

Foreword

‘Operating a Childcare Service, A Guide to Key Legislation’ is a publication of the Clare County Childcare Committee. The Child Care Act 1991 (Part VII) is the overriding piece of legislation for the childcare sector and aims to protect the health, safety and welfare of children. This Act facilitated the introduction of the Child Care (Pre-school Services) Regulations, 1996. These Regulations have now been replaced by the Child Care (Pre-School Services) (No 2) Regulations 2006, and the Child Care (Pre-School Services) (No 2) (Amendment) Regulations 2006. There are however, many other areas of legislation to be followed alongside the Child Care Act, 1991 and the Child Care (Pre-school Services) Regulations, 2006. The aim of this guide, therefore, is to highlight the many legal requirements to be followed by those operating a childcare service. The guide is divided under key headings highlighting the areas to be considered and points of contact are included. Readers of the guide will be prompted to source further information on the legislation referred to and to read the full versions of the legislation. The information contained in this booklet is to be used as a guide. It is not a complete or authoritative statement of the law or a legal interpretation. The intention is to create awareness in an accessible way using everyday language/terms as much as is possible. In the case of doubt or where further information is required please consult with the relevant agency.

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- Dolores Nevin - Local Development/Partnership Groups Representative on Clare County Childcare Committee
- Siobhan Hopkins – Manager of Bridge Kids Childcare Centre, Sixmilebridge, Clare
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- Department of Health and Children
- Children’s Rights Alliance
- Office of the Data Protection Commissioner

An extensive range of publications and website information has also been vital to the production of this guide, in particular the Citizens Information Board www.citizensinformation.ie/categories. Please also see Section Eleven: Recommended Reading.

Disclaimer: every effort has been made to ensure that the information in this publication is accurate and up to date. Clare County Childcare Committee can accept no responsibility for any loss or distress occasioned to any person acting or refraining from acting as a result of material in this publication and under no circumstances will be liable in respect of error(s), omissions or typographical errors.

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Introduction

The aim of this booklet is primarily to raise awareness amongst childcare providers/committees /employees of their legal requirements in operating a childcare service and to provide points of contact for information/training in order to comply with legislative requirements. The booklet may also be of benefit to parents/guardians whose children are attending childcare services. Please note that this booklet **is a guide and legislation has been summarised for this purpose.**

Many areas of legislation are relevant to the Childcare Sector and it is therefore vital that childcare providers/committees/employees are informed about such legislation and that this information is up to date. This includes Childminders working in the home as they are also running a service, and therefore legislation is relevant to them also.

According to the Child Care (Pre-School Services) (No 2) Regulations 2006, Child Care (Pre-School Services) (No 2) (Amendment) Regulations 2006 providers of sessional/ part-time/full-day/overnight/ drop-in or childminding services for children up to the age of 6 years, are required to notify in writing the Health Service Executive (HSE), prior to the service commencing. Exemptions from Regulations apply to:

- the care of one or more pre-school children undertaken by a relative of the child or children or the spouse of such relative
- a person taking care of one or more pre-school children of the same family and no other such children (other than that person's own such children) in that person's home
- a person taking care of not more than 3 pre-school children of different families (other than that person's own such children) in that person's home

A copy of Part VII of the Childcare Act 1991 and the Childcare (Pre-school services) Regulations 2006 must be kept on the premises. To download a copy of the regulations, go to www.omc.gov.ie. The HSE Preschool Inspection Team in Clare also offer an Advisory Service – please see contact details given in the Guide

Clare County Childcare Committee aims to provide helpful, comprehensive and current best practice information on all aspects of childcare. While Clare County Childcare Committee provides training and information in relation to complying with Legislative Requirements, this booklet gives details of Government/Not for Profit agencies which provide specialised information and in some cases training to childcare providers.

Legislation covered in this booklet is divided under the following headings:

- Child Welfare and Development
- Building and Environment
- Employment; Employers and Employees
- Management and Governance
- Health and Safety for All
- Record Keeping
- Notification and Inspections

Section One

**Relevant Legislation to
Operating a Childcare Service**



- Adoptive Leave Acts, 1995-2005
- Building Control Act, 1990 and 2007
- Building Regulations, 1997-2007
- Building Control Regulations, 1997-2004
- Carer's Leave Act, 2001
- Charities Act, 1961 and 1973 (*see Charities Bill, 2007, Section 10*)
- Childcare Act, 1991 (Part VII)
- Childcare (Pre-school Services) Regulations, 2006 and Childcare (Pre-school Services) (No 2) (Amendment) Regulations, 2006
- Childcare (Amendment) Act, 2007
- Companies Acts, 1963-2006
- Data Protection Acts, 1988 and 2003
- Domestic Gas Installations I.S 813: 2002
- Employment Equality Acts, 1998 and 2004
- Equal Status Act, 2000 - 2004
- European Communities (Hygiene of Foodstuffs) Regulations, 2006
- Finance Acts, 1967-2008
- Fire Services Act, 1981
- Food Safety Authority of Ireland Act, 1998
- Freedom of Information Act, 1997-2006
- Income Tax Act, 1967
- Juries Act, 1976
- Maternity Protection Acts, 1994-2004
- Maternity Protection Regulations, 2004
- Minimum Notice Acts, 1973-2001
- National Rules for Electrical Installations (ET 101)
- National Minimum Wage Act, 2000
- Non-Domestic Gas Installations I.S 820: 2000
- Organisation of Working Time Act, 1997
- Payment of Wages Act, 1991
- Parental Leave Acts, 1998-2006
- Pensions (Amendment) Act, 2002
- Planning and Development Acts, 2000-2006
- Planning and Development Regulations, 2001 and 2006 (S.I. No 685 of 2006)
- Planning and Development (No.2) Regulations, 2007 (S.I. 135of 2007)
- Protection of Employees (Fixed Term Work) Act, 2003
- Protection of Employees (Part-time Work) Act, 2001
- Protection of Persons Reporting Child Abuse Act, 1998
- Protection of Young Persons (Employment) Act, 1996

- Radiological Protection Act 1991 (Ionising Radiation) Order, 2000 (SI 125 of 2000)
- Safety, Health and Welfare at Work Act, 2005
- Safety, Health and Welfare at Work (General Applications) Regulations, 2007 as amended
- Safety of Household and Similar Electrical Appliances (General Requirements) I.S. 205: Part One: 1980
- Safety of Electrical Commercial Catering Equipment B.S 5783
- Terms of Employment (Information) Acts, 1994-2001
- Public Health (Tobacco) Act 2002-2004, (Sec 47) Regulations, 2003
- Unfair Dismissals Acts, 1977-2007
- Water Supply Regulations European Communities (Drinking Water) (No.2) Regulations, 2007

Please also note **Section 10: Pending Legislation and Frameworks**

To Purchase Publications:

Government Publications Office

Sun Alliance House

Molesworth Street

Dublin 2

Tel: 01 6476879

Website: www.irishstatutebook.ie

Section Two

Child Welfare and Development

This section highlights areas for consideration in relation to legislation which have implications for child welfare and development. Details of Government/Not for Profit agencies which provide specialised information and in some cases training to childcare providers are also included.



