



Number 30 of 2015

Children (Amendment) Act 2015



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CHILDREN (AMENDMENT) ACT 2015

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Number 30 of 2015

CHILDREN (AMENDMENT) ACT 2015

An Act to amend the Children Act 2001; to amend section 1 of the Prevention of Crime Act 1908, section 10 of the Criminal Justice Administration Act 1914 and section 13 of the Criminal Justice Act 1960 in order to remove persons under the age of 18 years from the scope of those provisions; to amend and extend section 42 of the Criminal Justice Act 1999; and to provide for related matters. [27th July, 2015]

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Short title, collective citation, construction and commencement

1. (1) This Act may be cited as the Children (Amendment) Act 2015.
- (2) The Children Acts 2001 to 2011 and *Parts 1* and *2* of this Act may be cited together as the Children Acts 2001 to 2015 and shall be construed together as one Act.
- (3) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or provisions.

Definitions

2. In this Act—
 - “Act of 1960” means the Criminal Justice Act 1960;
 - “Act of 2006” means the Criminal Justice Act 2006;
 - “Minister” means the Minister for Children and Youth Affairs;
 - “Principal Act” means the Children Act 2001;
 - “Saint Patrick’s Institution” has the same meaning as it has in the Act of 1960.

Repeals and transitional arrangements relating to repeals

3. (1) The following provisions of the Principal Act are repealed:
 - (a) subsection (12) of section 88 (amended by section 135 of the Act of 2006);

- (b) subsection (13) of section 88 (amended by section 135 of the Act of 2006);
 - (c) section 156A (inserted by section 143 of the Act of 2006).
- (2) Section 144 of the Act of 2006 is repealed.
 - (3) The repeal of subsection (12) of section 88 of the Principal Act by *subsection (1)(a)* shall not affect the lawfulness of the remand of persons remanded to Saint Patrick's Institution pursuant to the said subsection (12) of section 88 before the date of commencement of *subsection (1)(a)*.
 - (4) Any person under the age of 18 years who, immediately before the commencement of *subsection (1)(a)*, was remanded to Saint Patrick's Institution by virtue of an order made or warrant issued by a court under section 88(12) of the Principal Act that was in force immediately before that commencement but which had not been executed before that commencement, shall be remanded to a remand centre specified in an order under *subsection (11)*.
 - (5) A reference in an order made or warrant issued by a court referred to in *subsection (4)* to Saint Patrick's Institution shall, on and after the date of commencement of *subsection (1)(a)*, be construed as a reference to the remand centre specified by order under *subsection (11)*, and the order made or warrant issued by the court shall have effect accordingly.
 - (6) The repeal of section 156A of the Principal Act by *subsection (1)(c)* shall not affect the lawfulness of the detention of persons detained in Saint Patrick's Institution, or a place of detention, as the case may be, pursuant to the said section 156A before the date of commencement of *subsection (1)(c)*.
 - (7) Any person under the age of 18 years who, immediately before the commencement of *subsection (1)(c)*, was to be detained in Saint Patrick's Institution, or a place of detention, as the case may be, by virtue of an order made or warrant issued by a court under section 156A of the Principal Act that was in force immediately before that commencement but which had not been executed before that commencement, shall be detained in a children detention school specified in an order under *subsection (11)*.
 - (8) A reference in an order made or warrant issued by a court referred to in *subsection (7)* to Saint Patrick's Institution or a place of detention shall, on and after the date of commencement of *subsection (1)(c)*, be construed as a reference to the children detention school specified by order under *subsection (11)*, and the order made or warrant issued by the court shall have effect accordingly.
 - (9) Notwithstanding the repeal of section 156A by *subsection (1)(c)*, a person under the age of 18 years who is serving a period of detention in Saint Patrick's Institution or a place of detention may, at any time on and after the date of such repeal, be transferred by the Minister for Justice and Equality, with the consent of the Minister, from Saint Patrick's Institution or a place of detention, as the case may be, to a children detention school specified in an order under *subsection (11)*.
 - (10) Nothing in this section shall affect the lawfulness and the period of the remand or detention, as the case may be, of a person where the person is, pursuant to this section, remanded to a remand centre or detained, including on foot of a transfer

under *subsection (9)*, in a children detention school, as the case may be, specified by order under *subsection (11)*.

- (11) The Minister shall—
- (a) on or before the date of commencement of *subsection (1)(a)*, specify by order a remand centre for the purposes of *subsections (4) and (5)*, and
 - (b) on or before the date of commencement of *subsection (1)(c)*, specify by order a children detention school for the purposes of *subsections (7), (8) and (9)*.
- (12) An order under this section shall be laid by the Minister before each House of the Oireachtas as soon as may be after it is made.
- (13) In this section “place of detention” means a place of detention provided under section 2 of the Prisons Act 1970.

