provide for which authority is to be the responsible authority for those children.

Additional functions of the responsible authority in respect of relevant children

34C.—(1) An authority shall take reasonable steps to keep in touch with a relevant child for whom it is the responsible authority, whether he is within the authority's area or not.

(2) An authority shall appoint a personal adviser for each relevant child (if it has not already done so under Article 34A).

(3) An authority, in relation to any relevant child who does not already have a pathway plan prepared for the purposes of Article 34A, shall—

- (a) carry out an assessment of his needs with a view to determining what advice, assistance and support it would be appropriate for the authority to provide him under this Part; and
- (b) prepare a pathway plan for him.

(4) The authority may carry out such an assessment at the same time as any assessment of his needs is made under any statutory provision referred to in sub-paragraphs (a) to (c) of paragraph 4 of Schedule 2, or under any other statutory provision.

(5) The Department may by regulations make provision as to assessments for the purposes of paragraph (3).

(6) The regulations may in particular provide for the matters set out in Article 34A(9).

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(7) The authority shall keep the pathway plan under regular review.

(8) The responsible authority shall safeguard and promote the child's welfare and, unless the authority is satisfied that his welfare does not require it, support him by—

- (a) maintaining him;
- (b) providing him with or maintaining him in suitable accommodation; and
- (c) providing support of such other descriptions as may be prescribed.

(9) Support under paragraph (8) may be in cash.

(10) The Department may by regulations make provision about the meaning of “suitable accommodation” and in particular about the suitability of landlords or other providers of accommodation.

(11) If it has lost touch with a relevant child, despite taking reasonable steps to keep in touch, the authority must without delay—

- (a) consider how to re-establish contact; and
- (b) take reasonable steps to do so,

and while the child is still a relevant child the authority must continue to take such steps until it succeeds.

(12) Paragraphs (7) to (9) of Article 18 apply in relation to support given under this Article as they apply in relation to assistance given under Article 18.

(13) Paragraphs (2) and (3) of Article 26 apply in relation to any decision by an authority for the purposes of this Article as they apply in relation to the decisions referred to in that Article.

Continuing functions in respect of former relevant children

34D.—(1) Each authority shall have the duties provided for in this Article towards—

- (a) a person who has been a relevant child for the purposes of Article 34B (and would be one if he were under 18), and in relation to whom that authority was the last responsible authority; and
- (b) a person who was being looked after by that authority when he attained the age of 18, and immediately before ceasing to be looked after was an eligible child,

and in this Article such a person is referred to as a “former relevant child”.

(2) The authority shall take reasonable steps—

- (a) to keep in touch with a former relevant child whether he is within the authority's area or not; and
- (b) if the authority loses touch with him, to re-establish contact.

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- (3) The authority shall—
- (a) continue the appointment of a personal adviser for a former relevant child; and
 - (b) continue to keep his pathway plan under regular review.
- (4) The authority shall give a former relevant child—
- (a) assistance of the kind referred to in Article 35B(1), to the extent that his welfare requires it;
 - (b) assistance of the kind referred to in Article 35B(2), to the extent that his welfare and his educational or training needs require it;
 - (c) other assistance, to the extent that his welfare requires it.
- (5) The assistance given under paragraph (4)(c) may be in kind or, in exceptional circumstances, in cash.
- (6) Subject to paragraph (7), the duties set out in paragraphs (2), (3) and (4) subsist until the former relevant child reaches the age of 21.
- (7) If the former relevant child's pathway plan sets out a programme of education or training which extends beyond his twenty-first birthday—
- (a) the duty set out in paragraph (4)(b) continues to subsist for so long as the former relevant child continues to pursue that programme; and
 - (b) the duties set out in paragraphs (2) and (3) continue to subsist concurrently with that duty.
- (8) For the purposes of paragraph (7)(a) there shall be disregarded any interruption in a former relevant child's pursuance of a programme of education or training if the authority is satisfied that he will resume it as soon as is reasonably practicable.
- (9) Article 35B(5) applies in relation to a person being given assistance under paragraph (4)(b) as it applies in relation to a person to whom Article 35B(3) applies.
- (10) Paragraphs (7) to (9) of Article 18 apply in relation to assistance given under this Article as they apply in relation to assistance given under Article 18.”.

Personal advisers and pathway plans

3. After Article 34D of the Children Order (inserted by section 2) there shall be inserted the following Articles—

“Personal advisers

34E.—(1) The Department may by regulations require every authority to appoint a personal adviser for children or young persons of a prescribed

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description who have reached the age of 16 but not the age of 21 who are not—

- (a) the children referred to in Article 34A(10);
- (b) children who are relevant children for the purposes of Article 34B;
or
- (c) the young persons referred to in Article 34D.