Legal Requirements:

Protection of Persons Reporting Child Abuse Act, 1998

- Provides immunity from civil liability to any person who reports child abuse “reasonably and in good faith” to the HSE or An Garda Síochána
- Provides protection to employees from penalisation for having reported child abuse if the employee has acted reasonably and in good faith
- False reporting of child abuse is an offence – person makes a report knowing the statement is false

Equal Status Act, 2000 - 2004

- Discrimination is prohibited on grounds of disability, marital status, race, family status, membership of Traveller community, sexual orientation, religious belief, age and gender
- Discrimination is prohibited in relation to the admission or the terms or conditions of admission, the access of any student to any course, facility or benefit, any other term or condition of participation or the expulsion of a student or other sanction

Note:

- There are several significant exemptions in the Act

Childcare Act, 1991 (Part VII) – Supervision of Pre-school Services

- A person running or proposing to run a childcare service must notify the HSE – see exemptions in Part VII Section 58 Childcare Act, 1991
- Duty of every person running a childcare service to take all reasonable measures to safeguard the health, safety and welfare of children attending the service and to comply with regulations
- A person who refuses to allow an authorised person to enter any premises or who obstructs or impedes an authorised person in the exercise of any of their powers shall be guilty of an offence and shall be liable on summary conviction to a fine
- Where a person is convicted of an offence under this Part the court may, either in addition to or in substitution for the imposition of a fine, by order declare that the person shall be prohibited from running a childcare service for a specific period
- A person who contravenes an order made under this Part shall be guilty of an offence and shall be liable on summary conviction to a fine or to imprisonment for a term not exceeding 12 months or both

Note:

- This Act contains a number of provisions relating to the care, protection, and welfare of children under the age of eighteen in Ireland
- Part VII of the Act facilitated the introduction of the Childcare (Pre-School Services) Regulations 1996 which have since been replaced by the 2006 Regulations

- When the HSE has received notification from a childcare service, an authorised person shall be entitled at all reasonable times to enter any premises (including a private dwelling) in which the service is being carried on
- This Act does not apply to the care of one or more pre-school children undertaken by a relative of the child or children or the spouse of such relative, a person taking care of one or more pre-school children of the same family and no other such children (other than that person's own such children) in that person's home and a person taking care of not more than 3 pre-school children of different families (other than that person's own such children) in that person's home
- Part V Jurisdiction and Procedure, Section 24 outlines that the welfare of the child is to be paramount in any proceedings before a court under this Act having regard to the rights and duties of parents and in so far as is practicable, shall give due consideration, having regard to the child's age and understanding, to the wishes of the child

Child Care (Pre-School Services) (No 2) Regulations, 2006, Child Care (Pre-School Services) (No 2) (Amendment) Regulations, 2006

- Garda Vetting of all Staff, Students and Volunteers prior to any person being appointed or allowed access to a child
- Behaviour Management Policy
- Not to inflict corporal punishment
- Not to carry out disrespectful, intimidating, physically harmful or neglectful practices
- Facilitate each child's learning, development and well-being in a developmentally and culturally appropriate way
- Sufficient furniture, and play equipment
- Adequate facilities for rest and play
- Adequate and suitable facilities for play indoors and outdoors having regard to the number and age of children attending the service and the amount of time spent in the premises

Note:

- The legal requirements for Garda vetting apply when An Garda Síochána have set down such procedures to make such vetting available
- If Garda Vetting is not available for staff outside the jurisdiction – ensure necessary police vetting from other police authorities



Points of Contact in relation to Legislation:

1. Barnardos Vetting Service, The Bowling Green, White Street, Cork.
Tel: 021 4547060 Email: vetting@barnardos.ie
2. Garda Central Vetting Unit, Racecourse Road, Thurles, Co.Tipperary.
Tel: 0504 27300
3. Irish Pre-school Playgroups Association, The Early Childhood Organisation,
Unit 4, Broomhill Business Complex, Broomhill Road, Tallaght, Dublin 24,
Tel: 01 6719245, Email: info@ippa.ie Website: www.ippa.ie (Garda Vetting for members)
4. National Children's Nurseries Association (NCNA), Unit 12c, Bluebell Business Park,
Old Naas Road, Bluebell, Dublin 12, Tel: 01 460 1138, Email: info@ncna.ie
Website: www.ncna.net (Garda vetting for members)
5. Children First Advice and Information Officer River House, Gort Road, Ennis,
Tel: 065 6863927
6. HSE Pre-school Inspection and Information Services (Clare Local Health Office)
River House, Gort Road, Ennis, Co.Clare Tel: 065 6863902
7. Sláinte Health Information Centre, Museum House, Francis Street, Ennis.
Tel: 065 6865800/6865839
8. Health Promotion Unit Department of Health and Children, Hawkins House,
Hawkins Street, Dublin 2, Ireland. Tel: 01 6354000, Fax: 01 6354372,
Website: www.healthpromotion.ie
9. Department of Health and Children, Hawkins House, Hawkins Street, Dublin 2.
Tel: 01 6354000 Website: www.dohc.ie
10. Equality Authority, 2 Clonmel Street, Dublin 2,
Tel: LoCall 1890 245 545/ 01 4173333, Email: info@equality.ie Website: www.equality.ie
11. Clare Immigrant Support Centre, Unit 13, Carmody Street Business Park,
Carmody Street, Ennis. Tel: 065 6822026
12. National Disability Authority, 25 Clyde Road, Dublin 4.
Tel: 01 6080400, Email: nda@nda.ie Website: www.nda.ie
13. National Council for Curriculum and Assessment, 24 Merrion Square, Dublin 2.
Tel: 01 6617177, Email: info@ncca.ie Website: www.ncca.ie
14. Disability Equality Specialist Support Agency, Fumbally Court, Fumbally Lane, Dublin 8.
Tel: 01 4163548, Email: info@dessa.ie Website: www.dessa.ie
15. Clare Children's Services, Lifford Road, Ennis, Clare. Tel: 065 6863500,
Email: ceis@mail.hse.ie
16. National Voluntary Childcare Collaborative, c/o IPPA, The Early Childhood Organisation,
Unit 4, Broomhill Business Complex, Broomhill Road, Tallaght, D 24. Tel: 01 4630031
or 01 4630010 Email: cheadon@ippa.ie Website: www.nvcc.ie
17. Children's Rights Alliance, 4 Upper Mount Street, Dublin 2. Tel: 01 6629400,
Email: info@childrensrights.ie Website: www.childrensrights.ie
18. Pavee Point Travellers Centre, 46 North Great Charles Street, Dublin 1.
Tel: 01 8780255, Email: ecce@pavee.iol.ie, Website: www.paveepoint.ie
19. Ombudsman for Children, Ombudsman for Children's Office, Millennium House,
52-56 Great Strand Street, Dublin 1. LoCall 1890654654 or 01 8656800
Email: oco@oco.ie Website: www.oco.ie
20. EDENN: Equality and Diversity Early Childhood National Network,
Pavee Point Travellers Centre, 46 North Great Charles Street, Dublin 1.
Tel: 01 8780255, Email: ecce@pavee.iol.ie, Website: www.paveepoint.ie
21. FÁS Ireland's National Training and Employment Authority, Head Office:
27-33 Upper Baggot Street, Dublin 4 Tel: 01 607 0500 Email: info@fas.ie Website: www.fas.ie

Section Three

Building and Environment

This section highlights areas for consideration in relation to legislation which have implications for building and the environment. Details of Government/Not for Profit agencies which provide specialised information and in some cases training to childcare providers are also included.