PART 2

AMENDMENT OF PRINCIPAL ACT

Amendment of section 3 of Principal Act

4. Section 3 of the Principal Act is amended, in subsection (1)—

(a) in the definition of “children detention school”—

(i) by the substitution of “section 159,” for “section 159, or” in paragraph (a),

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

“(b) a place, school, premises or building designated as a children detention school pursuant to section 160, or”,

and

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

“(c) an amalgamated school within the meaning of section 163A (inserted by *section 14* of the *Children (Amendment) Act 2015*);”,

(b) by the substitution of the following definition for the definition of “Minister”:

“ ‘Minister’ when used without qualification means the Minister for Justice and Equality, other than in subsections (4), (6), (9) and (11) of section 88, section 88A, section 88B and Part 10 where it means the Minister for Children and Youth Affairs;”,

(c) by the substitution of the following definition for the definition of “prescribed”:

“ ‘prescribed’ means prescribed by regulations made by the Minister or the Minister for Children and Youth Affairs, as appropriate;”,

and

- (d) by the deletion of the definition of “Saint Patrick’s Institution”.

Amendment of section 88 of Principal Act

5. Section 88 of the Principal Act is amended—

- (a) in subsection (4), by the substitution of “part or all of a children detention school, which in the Minister’s opinion is suitable for the custody of children who are remanded under this section (referred to in this Act as a remand centre ‘situated in’ a children detention school)” for “part of a children detention school, which in the Minister’s opinion is suitable for the custody of children who are remanded under this section”,
- (b) in subsection (8), by the substitution of “situated in” for “part of”,
- (c) in subsection (9), by the substitution of “situated in” for “part of”, and
- (d) by the insertion of the following subsection after subsection (10):

“(10A) Where the Court remands a child to a remand centre under subsection (2), the lawfulness of the remand and the period of the remand shall not be affected should the child attain the age of 18 years during the period of the remand in question, and in such a case this Act shall apply to the person during the remainder of that period of the remand as it applies to a child on remand.”.

Provisions regarding children on remand

6. The Principal Act is amended by the insertion of the following sections after section 88:

“Transfer of children on remand

88A. (1) The Minister for Children and Youth Affairs may direct the transfer of a child remanded to a remand centre to another remand centre for the remainder of the child’s period of remand if the remand centre to which the child is to be transferred provides the conditions and facilities suitable for the custody of children who are remanded under section 88 and—

- (a) the remand centre to which the child is to be transferred caters in accordance with the provisions of this Part for that class of child, or
- (b) the Minister for Children and Youth Affairs considers that the transfer is necessary in the interests of good governance of remand centres.
- (2) Before giving a direction under this section, the Minister shall consult the Director, or where a remand centre is not situated in a children detention school, the board of management, of the remand centre from which and to which it is desired to transfer the child so as to ascertain whether the transfer would be in the child’s best interests, or if the transfer would not be in the child’s best interests, what other course of action should be adopted in respect of the child.

- (3) The Director, or where the remand centre is not situated in a children detention school, the board of management, of the remand centre to which the child was remanded may request the Minister to make a direction under subsection (1).
- (4) In this section—
- (a) a reference to a Director of a remand centre means a reference to the Director, within the meaning of section 180, of the children detention school in which the remand centre is situated, and
- (b) a reference to a board of management of a remand centre means the board of management appointed under section 88(9) to manage the remand centre.

Discipline of children on remand

88B. (1) Subject to subsection (2), sections 201, 201A and 201B (other than subsections (1)(e), (5) and (8) of section 201A) shall apply, with any necessary modifications, to children on remand as they apply to children detained in a children detention school on foot of a children detention order.

- (2) For the purposes of subsection (1)—
- (a) references in sections 201, 201A and 201B (other than in relation to subsection (1)(e) of section 201A) to ‘breach of children detention school discipline’ or ‘disciplinary breach’ shall be construed as references to breach of remand centre discipline provided for under this Act or by regulations made under this Act, and
- (b) where a child is remanded to a remand centre—
- (i) that is situated in a children detention school, references to ‘Director’ in sections 201, 201A and 201B (other than in relation to subsection (1)(e) of, and in subsection (5) of, section 201A) shall be read as references to the Director, within the meaning of section 180, of the children detention school in which the remand centre is situated, or
- (ii) that is not situated in a children detention school, references to ‘Director’ in sections 201, 201A and 201B (other than in relation to subsection (1)(e) of, and in subsection (5) of, section 201A) shall be read as references to the board of management appointed under section 88(9) to manage the remand centre.”.

Amendment of section 98 of Principal Act

7. Section 98 of the Principal Act is amended, in paragraph (h), by the deletion of “including an order under section 155(1).”.