(2) Personal advisers appointed under this Part shall (in addition to any other functions) have such functions as the Department prescribes.

Pathway plans

34F.—(1) In this Part, a reference to a “pathway plan” is to a plan setting out—

- (a) in the case of a plan prepared under Article 34A—
 - (i) the advice, assistance and support which the authority intends to provide a child under this Part, both while the authority is looking after him and later; and
 - (ii) when the authority might cease to look after him; and
- (b) in the case of a plan prepared under Article 34C, the advice, assistance and support which the authority intends to provide under this Part,

and dealing with such other matters (if any) as may be prescribed.

(2) The Department may by regulations make provision about pathway plans and their review.”.

Advice and assistance for certain children and young persons aged 16 or over

4. For Article 35 of the Children Order (advice and assistance for certain children), there shall be substituted the following Articles—

“Persons qualifying for advice and assistance

35.—(1) In this Part “a person qualifying for advice and assistance” means a person who—

- (a) is under 21; and
- (b) at any time after reaching the age of 16 but while still a child was, but is no longer, looked after, accommodated or fostered.

(2) In paragraph (1)(b) “looked after, accommodated or fostered” means—

- (a) looked after by an authority;
- (b) accommodated by or on behalf of a voluntary organisation;

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- (c) accommodated in a registered children's home;
- (d) accommodated for a consecutive period of at least three months in—
 - (i) any accommodation provided by an education and library board; or
 - (ii) any residential care home; or
 - (iii) any hospital; or
 - (iv) any nursing home; or
 - (v) any prescribed accommodation; or
- (e) privately fostered.

(3) Paragraph (2)(d) applies even if the period of three months mentioned there began before the child reached the age of 16.

(4) In the case of a person qualifying for advice and assistance by virtue of paragraph (2)(a), the authority which last looked after him shall take such steps as it thinks appropriate to contact him at such times as it thinks appropriate with a view to discharging its functions under Articles 35A and 35B.

(5) In each of Articles 35A and 35B, the authority under the duty or having the power mentioned there (“the relevant authority”) is—

- (a) in the case of a person qualifying for advice and assistance by virtue of paragraph (2)(a), the authority which last looked after him; or
- (b) in the case of any other person qualifying for advice and assistance, the authority within whose area the person is (if he has asked for help of a kind which can be given under Article 35A or 35B).

Advice and assistance

35A.—(1) The relevant authority shall consider whether the conditions in paragraph (2) are satisfied in relation to a person qualifying for advice and assistance.

- (2) The conditions are that—
 - (a) he needs help of a kind which the authority can give under this Article or Article 35B; and
 - (b) in the case of a person who was not being looked after by an authority, the relevant authority is satisfied that the person by whom he was being looked after does not have the necessary facilities for advising or befriending him.
- (3) If the conditions are satisfied—

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(a) the relevant authority shall advise and befriend him if he was being looked after by an authority or was accommodated by or on behalf of a voluntary organisation; and

(b) in any other case the relevant authority may do so.

(4) Where as a result of this Article an authority is under a duty, or is empowered, to advise and befriend a person, it may also give him assistance.

(5) The assistance may be in kind or, in exceptional circumstances, in cash.

(6) Paragraphs (7) to (9) of Article 18 apply in relation to assistance given under this Article or Article 35B as they apply in relation to assistance given under Article 18.

Employment, education and training

35B.—(1) The relevant authority may give assistance to any person who qualifies for advice and assistance by virtue of Article 35(2)(a) by contributing to expenses incurred by him in living near the place where he is, or will be, employed or seeking employment.

(2) The relevant authority may give assistance to a person to whom paragraph (3) applies by—

(a) contributing to expenses incurred by the person in question in living near the place where he is, or will be, receiving education or training; or

(b) making a grant to enable him to meet expenses connected with his education or training.

(3) This paragraph applies to any person who—

(a) is under 24; and

(b) qualifies for advice and assistance by virtue of Article 35(2)(a), or would have done so if he were under 21.

(4) Where an authority is assisting a person under paragraph (2) it may disregard any interruption in his attendance on the course if he resumes it as soon as is reasonably practicable.

(5) Where the authority is satisfied that a person to whom paragraph (3) applies who is in full-time further or higher education needs accommodation during a vacation because his term-time accommodation is not available to him then, the authority shall give him assistance by—

(a) providing him with suitable accommodation during the vacation; or

(b) paying him enough to enable him to secure such accommodation himself.