Legal Requirements:

Planning and Development Acts, 2000-2006, Planning and Development Regulations, 2001 and 2006 (S.I. No 685 of 2006) Planning and Development (No.2) Regulations, 2007 (S.I. 135of 2007)

- Regulations must be followed which include planning permission for new buildings and renovations or extensions of existing buildings such as the notice and display of planning application, time limits, content of application, and particulars to accompany applications

Note:

- Planning permission for new buildings is not required for the use of a house for childminding (caring for no more than 5 children). It is important to note that regulations are constantly being revised

Building Control Act, 1990 and 2007 Building Regulations, 1997-2007 Building Control Regulations, 1997-2004

- Regulations must be followed which include Fire safety certificates for non residential buildings, new buildings, change of use of buildings, alterations, extensions, and access for people with disabilities

Note:

- For Childminders who do not require a Fire Safety Certificate it is still advisable to arrange a visit from your local Fire Officer/local Professional Fire Safety Expert
- Childminders are exempt from the "Change of Use" Requirement, and have been since 2002

Child Care (Pre-School Services) (No 2) Regulations, 2006, Child Care (Pre-School Services) (No 2) (Amendment) Regulations, 2006

- Premises - stable structure are safe and suitable for providing a childcare service
- Adequate space per child is provided
- Premises, fixtures and fittings are maintained, in hygienic condition and protected from infestation
- Adequate and suitable storage is provided for all items
- Suitable and adequate means of ventilation
- Suitable and effective means of drainage and sewage disposal
- Suitable and adequate lighting
- Adequate and suitable sanitary facilities
- Adequate and suitable means of heating
- Heating system liable to emit offensive or harmful gases, fumes or odours is not permitted

Water Supply Regulations European Communities (Drinking Water) (No.2) Regulations, 2007

- Connected to approved water scheme

Radiological Protection Act 1991 (Ionising Radiation) Order, 2000 (SI 125 of 2000)

- Radiological protection in all work places where there may be sources of radon

National Rules for Electrical Installations (ET 101), Safety of Electrical Commercial Catering Equipment B.S 5783, Safety of Household and Similar Electrical Appliances (General Requirements) I.S. 205: Part One: 1980

- Correct installation and use of electricity, including catering equipment

Domestic Gas Installations I.S 813: 2002, Non-Domestic Gas Installations I.S 820: 2000

- Correct installation and use of Gas

Points of Contact in relation to Legislation:



1. Clare County Council; Building Control Authority Central Fire Station, New Road, Ennis, Co. Clare, Tel: 065 6846302, Website: www.clare.ie
2. Environmental Protection Agency, PO Box 3000, Castle Estate, Co.Wexford, Lo Call: 1890 335599, Tel: 053 9160600, Email: info@epa.ie Website: www.epa.ie
3. Electro-Technical Council of Ireland Ltd, Unit H12, Centrepoint Business Park, Oak Road, Dublin 12. Tel: 01 4290088 Email: info@etci.ie Website: www.etci.ie
4. Irish Wheelchair Association Áras Chúchulainn, Blackheath Drive, Clontarf, Dublin 3. Tel: 01 8186 400, Fax: 01 8333 873, Email: info@iwa.ie, Website: www.iwa.ie
5. National Standards Authority of Ireland, 1 Swift Square, Northwood, Santry, Dublin 9. Tel: 01 8073800 Email: nsai@nsai.ie Website: www.nsai.ie
6. HSE Pre-school Inspection and Information Services (Clare Local Health Office) River House, Gort Road, Ennis, Co.Clare Tel: 065 6863902
7. Radiological Protection Institute of Ireland, 3 Clonskeagh Square, Clonskeagh Road, Dublin 14. Tel: 01 2697766 Email: rpri@rpri.ie

Section Four

Employment; Employers and Employees

This section highlights areas for consideration in relation to legislation which have implications for employment both for employers and employees. Details of Government/Not for Profit agencies which provide specialised information and in some cases training to childcare providers are also included.



Legal Requirements:

Income Tax Act, 1967 & Finance Acts, 1967-2008

- Payment of Tax
- Register as an employer/company (TR1 and TR2 forms) with local tax office

Note:

- Childminders can qualify for tax relief if the total income in a tax year does not exceed €15,000. You must be childminding no more than 3 children at any one time in your home
- Childminders must complete a TR1 form and have a PPS number
- Services that have charitable status can be granted Tax exemption and in order to do so require a legal structure and a governing instrument

National Minimum Wage Act, 2000

- Employees are entitled to a set minimum wage. There are sub minimum rates for the employment of people under 18 and to employees who are over 18 and undergoing a course of structured training or directed study that is authorised or approved of by the employer.

Note:

Current minimum wage is €8.65 (2008; figure subject to change)

Minimum Notice Acts, 1973-2001

- Employees who have 13 weeks or more service are entitled to minimum notice

Payment of Wages Act, 1991

- A written statement must be given to employees each time they receive a payment

Adoptive Leave Acts, 1995-2005

- Employer must be notified in writing of intention by employee to take such leave, no later than four weeks prior to date of commencement

Note:

- Adoptive Leave covers adoptive mothers and fathers

Parental Leave Acts, 1998 – 2006

- If illness or injury to a family member occurs, the employee is entitled to leave with pay for up to three days in a 12 month period and 5 days in a 36 month period
- Employees that have one year's continuous service in employment are entitled to unpaid leave for 14 weeks to take care of their child

Note:

- Applies to children up to the age of 8 years and for children with a disability up to the age of 16 years. For multiple births; 14 weeks per child allowed

Juries Act, 1976

- Employees are entitled to paid leave during the period of Jury Duty

Maternity Protection Acts, 1994 -2004 Maternity Protection Regulations, 2004

- Employees must give written notice to employers of intention to take maternity leave no later than four weeks prior to commencement
- Written notice to include confirmation from GP or hospital
- Employees are entitled to 26 weeks statutory Maternity Leave (paid) and the option of 16 weeks additional leave which is unpaid
- Employees must leave work to go on maternity leave 2 weeks prior to the end of the week of the baby's expected day of birth and must remain on leave 4 weeks after the birth of the baby
- Employees are entitled to time off without loss of pay for ante-natal or post natal care
- Employees (including expectant fathers) are entitled to time off to attend ante-natal classes (pregnant employee paid time for one set of classes, expectant father paid time off for 2 classes)
- Breast feeding mothers are entitled to time off work with pay or reduction of working hours

Note:

- This legislation also covers the protection of certain employment rights and protection against dismissal, and the right to return to work after leave
- Fathers are entitled to maternity leave if the mother dies within 24 weeks of having given birth
- Childminders who are on maternity leave can employ a person to keep their service open with minimum disruption to the children
- A number of additional entitlements are at the discretion of the employer

Safety, Health and Welfare at Work (General Applications) Regulations, 2007

- An employee (pregnant/breastfeeding/recently given birth) may be entitled to payment of Health and Safety leave

Note:

- A risk assessment must be carried out to establish if there are any risks to the safety or health of the employee. Risks must be assessed which involve exposure to certain agents, processes or working conditions (including but not limited to those specified in Regulations)
- If hazards are identified which cannot be eliminated or reduced and if no other suitable or appropriate work is available for the employee to be moved to, they can be granted Health and Safety leave
- Leave period does not have to be a consecutive period of time
- An employee granted leave must be paid their usual wage for 21 days and after this period may be entitled to a social welfare benefit subject to PRSI contributions

Carer's Leave Act, 2001

- Carer's Leave allows employees to leave their employment temporarily for a period up to 104 weeks to provide full-time care for people in need of full-time care and attention.