Amendment of section 143 of Principal Act

8. Section 143 of the Principal Act is amended, in subsection (2), by the insertion of “in language that is appropriate to the age and level of understanding of the child concerned” after “give its reasons for doing so in open court”.

Provisions regarding period of detention imposed by court

9. The Principal Act is amended by the substitution of the following section for section 149:

“Provisions regarding period of detention imposed by court

149. (1) Where a child is convicted of an offence and a period of detention is imposed on the child by a court, the period of detention shall not exceed the term of detention or imprisonment that the court could have imposed on a person of full age and capacity who is convicted of such an offence.

(2) Where a court imposes a period of detention exceeding 3 years on a child, it shall give its reasons for doing so in open court in language that is appropriate to the age and level of understanding of the child.”.

Amendment of section 151 of Principal Act

10. Section 151 of the Principal Act is amended, in subsection (4)—

- (a) by the insertion of “on being granted remission of portion of his or her period of detention in a children detention school pursuant to regulations made under section 221,” after “detention”, and
- (b) by the deletion of “on earning remission of sentence by industry or good conduct or on being given temporary release under section 2 or 3 of the Act of 1960,”.

Persons who attain 18 years of age while detained

11. (1) The Principal Act is amended by the substitution of the following section for section 155—

“Persons who attain 18 years of age while detained

155. (1) Where—

- (a) a person is detained in a children detention school on foot of a children detention order following conviction for an offence, and
- (b) the person’s 18th birthday (which in this section shall be known as the ‘relevant date’) will occur before the period of detention specified in the order expires,

that person shall serve any period of detention remaining to be served on the relevant date in a place that shall be determined in accordance with this section.

- (2) The Director shall, before the relevant date, request the Minister for Children and Youth Affairs to authorise, under subsection (3), the transfer of a person referred to in subsection (1) on the relevant date or not later than 7 days from that date.
- (3) On receiving a request under subsection (2), the Minister for Children and Youth Affairs shall, before the relevant date and after consultation with the Minister, authorise the transfer of the person to such—
- (a) place of detention provided under section 2 of the Act of 1970, or
 - (b) prison,
- as the Minister for Children and Youth Affairs, having consulted with the Minister, considers appropriate, to serve the period of detention that remains to be served by that person on the date that he or she is transferred.
- (4) On receiving an authorisation under subsection (3), the Director shall transfer the person to the place of detention or prison concerned on the relevant date or not later than 7 days from that date.
- (5) Notwithstanding subsections (2), (3) and (4), if—
- (a) a person is engaged in a course of education or training in the children detention school, or
 - (b) the period of detention remaining to be served by a person in the children detention school on the relevant date is 6 months or less,
- the Director may, instead of making a request under subsection (2), determine that the person shall continue to be detained in the children detention school for a period not exceeding 6 months from the relevant date.
- (6) Where a Director has made a determination under subsection (5) that a person shall continue to be detained in a children detention school for a period not exceeding 6 months from the relevant date and—
- (a) before the period has elapsed, the person—
 - (i) completes the course of education or training to which paragraph (a) of that subsection refers, or
 - (ii) ceases to be engaged in the course of education or training concerned,
- or
- (b) the period is about to elapse,
- the Director shall, or in the case of a cessation of engagement referred to in paragraph (a)(ii), may, where a period of detention remains to be served by the person, make a request under subsection (2) as soon as may be in respect of that person and in such case, reference in

subsections (2) and (3) to ‘before the relevant date’ shall be construed as ‘as soon as may be’ and reference in subsections (2) and (4) to ‘on the relevant date’ shall be construed as a reference to the day after the date of authorisation by the Minister for Children and Youth Affairs under subsection (3).

(7) Notwithstanding any provision to the contrary contained in any enactment, a child shall not be transferred from a children detention school to a place of detention provided under section 2 of the Act of 1970 or to a prison.

(8) In this section—

‘Director’ means the Director, within the meaning of section 180, of the children detention school in which a person referred to in subsection (1) is detained before the relevant date;

‘enactment’ has the same meaning as it has in the Interpretation Act 2005.”.

(2) The amendments to section 155 of the Principal Act effected by this section shall not apply to persons detained on foot of a children detention order that was made before the commencement of this section and section 155 of the Principal Act shall apply to such persons as if *subsection (1)* had not been enacted.