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(6) The Department may prescribe the meaning of “full-time”, “further education”, “higher education” and “vacation” for the purposes of paragraph (5).

Information

35C.—(1) Where it appears to an authority that a person—

- (a) with whom it is under a duty to keep in touch under Article 34C, 34D or 35; or
- (b) whom it has been advising and befriending under Article 35A; or
- (c) to whom it has been giving assistance under Article 35B,

proposes to live, or is living, in the area of another authority, the authority must inform that other authority.

(2) Where a child who is accommodated—

- (a) by a voluntary organisation or in a registered children's home; or
- (b) as mentioned in Article 35(2)(d),

ceases to be so accommodated, after reaching the age of 16, the person providing the accommodation shall inform the authority within whose area the child proposes to live.”.

Representations

5. After Article 35C of the Children Order (inserted by section 4) there shall be inserted the following Article—

“Representations: Articles 34B to 35B

35D.—(1) Every authority shall establish a procedure for considering representations (including complaints) made to it by—

- (a) a relevant child for the purposes of Article 34B or a young person falling within Article 34D;
- (b) a person qualifying for advice and assistance; or
- (c) a person falling within Article 35B(2),

about the discharge of its functions under this Part in relation to him.

(2) In considering representations under paragraph (1), an authority shall comply with regulations made by the Department for the purposes of this paragraph.”.

Exclusion from benefits

6.—(1) No person is entitled to income-based jobseeker's allowance under the Jobseekers (Northern Ireland) Order 1995 (NI 15), or to income support or

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housing benefit under the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7), while he is a person to whom this section applies.

(2) Subject to subsection (3), this section applies to—

- (a) an eligible child for the purposes of Article 34A of the Children Order; and
- (b) a relevant child for the purposes of Article 34B of that Order.

(3) The Department for Social Development may by regulations provide that this section does not apply to a person who falls within subsection (2) but who also falls within such category or description, or satisfies such conditions, as may be prescribed in the regulations.

(4) The Department for Social Development may in regulations make such transitional, consequential and saving provision as it considers necessary or expedient in connection with the coming into operation of this section.

(5) Section 171(3) to (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) (supplemental power in relation to regulations) applies to regulations made under this section as it applies to regulations made under that Act.

(6) Regulations under this section shall be subject to negative resolution.

Minor and consequential amendments and repeals

7.—(1) The Children Order shall have effect subject to the following minor and consequential amendments and repeals.

(2) In Article 2(8) (references to accommodation provided by an authority), after “this Order” insert “ except in Articles 34C and 35B” .

(3) In Article 18 (provision of services for children in need, their families and others), in paragraph (5)(a), for “35 or 36” there shall be substituted “ 34C to 34E, 35A or 35B ”.

(4) Articles 36 and 37 are hereby repealed.

(5) In Article 46 (co-operation between authorities and other bodies)—

(a) at the beginning of paragraph (4), insert “Except where paragraph (4A) applies,”; and

(b) after paragraph (4) there shall be added the following paragraph—

“(4A) Where an authority (“authority A”) complies with any request under Article 46(2) from another authority (“authority B”) in relation to a child or other person—

- (a) whose responsible authority is authority B for the purposes of Article 34C or 34D; or
- (b) whom authority B is advising or befriending or to whom it is giving assistance by virtue of Article 35(5)(a),

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authority A may recover from authority B any reasonable expenses incurred by it in respect of that person.”.

(6) In Part I of Schedule 2 (provision of services for families), in paragraph 2(1)(a) and in paragraph 2A(1)(a), for “35 and 36” substitute “ 34C to 34E, 35A and 35B ”.

Interpretation

8. In this Act “the Children Order” means the Children (Northern Ireland) Order 1995 (NI 2).

Short title and commencement

9.—(1) This Act may be cited as the Children (Leaving Care) Act (Northern Ireland) 2002.

(2) Sections 1 to 5 and 7 shall come into operation on such day as the Department of Health, Social Services and Public Safety may by order appoint^{F1}.

(3) Section 6 shall come into operation on such day as the Department for Social Development may by order appoint^{F2}.

(4) An order under subsection (2) or subsection (3) may make such transitional, consequential or saving provision as the Department making the order considers necessary or expedient.

F1 fully exercised by SR 2005/189

F2 fully exercised by SR 2005/319

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Changes and effects yet to be applied to :

- [s. 6\(1\) words repealed by 2010 c. 13 \(N.I.\) Sch. 4 Pt. 1](#)