Note:

- The leave will be unpaid but those who propose to avail of Carer's Leave will have their jobs kept open for them for the duration of the leave. Eligibility for Carer's Benefit is not a prerequisite for Carer's Leave.
- You must have worked for your employer for a continuous period of 12 months to be eligible to apply for carer's leave.
- You may be eligible for Carer's Benefit if you have enough PRSI contributions.
- The person you are proposing to care for must be deemed to be in need of full-time care and attention by a deciding officer of the Department of Social and Family Affairs. The decision by the Department is reached on the basis of information provided by the family doctor (GP) of the person whom you will be caring for.
- Your employer may refuse (on reasonable grounds) to allow you take a period of carer's leave which is less than 13 weeks' duration.

Organisation of Working Time Act, 1997

- Employees have entitlements for taking breaks
- Employees have entitlements for taking Holidays/Annual Leave and Public Holidays
- Employees are entitled to a 15 minute break after working a 4.5 hour work period
- Employees are entitled to 11 consecutive hours rest in any period of 24 hours i.e. from the end of one working day to the beginning of another

- Employees are entitled to 24 consecutive hours rest in any period of 7 days and this should normally follow on from one of the 11-hour rest periods
- Employers must keep records showing compliance with this legislation
- The maximum average working week for many employees cannot exceed 48 hours

Note:

- There are statutory minimum entitlements regarding leave – 20 days (4 working weeks) for staff working more than 1,365 hours in a leave year
- For staff working less than 1,365 hours, leave must be calculated on a monthly basis and for part-time staff on a pro-rata basis
- The rest period entitlements do not apply to employees who control their own working hours or employees working in private homes
- There are specific guidelines on how to calculate the maximum average hours worked in a week e.g. over a four month period for most employees and annual/sick/maternity/parental/adoptive leave are not included

Unfair Dismissals Act, 1977 – 2007

- Protection of employees from unfair dismissals from their jobs

Note:

- There are specific criteria regarding who is covered by this Act
- The Act generally does not apply to an employee that has been continuously employed for less than one year
- The requirement of one years continuous service to be covered by this Act does not apply under a number of criteria for example when the employee was dismissed due to pregnancy, breast feeding, taking of adoptive leave, parental leave or force majeure leave
- There are a number of situations of employment that are exempt from the Act
- To justify a dismissal an employer must show that the dismissal arose from specific causes detailed in the Act
- Employers must work under principles of Natural Justice e.g. provide the employee with their right to a fair hearing and their right to representation

Redundancy Payments Acts, 1967 -2003

- For employees that qualify for redundancy there are specific redundancy procedures which employers must follow

Note:

- To be eligible for redundancy payment an employee must be aged 16 years or over and in employment that is insurable under the Social Welfare Acts. You must have worked continuously for at least 104 weeks (2 years)

Protection of Employees (Part-Time Work) Act, 2001

- Part-time workers cannot be treated less favourably than comparable full-time workers regarding conditions of employment

Protection of Employees (Fixed Term Work) Act, 2003

- Employees whose contract ends on a specific date may not be treated less favourably than comparable permanent employees unless the employer can objectively justify the treatment
- Act does not cover agency workers, apprentices, trainees or community employment schemes

Protection of Young Persons (Employment) Act, 1996

- Minimum age limits for employment, rest periods and maximum working hours must be followed
- Employment of young person under age of 18 years is prohibited on late night work

Note:

- Specific records must be maintained by employer

Terms of Employment (Information) Acts, 1994-2001

- Employer must provide employee with written statement of terms of employment within first two months of employment
- Specific information must be included in this written statement; Full name of employer and employee, address of employer - registered office if the employer is a company, place of work, job title or nature of the work, date the employment started, type of contract, details of rest periods and breaks required by law, pay - the rate or method of calculation, frequency of the employee's pay, hours of work including overtime, details of paid leave, arrangements for payment when ill – if any, pension - if any, notice periods to be given by employer or employee, details of any collective agreements that may affect the employee's terms of employment, details concerning an employee's requirement to work outside the state and notification of any changes to these terms.

Note:

- Alternatively instead of giving each employee the above details in writing in their terms of employment, the employer may refer them to other documents e.g. a pension booklet if available
- A contract of employment can exist regardless of whether it is written or not – if some one works for an employer for a salary or regular wage they automatically have a contract of employment. It is the terms of employment which must be written which will include

certain terms of the contract

- A contract may also include implied terms such as the employer's duty to provide a safe workplace and the employee's duty to do his or her best in the job and follow reasonable and lawful instructions from the employer
- Certain terms may be part of a contract even if they are not specifically included in the terms of employment e.g. right to maternity leave, equal pay and equal treatment.

Employment Equality Acts, 1998 and 2004

Equal Status Act, 2000 - 2004

- Not to discriminate on nine grounds of disability, marital status, race, family status, membership of Traveller community, sexual orientation, religious belief, age and gender
- Not to discriminate in relation to advertising, dismissal, pay (equal pay), working conditions, promotion, access to employment, terms of employment and training
- Not to inflict harassment on the above nine grounds or sexual harassment. Bullying is covered under the Safety, Health and Welfare at Work Act, 2005

Child Care (Pre-School Services) (No 2) Regulations, 2006,

Child Care (Pre-School Services) (No 2) (Amendment) Regulations, 2006

- Recent employer references for all staff required
- References from reputable sources for all students and volunteers
- Sufficient work equipment and materials

Note:

- Section Seven on Record Keeping refers to records which must be kept e.g. in relation to the recruitment process and Garda vetting.

Pensions (Amendment) Act, 2002

- Where employers do not operate an occupational pension scheme, or, where there are certain restrictions applying to such a scheme then they are required to ensure that employees have access to at least one Standard Personal Retirement Savings Account (PRSA).

Note:

- A PRSA is a contract between an individual and an authorised PRSA provider in the form of an investment account that can be used to save for retirement. It is a type of defined contribution arrangement where the investment return is tax exempted.

Points of Contact in relation to Legislation:



1. Department of Enterprise, Trade and Employment 23 Kildare Street, Dublin
Tel: 01 6312121 LoCall: 1890 220 222 Fax: 01 6312827 Email: info@entemp.ie
2. Department of Social and Family Affairs, Carer's Benefit Section, Social Welfare Services, Government Buildings, Ballinalee Road, Longford.
Tel: 043 34707/ 043 35578 Website: www.welfare.ie/EN/Pages/default.aspx
3. The Irish Revenue Commissioners: Taxation and Duty Information Borders, Midlands West Region: Lo-call 1890 777425 Website: www.revenue.ie
4. Rights Commissioner Service, Labour Relations Commission, Tom Johnson House, Haddington Road, Dublin 4, Tel: 01 613 6700
Lo call: 1890 220 227 (outside (01) area) Fax: 01 613 6701 Website: www.lrc.ie
5. Labour Court, Tom Johnson House, Haddington Road, Dublin 4. Tel: 01 6136700
Email: info@lrc.ie Website: www.lrc.ie
6. Employment Appeals Tribunal, Davitt House, 65 A Adelaide Road, Dublin 2,
Tel: 01 631 3006 Lo call: 1890 220 222 Fax: 01 6313266 Email: eat@entemp.ie
Website: www.eatribunal.ie/en/homepage.aspx
7. Clare Customer Service/Audit/Compliance – Government Buildings, Kilrush Road, Ennis. Tel: 065 6849000, Email: claredistrict@revenue.ie
8. Citizens Information – Public Service Information Bindon Lane, Bank Place, Ennis, Co.Clare. Tel: 065 6841221 Email: ennis@citinfo.ie Ennis
Website: www.enniscic.org National Website: www.citizensinformation.ie/categories
9. Clare County Enterprise Board, Enterprise House, Mill Road, Ennis.
Tel: 065 6841922 Email: clareceb@clareceb.ie Website: www.clareceb.ie
10. Health and Safety Benefit Section, Social Welfare Services Office, St.Oliver Plunkett Road, Letterkenny, Co.Donegal. Lo Call: 1890 690 690
Website: www.welfare.ie
11. National Employment Rights Authority (NERA) Information Service
Lo-call 1890 80 80 90 Lines open 9.30am-5pm. Website: www.employmentrights.ie
12. Redundancy.ie, An Irish National Organisation of the Unemployed
Website www.redundancy.ie Welfare Rights Information Phone line 01 8560088
13. Irish Congress of Trade Unions, Springfield House, Harmony Row, Ennis, Co Clare.
Tel: 065 6841009, Fax: 065 6842132
14. Institute of Accounting Technicians of Ireland, 83 Pembroke Road, Dublin 4.
Tel: 01 6377363 Website: www.iati.ie
15. Institute of Certified Public Accountants in Ireland, 9 Ely Place, Dublin 2.
Tel: 01 6767353 Website: www.cpaireland.ie
16. Institute of Chartered Accountants Ireland, 83 Pembroke Road, Dublin 4.
Tel: 01 6377200 Email: ca@icai.ie Website: www.icai.ie

17. Irish Business and Employers Confederation (IBEC), Confederation House, 84/86 Lower Baggot Street, Dublin 2. Tel: 01 6051500 Website: www.ibec.ie
18. Irish Small and Medium Enterprises Association, 17 Kildare Street, Dublin 2. Tel: 01 6622755 Email: info@isme.ie Website: www.isme.ie
19. Small Firms Association, 84-86 Lower Baggot Street, Dublin 2. Tel: 01 6051500 Email: info@sfa.ie Website: www.sfa.ie
20. National Voluntary Childcare Collaborative, c/o IPPA, The Early Childhood Organisation, Unit 4, Broomhill Business Complex, Broomhill Road, Tallaght, D 24. Tel: 01 4630031 or 01 4630010 Email: cheadon@ippa.ie Website: www.nvcc.ie
21. HSE Pre-school Inspection and Information Services (Clare Local Health Office) River House, Gort Road, Ennis, Co.Clare Tel: 065 6863902
22. The Pension's Board, Verschoyle House, 28/30 Lower Mount St, Dublin 2, Tel: 01 613 1900 Email: pb@pensionsboard.ie Website: www.pensionsboard.ie
23. Equality Authority, 2 Clonmel Street, Dublin 2, Tel: LoCall 1890 245 545/ 01 4173333 Email: info@equality.ie Website: www.equality.ie

Section Five

Management and Governance

This section highlights areas for consideration in relation to legislation which have implications for management and governance. Details of Government/Not for Profit agencies which provide specialised information and in some cases training to childcare providers are also included.



Legal Requirements:

Companies Act, 1963 - 2006

- Specific rules must be followed for establishing and running a company; e.g. in relation to incorporation, registration, board of directors, annual returns, audited accounts and annual general meetings.

Child Care (Pre-School Services) (No 2) Regulations, 2006,

Child Care (Pre-School Services) (No 2) (Amendment) Regulations, 2006

- Children attending the service must be adequately insured against injury
- Designated person in charge and a named person who is able to deputise as required
- At all times when the service is being carried on, the designated person in charge or the named person is on the premises

Points of Contact in relation to Legislation:



1. Clare County Enterprise Board, Enterprise House, Mill Road, Ennis.
Tel: 065 6841922 Email: clareceb@clareceb.ie Website: www.clareceb.ie
2. Companies Registration Office, Parnell House, 14 Parnell Square, Dublin 1.
Tel: 01 8045200 Website: www.cro.ie
3. HSE Pre-school Inspection and Information Services (Clare Local Health Office)
River House, Gort Road, Ennis, Co. Clare Tel: 065 6863902
4. Citizens Information – Public Service Information Bindon Lane, Bank Place,
Ennis, Co. Clare. Tel: 065 6841221 Email: ennis@citinfo.ie .
Ennis Website: www.enniscic.org
National Website: www.citizensinformation.ie/categories
5. Office of the Commissioners of Charities Donations and Bequests for Ireland,
12 Clare Street, Dublin 2. Tel: 01 6766095 Email: info@charitycommissioners.ie
Website: www.charitycommissioners.ie

Note:

- Please see Section 10: Pending Legislation and Frameworks. The Charities Bill, 2007 when passed together with existing legislation (Charities Act 1961 and 1973) will establish a new statutory regime for charities in Ireland
- Charitable organisations mainly take one of three legal forms; unincorporated association with a constitution or rules, a charitable trust established by Trust Deed, or a company governed by memorandum and articles of association

Section Six

Health and Safety for All

This section highlights areas for consideration in relation to legislation which have implications for health and safety. Details of Government/ Not for Profit agencies which provide specialised information and in some cases training to childcare providers are also included.



Legal Requirements:

Safety, Health and Welfare at Work Act, 2005

Safety, Health and Welfare at Work (General Applications) Regulations, 2007 as amended

- Manage and conduct work activities in such a way as to ensure, so far as is reasonably practicable the safety, health and welfare of all employees. Prevent improper behaviour likely to endanger employees which includes bullying
- Safe systems of work
- Written Safety Statement
- Written Risk Assessment
- Provide a safe place of work with safe access and exit
- Design, provision and maintenance of plant and machinery or any other articles that are safe
- Provide information, training and supervision in a form, manner and language likely to be understood by the employees
- Obtain where necessary the services of a competent person to ensure so far as is reasonably practicable, the safety, health and welfare at work of employees
- Training must be provided on recruitment, when an employee is transferred or tasks change or on the introduction of new/changed work equipment or systems
- Assess manual handling operations and take steps to avoid or reduce the risk of injury
- Provide manual handling training appropriate to the work activity
- All contractors etc carrying out work in the employer's premises must receive relevant safety instructions (The Construction Regulations also outline the duties of clients)
- Pregnant, Post Natal and Breast Feeding Employees must be protected when the employer has been informed and given an appropriate medical certificate
- Safety signs (symbols/pictograms) must be used whenever a hazard or danger can not be avoided adequately or reduced in another way.
- Prevent risk to health of employees relating to the use of any article or substance or the exposure to noise, vibration or ionising or other radiations or any other physical agent
- Provide personal protective clothing and equipment where risks cannot be eliminated or adequately controlled e.g. gloves for nappy changing
- Employees are entitled to decide if they would like to select and appoint a safety representative to represent them in consultations with the employer on matters of health, safety and welfare at work
- Report accidents and dangerous occurrences to the Health and Safety Authority
- Adequate emergency plans

Note:

- A Safety Statement is a written programme to safeguard the safety and health of employees and other people who might be at the workplace; children, parents, visitors and members of the public
- A Risk Assessment identifies hazards in the workplace under your control and assesses

- the risks to safety and health. Examine and write down what you will do; whether the risk is acceptable and whether more precautions need to be taken to avoid harm
- Accidents must be reported when employees are injured in the workplace and cannot perform duties for 3 consecutive days, not including the day of accident

Food Safety Authority Act, 1998

E.C. (Hygiene of Foodstuffs) Regulations, 2006 (S.I.No 369 of 2006)

- Provide food safety training which includes adequate training in the application of HACCP principles (Hazard Analysis Critical Control Point)
- Implement measures to be taken to ensure food safety based on the principles of HACCP
- Ensure hygiene of foodstuffs: e.g. regarding rooms where food is prepared, personal hygiene, transportation, equipment, food waste, premises, water supply and provision of training
- NB: The provision of safe food is the legal responsibility of the food business operator

Note:

- All food businesses must be registered with their local HSE office prior to commencing i.e. services who are preparing their own food on the premises, not services who store food supplied by others or food/drinks provided by parents.