Amendment of section 157 of Principal Act

12. Section 157 of the Principal Act is amended—

(a) by the insertion of the following definitions:

“ ‘amalgamation date’ has the meaning assigned to it by section 163A;

‘amalgamation order’ has the meaning assigned to it by section 163A;

‘amalgamated school’ is a children detention school that is formed by the amalgamation of 2 or more children detention schools pursuant to an amalgamation order;

‘Appeal Tribunal’ shall be construed in accordance with section 201D;

‘approved absence’ means the absence of a child from a children detention school under section 202, 203, 204, 205 or 207, as the case may be;

‘disciplinary breach’ has the meaning assigned to it by section 201;

‘Inspector’ has the meaning assigned to it by section 186A;

‘Minister’ means the Minister for Children and Youth Affairs;”,

and

(b) by the substitution of the following definition for the definition of “child”:

“ ‘child’ means—

- (a) a person under the age of 18 years in relation to whom a children detention order is in force,
- (b) a person of 18 years or over in relation to whom a children detention order is in force and in relation to whom the Director of a children detention school has made a determination under section 155(5) that is in force, or
- (c) for the purposes of any provision of this Part that applies to a person remanded under section 88 to a remand centre situated in a children detention school, a person who has been so remanded.”.

Permanent or temporary closure of children detention school or part thereof

13. The Principal Act is amended by the substitution of the following section for section 163:

“Closure of children detention school or part thereof

163. (1) Where the Minister is of opinion that a children detention school or part thereof is no longer suitable for the detention of children, or is no longer required for that purpose, he or she may, by order (in this section referred to as a ‘closure order’)—

- (a) specify the children detention school or part thereof to which the order relates,
 - (b) direct that the children detention school or part thereof specified under paragraph (a) shall cease to be a children detention school or part thereof as the case may be, from the date specified under paragraph (c), and
 - (c) specify the date on which the children detention school or part thereof shall cease to be a children detention school or part thereof, as the case may be.
- (2) In forming an opinion for the purposes of subsection (1), the Minister shall have regard to—
- (a) the number of children detained in the children detention school or part thereof and the maximum number of children that can be accommodated in that children detention school or part thereof,
 - (b) where a remand centre is situated in the children detention school, the number of children remanded to the remand centre and the maximum number of children that can be accommodated in that remand centre,
 - (c) the sex and age of children detained in the children detention school or part thereof and any remand centre situated in that school,

- (d) the number and classes of staff, including teaching staff, working in the children detention school and any remand centre situated in that school,
 - (e) the educational and training facilities available in the children detention school,
 - (f) any reports or other information submitted to the Minister by the board of management of the children detention school,
 - (g) any reports submitted to the Minister in respect of the children detention school by an authorised person pursuant to section 186,
 - (h) any reports submitted to the Minister in respect of the children detention school by an Inspector pursuant to section 186A,
 - (i) the best interests of the children who are detained in the children detention school or remanded to a remand centre situated in that children detention school,
 - (j) any reports or other information relating to current and anticipated future demand for places in children detention schools and remand centres,
 - (k) any operational and administrative efficiencies that could be achieved by closing the children detention school concerned or part thereof, and
 - (l) whether, having regard to any of the matters referred to in paragraphs (a) to (k), it is in the public interest that the children detention school or part thereof be closed.
- (3) Where a board of management of a children detention school informs the Minister that the school is temporarily unsuitable for the detention of children, the Minister may make an order (in this section referred to as a ‘temporary closure order’) declaring that the school shall cease to be such a school from a specified date and for a period specified in the order.
- (4) Where the Minister makes a closure order or a temporary closure order, he or she may by the same order direct all or any of the following:
- (a) that any child on whom a period of detention had been imposed in the relevant children detention school by an order made or warrant issued by a court that was in force immediately before the date of closure but which had not been executed by that date, shall serve the period of detention in such other children detention school as may be specified in the closure order or temporary closure order, as the case may be, for that purpose;
 - (b) that any child who, immediately before the date of closure, was on an approved absence from a relevant children detention school,

shall be on an approved absence from such other children detention school as may be specified in the closure order or temporary closure order, as the case may be, for that purpose;

- (c) that any child remanded to a remand centre situated in a relevant children detention school by an order made or warrant issued by a court that was in force immediately before the date of closure but which had not been executed by that date, shall be remanded to such other remand centre as may be specified in the closure order or temporary closure order, as the case may be, for that purpose.
- (5) If a closure order or temporary closure order contains a direction under paragraph (a) of subsection (4) and another children detention school is specified for that purpose, then, on and after the date of closure—
- (a) a reference in an order made or warrant issued by a court, that was in force immediately before the date of closure but which had not been executed by that date, to the relevant children detention school shall be construed as a reference to the other children detention school specified in the closure order or temporary closure order, as the case may be, pursuant to that paragraph, and the order made or warrant issued by the court shall have effect accordingly, and
 - (b) the lawfulness of the detention and the period of detention of a child shall not be affected where the child is detained, on foot of an order or warrant referred to in paragraph (a), in the other children detention school specified in the closure order or temporary closure order, as the case may be, pursuant to paragraph (a) of subsection (4).
- (6) If a closure order or temporary closure order contains a direction under paragraph (b) of subsection (4) and another children detention school is specified for that purpose, then, on and after the date of closure—
- (a) a child referred to in that paragraph shall be regarded as being on an approved absence from the other children detention school specified in the closure order or temporary closure order, as the case may be, pursuant to that paragraph, and any order, authorisation or notice given by a Director of the relevant children detention school in respect of the approved absence concerned shall have effect accordingly, and
 - (b) the lawfulness of the detention and the period of detention of a child shall not be affected where the child is, following the expiry of the period of the approved absence concerned, detained in the other children detention school specified in the closure order or temporary closure order, as the case may be, pursuant to that paragraph.

- (7) If a closure order or temporary closure order contains a direction under paragraph (c) of subsection (4) and another remand centre is specified for that purpose, then, on and after the date of closure—
- (a) a reference in an order made or warrant issued by a court, that was in force immediately before the date of closure but which had not been executed by that date, to the remand centre situated in the relevant children detention school shall be construed as a reference to the other remand centre specified in the closure order or temporary closure order, as the case may be, pursuant to that paragraph, and the order made or warrant issued by the court shall have effect accordingly, and
 - (b) the lawfulness of the remand and the period of remand of a child shall not be affected where the child is remanded, on foot of an order or warrant referred to in paragraph (a), to the other remand centre specified in the closure order or temporary closure order, as the case may be, pursuant to paragraph (c) of subsection (4).
- (8) Where—
- (a) a children detention school or a specified part of a children detention school ceases to be a children detention school or part thereof pursuant to a closure order, or
 - (b) a children detention school ceases to be a children detention school pursuant to a temporary closure order,
- any children detained in the children detention school may, before the date of closure, be transferred to another children detention school or placed out under supervision in the community in accordance with the provisions of this Part relating to such transfer or supervision in the community.
- (9) Where—
- (a) a children detention school or a specified part of a children detention school ceases to be a children detention school or part thereof pursuant to a closure order, or
 - (b) a children detention school ceases to be a children detention school pursuant to a temporary closure order,
- and a remand centre is situated in the children detention school or part thereof, as the case may be, pursuant to section 88, any child remanded to the remand centre may, before the date of closure, be transferred to another remand centre in accordance with section 88A.
- (10) The Minister shall cause a copy of any closure order or temporary closure order made under this section to be sent to the Director and board of management of the relevant children detention school, the Director and board of management of any other children detention

school specified in the order, the Director or board of management of any remand centre concerned, the President of the High Court, the President of the Circuit Court and the President of the District Court.

(11) An order under this section shall be laid by the Minister before each House of the Oireachtas as soon as may be after it is made.

(12) In this section—

‘date of closure’ means the date specified in a closure order under subsection (1)(c) or the date specified in a temporary closure order under subsection (3), as the case may be;

‘relevant children detention school’ means a children detention school to which a closure order or temporary closure order, as the case may be, relates or, where relevant, a part of a children detention school to which a closure order relates.”.

Amalgamation of children detention schools

14. The Principal Act is amended by the insertion of the following section after section 163:

“Amalgamation of children detention schools

163A.(1)The Minister may by order (in this section referred to as an ‘amalgamation order’) provide for the amalgamation of 2 or more children detention schools as and from such date as shall be specified in the order (in this section referred to as the ‘amalgamation date’) and an amalgamated school shall be a children detention school for the purposes of this Act on and after the amalgamation date.

(2) When making an amalgamation order, the Minister shall have regard to—

- (a) the number of children detained in each children detention school concerned and the maximum number of children that can be accommodated in each children detention school,
- (b) where a remand centre is situated in a children detention school concerned, the number of children remanded to the remand centre and the maximum number of children that can be accommodated in that remand centre,
- (c) the sex and age of children detained in or remanded to each children detention school concerned and any remand centre situated in any such school,
- (d) the number and classes of staff, including teaching staff, working in each of the children detention schools concerned and any remand centres situated in such schools,
- (e) the educational and training facilities available in each children detention school concerned,