Fire Services Act, 1981

- All reasonable measures must be taken to guard against the outbreak of fire on premises, and to ensure as far as is reasonably practicable the safety of persons on the premises in the event of an outbreak of fire
- Anyone present on the premises must conduct themselves in such a way as to ensure that as far as is reasonably practicable any person on the premises is not exposed to danger from fire

Note:

- The requirements of the Act are interpreted broadly as childcare providers being required to provide staff training in fire safety, maintain fire safety equipment, provide adequate procedures for evacuation, have safely constructed buildings, public notices re evacuation, fire prevention measures and related records maintained

Child Care (Pre-School Services) (No 2) Regulations, 2006,

Child Care (Pre-School Services) (No 2) (Amendment) Regulations, 2006

- First Aid Box – suitably equipped for children
- Notice of procedures to follow in event of fire displayed
- Keep a record in writing of fire drills
- Sufficient number of suitable and competent adults

- Adequate arrangements in place for medical assistance in an emergency
- Protocol for the administration of Medication
- Record of parental consent re administration of Medication
- Take steps to prevent the spread of infection
- Suitable storage facilities for cleaning chemicals and dangerous or hazardous materials, substances or equipment
- Rodent-proofed premises in a manner which does not compromise the safety of children
- Records of any Accident/Incident/Injury involving a child attending the services
- Operational procedures for the safe conduct of outings
- All waste and other refuse is stored hygienically and disposed of appropriately and frequently
- All equipment and materials are suitable and maintained
- Appropriate supply of clean bedding, towels and spare clothes
- Suitable, sufficient, nutritious and varied food is available
- Where the food is consumed on the premises; ensure adequate and suitable storage, preparation, cooking and serving of food, eating utensils, hand washing, wash up and sterilising facilities
- Heat emitting surfaces are protected by a fixed guard or are thermostatically controlled to ensure a safe temperature
- Hot water provided for use by a child is thermostatically controlled to ensure a safe temperature
- Garden or external play areas are fenced
- Doors and gates are secured to prevent unsupervised access and unauthorised access
- Ponds, pits and other hazards in any external play area are fenced

Public Health (Tobacco) Act, 2002 – 2004 (Sec. 47) Regulations 2003

- Smoking is prohibited in work places

Points of Contact in relation to Legislation:



1. Health and Safety Authority, Locall: 1890 289 389 (between 9am and 5pm, Monday to Friday) Fax: 01 614 7020 Email: wcu@hsa.ie Website: www.hsa.ie
2. Food Safety Authority of Ireland, Abbey Court, Lower Abbey Street, Dublin 1. Tel: 01 8171300 Advice Line on 1890 33 66 77 (Monday to Friday from 9am to 5pm). Email: info@fsai.ie Website: www.fsai.ie Training section at training@fsai.ie or 01 8171348.
3. Environmental Health Officer, Sandfield Centre, Sandfield, Ennis, Tel: 065 6868019
4. Environmental Health Department, Sandfield Centre, Sandfield, Ennis, Tel: 065 6868000
5. Clare Local Health Office (HSE), Tobartescain, Ennis. Tel: 065 6863611
6. Fire Officer, Building Control Authority, Central Fire Station, Ennis Tel: 065 6846302 Email: fireoff@clarecoco.ie Website: www.clare.ie
7. National Irish Safety Organisation, A11 Calmount Park, Calmount Avenue, Ballymount, Dublin 12. Tel: 01 4659760 Email: info@niso.ie Website: www.niso.ie

8. HSE Pre-school Inspection and Information Services (Clare Local Health Office)
River House, Gort Road, Ennis, Co.Clare Tel: 065 6863902
9. National Voluntary Childcare Collaborative, c/o IPPA,
The Early Childhood Organisation, Unit 4, Broomhill Business Complex,
Broomhill Road, Tallaght, D 24. Tel: 01 4630031 or 01 4630010
Email: cheadon@ippa.ie Website: www.nvcc.ie
10. FÁS Ireland's National Training and Employment Authority, Head Office:
27-33 Upper Baggot Street, Dublin 4 Tel: 01 607 0500
Email: info@fas.ie Website: www.fas.ie

Section Seven

Record Keeping

This section highlights areas for consideration in relation to legislation which have implications for record keeping. Details of Government/ Not for Profit agencies which provide specialised information and in some cases training to childcare providers are also included.



Legal Requirements:

Data Protection Acts, 1988 and 2003

- People are entitled to access and correct data about themselves e.g. data on parents, children and employees

Note:

- This applies to all data held in structured files, personal information only, manual and electronic, regarding living persons and a fee is always payable
- The information must be obtained for a specific purpose. Information must be held safely and securely
- There is no specific time frame under these acts for how long records should be retained, it is recommended that data is not kept for longer than is necessary for that purpose or those purposes

Freedom of Information Act, 1997-2006

- People are entitled to make requests for information under the Freedom of Information Act

Note:

- This applies to public service information only
- This applies to the living and deceased, manual and electronic records, paper, audio visual, photos, maps, plans etc.
- No fee is charged for personal information

Child Care (Pre-School Services) (No 2) Regulations, 2006,

Child Care (Pre-School Services) (No 2) (Amendment) Regulations, 2006

- Register of Children: containing list of details as outlined in Childcare (Pre-school Services) Regulations 2006, for example; name, date of birth, start & finish date, contact details of parent/guardian/relative/friend, authorisation for collection of the child, details of any illness/allergies/disability and special care required, immunisation details and written parental consent for appropriate medical treatment in emergencies
- Staff Files: containing list of details as outlined in Childcare (Pre-school Services) Regulations 2006, for example; name, position, qualifications and experience of person in charge and all other staff including volunteers and students and all documents and records relating to references for Garda Vetting
- Further Records with details of a number of areas as outlined in Childcare (Pre-school Services) Regulations 2006, for example maximum number of children catered for at any one time, details of type of service, adult/child ratios, opening hours and fees, policies and procedures, daily attendance records, daily staff rosters, records of fire drills, details of administered medicines including parental consent and details of accident, injury or incident involving child attending the service
- Allow parents/guardians access to information in the register concerning their child



Points of Contact in relation to Legislation:

1. Data Protection Commissioner, Canal House, Station Road, Portarlington, Co.Laois.
Lo Call 1890 252231 Tel: 057 8684800 Email: info@dataprotection.ie
Website: www.dataprotection.ie/docs/Home/4.htm
2. HSE Pre-school Inspection and Information Services (Clare Local Health Office)
River House, Gort Road, Ennis, Co.Clare Tel: 065 6863902
3. Information Commissioner, Office of the Information Commissioner,
18 Lower Leeson Street, Dublin 2. Tel: 01 6395689, Lo Call: 1890 223030
Email: info@oic.ie Website: www.oic.gov.ie
4. Freedom of Information Central Policy Unit, Floor 3, 7-9 Merrion Row, Dublin.
Tel: 01 6318258 Email: cpu@finance.gov.ie Website: www.foi.gov.ie
5. Freedom of Information Unit, Department of Health and Children,
Tel: 01 6354199 Email: foi@health.gov.ie
6. National Voluntary Childcare Collaborative, c/o IPPA,
The Early Childhood Organisation, Unit 4, Broomhill Business Complex,
Broomhill Road, Tallaght, D 24. Tel: 01 4630031 or 01 4630010
Email: cheadon@ippa.ie Website: www.nvcc.ie

Section Eight

Notification and Inspections

This section highlights areas for consideration in relation to legislation which have implications for notification and inspections. Details of Government/Not for Profit agencies which provide specialised information and in some cases training to childcare providers are also included.



Legal Requirements:

Child Care (Pre-School Services) (No 2) Regulations, 2006, Child Care (Pre-School Services) (No 2) (Amendment) Regulations, 2006

- Give notice in writing to the Health Service Executive 28 days before commencement of the service (14 days before commencement of a temporary drop-in service)
- Within 28 days notify in writing the Health Service Executive of any change in particulars contained in previous notice given
- If ceasing to run a service, within 14 days of the cessation give notice in writing to the Health Service Executive
- If there are any change in circumstances to the notice given to the HSE, notice in writing will be given to the Health Service Executive within 28 days
- A copy of Part VII of the Childcare Act 1991 and the Childcare (Pre-school services) Regulations 2006 must be kept on the premises made available on demand for inspection
- Pay the Health Service Executive an annual fee towards the cost of inspections

Note:

- Following notification services will be inspected by the HSE
- The Health Information and Quality Authority (HIQA) was set up in 2007 as an independent authority which reports to the Minister for Health. Their role will include monitoring the inspections of childcare services by the Health Service Executive and the production of National Standards in Childcare; however this role has not yet been enacted by the HIQA. The National Standards in Childcare are currently being produced at present by a National Standards Group which includes the HSE and the Office of the Minister for Childcare and Youth Affairs. This document will be intended for childcare providers and parents.

Points of Contact in relation to Legislation:

1. The Health Information and Quality Authority (HIQA), Webworks Building, Eglinton Street, Cork. Tel: 021 4250610 Email: info@hiqa.ie Website: www.hiqa.ie
2. HSE Pre-school Inspection and Information Services
(Clare Local Health Office) River House, Gort Road, Ennis, Co.Clare
Tel: 065 6863902



Section Nine

Explanatory Guide to the Child Care (Pre-School Services) (No 2) Regulations, 2006, Child Care (Pre-School Services) (No 2) (Amendment) Regulations, 2006

The Explanatory Guide to The Child Care (Pre-School Services) Regulations 2006 offers guidance on good practice in relation to the Regulations. While the Explanatory Guide is aimed at assisting childcare providers in implementing the 2006 Regulations it can also be used to assist in the implementation of areas linked to other pieces of legislation and in supporting the provision of a quality service. The Explanatory Guide is not intended to be seen as a legal interpretation. It is recommended that the Explanatory Guide to The Child Care (Pre-School Services) Regulations 2006 is read in full as the section that follows is not exhaustive and should therefore prompt further reading.



Note: *The following although not a legal requirement, are some of the recommendations for practice and policy (in the Explanatory Guide):*

- Child protection policy based on Children First National Guidelines for the Protection and Welfare of Children
- Management, Recruitment and Training policy to ensure a sufficient number of suitable and competent adults are available
- Staff Absences policy in place for arrangements to be made in the event of staff absences
- Induction training for staff should be provided by the service
- Cleaning programme and a cleaning schedule for furniture, work and play equipment
- Procedures and Rotas for checking of sleeping babies
- Qualifications and Training: In centre-based services, it is considered that the person in charge should aim to have at least fifty percent of childcare staff with a qualification appropriate to the care and development of children. The qualified staff should rotate between the age groupings.
- First Aid: A person trained in first aid for children should be on the premises at all times. Additional trained persons will be required, depending on the extent of the service.
- Contingency Plan: a contingency plan should be in place in all pre-school services should an outbreak of an infectious disease occur. Areas of responsibilities should be clearly defined and proper channels of communication must be established between all the relevant people involved, including the appropriate Health Service Executive personnel
- The recommended contents of a First Aid Box are stated in the Explanatory Guide
- Recommendations are given for adult/child ratios for different types of services and age groups of children and the recommended floor area per child
- In planning activities to support each child's development, which are reflective of the philosophy and ethos of the services, each child's individual needs, interests and abilities should be considered. Details on the Whole Child perspective are given in the Explanatory Guide which provides a framework through which children's lives can be understood in a holistic and child-centred way. It is stated in the Explanatory Guide that service providers should develop and keep a record of programmes, activity and opportunity, which recognise each individual child's age and capacity for stimulation, experience and learning.
- In line with Article 2.2 of the UN Convention on the Rights of the Child – All childcare services and providers should consider the child's welfare to be of paramount concern. All children should be respected and treated with dignity at all times. Children's rights should be acknowledged and respected at all times. Children should never be subjected to any degrading abusive behaviour.

Please see Section 11: Recommended Reading which includes important national guidelines from the Department of Health and Children for good practice in relation to Child protection (Children First & Our Duty to Care)

Other recommendations referred to in the Explanatory Guide include some of the following areas:

- Suitable bedding for sleeping children
- Children's needs before and after sleeping
- Security
- Storing of medicine
- Placing of children in age range groups
- The physical environment
- Laundry facilities
- Nappy changing facilities
- Toilet facilities
- Hand washing facilities
- Purchase of food from a HSE registered supplier
- Provision of meals
- Heating appliances
- Hot water safety
- Identification of Hazards

Contacts in relation to above areas:

1. Children First Advice and Information Officer River House, Gort Road, Ennis,
Tel: (065) 6863927
2. HSE Pre-school Inspection and Information Services (Clare Local Health Office)
River House, Gort Road, Ennis, Co.Clare Tel: 065 6863902
3. The Irish Red Cross Society, Head Office, 16 Merrion Square, Dublin 2
Tel: 01 6424600. Website: www.redcross.ie South Midwestern Regional Office,
58 Henry Street, Limerick. Tel: 061 318580 Email: LimerickOffice@redcross.ie

Section Ten

**Pending Legislation
and Frameworks**



National Early Childhood Curriculum

At the time of producing this booklet the Framework for Early Learning was due to be launched in 2009 by the National Council for Curriculum and Assessment and the legal requirements of childcare providers in relation to this were not yet confirmed.

National Quality Framework for Early Childhood Education

The Centre for Early Childhood Development and Education (CECDE) developed a National Quality Framework for Early Childhood Education including 'quality standards' in relation to every aspect of early childhood education which led to the development of Síolta. At the time of producing this booklet the closure of CECDE was announced and responsibility for the roll out of Síolta was transferred to the Office of the Minister for Children and Youth Affairs and discussions were taking place with National Voluntary Childcare Organisations.