- (f) any reports or other information submitted to the Minister by the board of management of one or more of the children detention schools concerned,
 - (g) any reports submitted to the Minister in respect of one or more of the children detention schools concerned by an authorised person pursuant to section 186,
 - (h) any reports submitted to the Minister in respect of one or more of the children detention schools concerned by an Inspector pursuant to section 186A,
 - (i) the best interests of the children who are detained in the children detention schools concerned or remanded to any remand centre situated in a children detention school concerned,
 - (j) any reports or other information relating to current and anticipated future demand for places in children detention schools and remand centres,
 - (k) any operational and administrative efficiencies that could be achieved by amalgamating the children detention schools concerned, and
 - (l) whether, having regard to any of the matters referred to in paragraphs (a) to (k), it is in the public interest that the children detention schools concerned be amalgamated.
- (3) Where, before the amalgamation date, a child is detained in a relevant children detention school on foot of a children detention order, the lawfulness of the detention, and the period of detention, of the child on and after the amalgamation date in the amalgamated school shall not be affected by the amalgamation order.
- (4) If, before the amalgamation date, a remand centre is situated in a relevant children detention school, the Minister shall, by order under section 88 which shall take effect on the amalgamation date, designate a remand centre to be situated in the amalgamated school.
- (5) Where, before the amalgamation date, a child is remanded to a remand centre situated in a relevant children detention school, the lawfulness of the remand, and the period of remand, of the child on and after the amalgamation date in a remand centre situated in the amalgamated school shall not be affected by the amalgamation order.
- (6) Where the Minister makes an amalgamation order, he or she may by the same order direct all or any of the following:
- (a) that any child on whom a period of detention had been imposed in a relevant children detention school by an order made or warrant issued by a court that was in force immediately before the

- amalgamation date but which had not been executed by that date, shall serve the period of detention in the amalgamated school;
- (b) that any child who, immediately before the amalgamation date, was on an approved absence from a relevant children detention school, shall be on an approved absence from the amalgamated school;
 - (c) that any child remanded to a remand centre situated in a relevant children detention school by an order made or warrant issued by a court that was in force immediately before the amalgamation date but which had not been executed by that date, shall be remanded to a remand centre situated in the amalgamated school.
- (7) If an amalgamation order contains a direction under paragraph (a) of subsection (6) then, on and after the amalgamation date—
- (a) a reference in an order made or warrant issued by a court, that was in force immediately before the amalgamation date but which had not been executed by that date, to a relevant children detention school shall be construed as a reference to the amalgamated school, and the order made or warrant issued by the court shall have effect accordingly, and
 - (b) the lawfulness of the detention and the period of detention of a child shall not be affected where the child is detained, on foot of an order or warrant referred to in paragraph (a), in the amalgamated school pursuant to paragraph (a) of subsection (6).
- (8) If an amalgamation order contains a direction under paragraph (b) of subsection (6), then, on and after the amalgamation date—
- (a) a child referred to in that paragraph shall be regarded as being on an approved absence from the amalgamated school concerned, and any order, authorisation or notice given by a Director of the relevant children detention school in respect of the approved absence concerned shall have effect accordingly, and
 - (b) the lawfulness of the detention and the period of detention of a child shall not be affected where the child is, following the expiry of the period of the approved absence concerned, detained in the amalgamated school concerned.
- (9) If an amalgamation order contains a direction under paragraph (c) of subsection (6) then, on and after the amalgamation date—
- (a) a reference in an order made or warrant issued by a court, that was in force immediately before the amalgamation date but which had not been executed by that date, to a remand centre situated in a relevant children detention school shall be construed as a reference to the remand centre situated in the amalgamated school, and the order made or warrant issued by the court shall have effect accordingly, and

- (b) the lawfulness of the remand and the period of remand of a child shall not be affected where the child is remanded, on foot of an order or warrant referred to in paragraph (a), to the remand centre situated in the amalgamated school.
- (10) The board of management or boards of management, as the case may be, of the children detention schools which are the subject of an amalgamation order shall cease to exist on the amalgamation date.
- (11) The Minister shall appoint a board of management to the amalgamated school in accordance with this Part and such appointment shall take effect on the amalgamation date.
- (12) A person who, before the amalgamation date, is a Director or other member of the staff of a relevant children detention school shall, on the amalgamation date, transfer to and become a member of the staff of the amalgamated school and shall be deemed to have been appointed by the board of management of the amalgamated school pursuant to section 180 or section 181, as the case may be.
- (13) A reference in any contract of employment of a Director or other member of staff referred to in subsection (12) to—
- (a) the board of management of a children detention school, or
 - (b) a children detention school,
- which is the subject of an amalgamation order shall, on the amalgamation date, be construed as a reference to the board of management of the amalgamated school.
- (14) Save in accordance with any enactment or a collective agreement negotiated with any recognised trade union or staff association, a person who becomes a member of staff of an amalgamated school pursuant to subsection (12) shall not, on the amalgamation date, be subject to less beneficial terms and conditions of service (including those relating to tenure of office) or remuneration than the terms and conditions of service (including those relating to tenure of office) or remuneration to which he or she was subject immediately before the amalgamation date.
- (15) Where a person becomes a member of staff of an amalgamated school pursuant to subsection (12), previous service with a relevant children detention school shall be reckonable for the purposes of, but subject to any exceptions or exclusions in, the Redundancy Payments Acts 1967 to 2014, the Protection of Employees (Part-Time Work) Act 2001, the Organisation of Working Time Act 1997, the Minimum Notice and Terms of Employment Acts 1973 to 2005, the Unfair Dismissals Acts 1977 to 2007, the Protection of Employees (Fixed-Term Work) Act 2003, the Parental Leave Acts 1998 and 2006, the Carer's Leave Act 2001, the Terms of Employment (Information) Acts 1994 to 2012, the

Maternity Protection Acts 1994 and 2004 and the Adoptive Leave Acts 1995 and 2005.

- (16) The Minister shall cause a copy of any order made under this section to be sent to the boards of management of the children detention schools concerned, the President of the High Court, the President of the Circuit Court and the President of the District Court.
- (17) An order under this section shall be laid by the Minister before each House of the Oireachtas as soon as may be after it is made.
- (18) In this section—

‘contract of employment’ means a contract of service whether express or implied and, if express, whether oral or in writing, but shall not include a contract whereby an individual agrees with another person who is carrying on the business of an employment agency within the meaning of the Employment Agency Act 1971 and is acting in the course of that business, to do or perform personally any work or service for a third person (whether or not the third person is a party to the contract);

‘relevant children detention school’ in relation to an amalgamation order, means a children detention school to which the amalgamation order relates.”.

Final accounts and report

15. The Principal Act is amended by the insertion of the following section after section 174:

“Final accounts and report

- 174A.(1) Where a children detention school ceases to be a children detention school pursuant to section 163(1), the Minister shall cause to be prepared final accounts for the accounting period or part thereof ending immediately before the date on which the children detention school ceases to be such a children detention school.
- (2) Where a children detention school is amalgamated with another children detention school pursuant to section 163A, the board of management of the amalgamated school shall cause to be prepared final accounts for the accounting period or part thereof ending immediately before the amalgamation date in respect of the children detention schools concerned.
- (3) Accounts prepared pursuant to subsection (1) shall, not later than 3 months from the date on which the children detention school ceases to be such a school, be submitted by the Minister to the Comptroller and Auditor General for audit, and immediately after the audit, a copy of the accounts as audited and a copy of the Comptroller and Auditor General’s report on the accounts so audited shall be presented to the Minister.

- (4) Accounts prepared pursuant to subsection (2) shall, not later than 3 months from the amalgamation date, be submitted by the board of management of the amalgamated school to the Comptroller and Auditor General for audit, and immediately after the audit, a copy of the accounts as audited and a copy of the Comptroller and Auditor General's report on the accounts so audited shall be presented to the Minister.
- (5) The Minister shall cause copies of any accounts and reports presented to him or her pursuant to subsections (3) and (4) to be laid before each House of the Oireachtas as soon as may be after his or her receipt of them.
- (6) Where a children detention school ceases to be a children detention school pursuant to section 163(1), the Minister shall, not later than 6 months from the date on which the children detention school ceases to be such a school, cause to be prepared a final report on the performance by the board of management of the children detention school concerned of its functions during such period as has not already been the subject of a report to the Minister.
- (7) Where a children detention school is amalgamated with another children detention school pursuant to section 163A, the board of management of the amalgamated school shall, not later than 6 months from the amalgamation date, prepare and submit to the Minister a final report relating to the performance by the board of management or boards of management, as the case may be, of the children detention schools concerned of their functions during such period as has not already been the subject of a report to the Minister.
- (8) The Minister shall cause a copy of any report caused to be prepared by him or her pursuant to subsection (6) or submitted to him or her pursuant to subsection (7) to be laid before each House of the Oireachtas as soon as may be after his or her receipt of that report.”.

Amendment of section 179 of Principal Act

16. Section 179 of the Principal Act is amended, in paragraph (a) of subsection (1), by the deletion of “discipline and”.

Superannuation

17. The Principal Act is amended by the substitution of the following section for section 184:

“Superannuation

184. (1) Subject to subsection (2), as soon as may be after its appointment, a board of management shall prepare and submit to the Minister a scheme or schemes for the granting of superannuation benefits to or in respect of such of the staff (including the Director) of the children detention school or schools under its management as it thinks fit.