Childcare (Amendment) Act, 2007

Under the Childcare (Amendment) Act 2007 providers of school age services must also notify the HSE. 'School age service' means

- (a) a childcare service provided on a regular basis for children (or a class of children) who attend
 - (i) a school or
 - (ii) an establishment which provides an educational programme similar to that provided by a school
- (b) provided outside of normal school hours, and
- (c) the basis of access to which is made publicly known to the parents and guardians of children referred to in paragraph (a)

'School age child' means a child that who is attending a school age service. 'School' means an establishment, which provides primary education, early childhood education or both to its students. At the time of printing of this publication the Childcare (Amendment) Act 2007 had only recently been passed and details of the age category to which 'school age services' refers to and Regulations were not yet available. At present the Health Service Executive has no further details regarding this legislation and are only in a position to advise if the presence of after school/school age children is having an impact on the care/development of pre-school children as per the Child Care (Pre-school Services) Regulations 2006.

Charities Bill, 2007

When the Charities Bill is passed the registration of charities will be required. Charities will be required to report to the new Charities Regulatory Authority and to supply a range of information about their operation. It is proposed that this authority will be in operation in 2009. Further information on the Charities Bill is available at www.wheel.ie or to download a copy of the Bill go to www.oireachtas.ie

Section Eleven

Recommended Reading



- A Practical Guide to Developing Childcare Policies, Marie Willoughby, Barnardos' Training and Resource Service, 2008.
- Access for All, A guide to creating a Barrier free built environment for people with physical or sensory disabilities, Irish Wheelchair Association 2004.
- Access Inside Out: A Guide to Making Community Facilities Accessible, Disability Equality Specialist Support Agency (DESSA), 2005.
- Childminding Step by Step Guide to Becoming a Professional Childminder, Clare County Childcare Committee, 2008.
- Children First, National Guidelines for the Protection and Welfare of Children, Department of Health and Children, 1999.
- Committee Handbook, A Resource for Management Committees of Community Based Childcare Services in Clare, Clare County Childcare Committee, 2007.
- Diversity and Equality Guidelines for Childcare Providers, Murray, C., Cooke, M., Doherty, A. and Hanrahan, M. (On behalf of the Advisory Subgroup for Children with Special Requirements, Minority Ethnic Children and Traveller Children), Office of the Minister for Children, 2006.
- Employment Rights Explained, Comhairle, 2005 (Available from Citizens Information Centres). Copies can also be downloaded at the Citizens Information Board Website at: www.citizensinformationboard.ie/publications/providers/booklets/
- Employment Rights Fact Sheets (Includes information on tax, social welfare benefits and other relevant information). Copies are available from the Citizens Information Centre and can be downloaded at www.citizensinformationboard.ie/publications/providers/employment_rights_factsheets.html
- Fire Safety in Pre-schools, The Department of the Environment and Local Government, 1999.
- Food and Nutrition Guidelines for Pre-school Services, Health Promotion Unit, 2004, Department of Health and Children.
- Guide to Labour Law Department of Enterprise Trade and Employment, 2007, www.entemp.ie
- Guidelines for Planning Authorities 2001, Department of the Environment, Heritage and Local Government.
- Health and Safety in Childcare: A Guide for Centre Based Services Barnardos and Border Counties Childcare Network, (2006), National Children's Resource Centre.

- Legislation Handbook for Childcare Providers, Barnardos' Training and Resource Service and Border Counties Childcare Network, 2008.
- Managing Better; A Series of Organisational and Management Issues for the Community and Voluntary Sector Combat Poverty Series; The Staff Recruitment Process, Becoming a Limited Company, Financial Management for Community and Voluntary Groups, Staff Selection and Interviewing.
- National Guidelines for Childminders, Office of the Minister for Children and Youth Affairs, 2006 - 2010
- Our Duty to Care, The Principles of Good Practice for the Protection of Children and Young People, Department of Health and Children, 2004.
- Personal Retirement Savings Accounts, Employer's Obligations, The Pension's Board, 2003.
- Protecting the Children in Your Care, E.coli 0157, Food Safety Authority of Ireland.
- Setting up a Childcare Service, 'A Guide' Clare County Childcare Committee, 2007.
- Supporting and Developing an Anti-Bias/Anti-Discrimination Approach in Early Childhood, Clare County Childcare Committee, (2004), Ennis
- Supporting Quality, Guidelines for Professional Practice in Early Childhood Services, Book 1: Policy and Governance, Geraldine French, Barnardos, 2008.
- Supporting Quality, Guidelines for Professional Practice in Early Childhood Services, Book 2: Enhancing Children's Learning and Development, Geraldine French, Barnardos, 2008.
- Towards a Framework for Early Learning, A Consultative Document, National Council for Curriculum and Assessment, 2004.
- We Like this Place, Guidelines for Best Practice in the Design of Childcare Facilities, National Children's Nurseries Association, 2002, Area Development Management.

Section Twelve

Glossary of Terms



Cessation

When something is stopping/coming to an end.

Children's Rights

As explained by the Children's Rights Alliance, 'Children's rights' are human rights for children and young people under 18 years of age. These include the right to survival; the right to the development of their full physical and mental potential; the right to protection from influences that are harmful to their development; and the right to participation in family, cultural and social life.

Complying

Act in accordance with.

Consecutive Days

Days following continuously.

Electronic Data

Information that is computer based e.g. computer files, database, e-mail and discs.

Equality

The importance of recognising individual needs and ensuring equity in terms of access, participation and outcomes for all children and their families. It is not about treating all children the same (Diversity and Equality Guidelines for Childcare Providers, 2006).

Exemptions

Free from an obligation or liability.

Food Business

Any undertaking, whether for profit or not and whether public or private, carrying out any stage of production, processing and distribution of food.

Garda Vetting

A statement from the Garda Síochána as to whether a person had any prosecutions (including unsuccessful or pending) or convictions. This is not Garda Clearance. The decision as to whether these prosecutions or convictions are relevant to working as a childcare worker lies with the childcare Employer and their Recruitment and Selection Policy and Procedure.

Governance

Act or manner or function of governing.

Law

Rule enacted in a community recognised as imposing order or action and prohibiting certain actions.

Legislation

Laws that have been made.

Manual Data

Information that is recorded as part of a relevant filing system or with the intention that it should form part of a relevant filing system.

Manual Handling

Any transporting or supporting of a load by one or more employees, and includes lifting, putting down, pushing, pulling, carrying or moving a load, which by reason of its characteristics or unfavourable ergonomic conditions involves risk, particularly of back injury to employees. The 'load' in the case of childcare services may be a child and include manual handling such as lifting and carrying children.

Protocol

Official plan of detailed steps to be followed e.g. in the administration of medication.

Reasonably Practicable

For the purpose of the relevant statutory provision, 'reasonably practicable' in relation to the duties of an employer, means that an employer has exercised all due care. This includes putting in place the necessary protective and preventative measures, having identified the hazards and assessed the risks to safety and health likely to result in accidents or injury to health at the place of work and where the putting in place of any further measures is grossly disproportionate having regard to the unusual, unforeseeable and exceptional nature of any circumstance or occurrence that may result in an accident at work or injury to health at that place of work.

Safe Systems of Work

A safe system of work is a procedure, usually written down, which describes how a task can be carried out in ways which minimise the risks associated with that task.