- (2) A scheme prepared and submitted under this section shall not provide for the granting of superannuation benefits to or in respect of any person referred to in subsection (1) where the Single Public Service Pension Scheme applies to that person by virtue of Chapter 2 of Part 2 of the Act of 2012.
- (3) Every scheme prepared and submitted under this section shall fix the time and conditions of retirement for all persons to whom, or in respect of whom, superannuation benefits are payable under the scheme, and different times and conditions may be fixed in respect of different classes of persons.
- (4) A board of management may at any time prepare and submit to the Minister a scheme amending or revoking a scheme previously submitted and approved under this section.
- (5) A scheme or amending scheme submitted to the Minister under this section shall, if approved by the Minister with the consent of the Minister for Public Expenditure and Reform, be carried out by the board of management in accordance with its terms.
- (6) (a) If any dispute arises as to the claim of any person to, or the amount of, any superannuation benefit pursuant to a scheme under this section, such dispute shall be submitted to such person as may be specified in the scheme and shall be determined in such manner as may be specified in that scheme.
(b) A scheme under this section shall make provision for an appeal of a determination referred to in paragraph (a) to such other person as may be specified in the scheme.
- (7) A superannuation benefit shall not be granted by the board of management to or in respect of any persons who are members of a scheme under this section and no other arrangement shall be entered into for the provision of any superannuation benefit to such persons on their ceasing to be staff of a children detention school (including a Director), other than in accordance with such scheme or schemes submitted and approved under this section or an arrangement approved by the Minister and the Minister for Public Expenditure and Reform.
- (8) (a) Subject to subsection (11), and save in accordance with a collective agreement negotiated with a recognised trade union or staff association and approved by the Minister with the consent of the Minister for Public Expenditure and Reform, a scheme under this section shall, as respects a person referred to in subsection (1), provide for the granting to or in respect of him or her of superannuation benefits upon and subject to such terms and conditions as are not less favourable to him or her than the terms and conditions in relation to the grant of such benefits that applied to him or her immediately before the commencement of this section.

- (b) Any period of service by a person as a member of staff (including a Director) of a children detention school which was a period of reckonable service for the purposes of a scheme for the granting of superannuation benefits to or in respect of members of staff of the children detention school prior to the commencement of this section shall be regarded as a period of reckonable service for the purposes of any scheme under this section.
- (9) Subject to subsection (11), where, in the period beginning on the commencement of this section and ending immediately before the commencement of a scheme under this section, a superannuation benefit falls due for payment to or in respect of a person who is a member of staff of a children detention school (including a Director) to whom the Single Public Service Pension Scheme does not apply by virtue of Chapter 2 of Part 2 of the Act of 2012, the benefit shall be calculated and paid by the board of management in accordance with such schemes, arrangements or enactments in relation to superannuation, as applied to the person immediately before the commencement of this section and, for that purpose, his or her pensionable service with the children detention school shall be aggregated with his or her previous pensionable service.
- (10) Subject to subsection (11), every scheme or arrangement in relation to superannuation that relates to any member of staff (including the Director) of a children detention school and that is in force immediately prior to the commencement of this section shall—
- (a) on and after the commencement of this section, and
- (b) only in so far as the scheme or arrangement concerned relates to former members of staff (other than those to whom subsection (1) or (2) refers) of the children detention school concerned, including former Directors and those who are deceased,
- continue in force.
- (11) Paragraph (a) of subsection (8) and subsections (9) and (10) shall not apply in relation to a provision of a scheme or an arrangement in relation to superannuation in respect of which the consent or approval of the Minister for Finance, the Minister for Public Expenditure and Reform or any other Minister of the Government was required but not obtained.
- (12) The Minister shall cause every scheme submitted and approved under this section to be laid before each House of the Oireachtas as soon as may be after it is approved, and if either such House, within the next 21 days on which that House sits after the scheme is laid before it, passes a resolution annulling the scheme, the scheme shall be annulled accordingly, but without prejudice to anything previously done thereunder.

- (13) In this section ‘Act of 2012’ means the Public Service Pensions (Single Scheme and Other Provisions) Act 2012.”.

Inquiry into alleged disciplinary breach

18. (1) The Principal Act is amended by the substitution of the following section for section 201:

“Inquiry into alleged disciplinary breach

201. (1) If a breach of children detention school discipline under—

- (a) section 202(6), 203(4), 204(8), 206(8) or 215(6), or
- (b) regulations made by the Minister under section 221,

(in this Part referred to as a ‘disciplinary breach’) is alleged to have been committed by a child, the Director of the children detention school concerned may decide to hold an inquiry into the alleged disciplinary breach.

- (2) Where the Director decides to hold an inquiry under subsection (1), he or she shall inform the child who is alleged to have committed a disciplinary breach of the alleged disciplinary breach and of the date and time of the inquiry.
 - (3) The procedure relating to an inquiry may be prescribed by the Minister.
 - (4) At the conclusion of the inquiry, if the Director—
 - (a) finds that the child who is the subject of the inquiry committed a disciplinary breach, section 201A shall apply and the Director shall record the finding and any sanction imposed under that section, or
 - (b) does not find that the child who is the subject of the inquiry committed a disciplinary breach, he or she shall record a finding that the allegation has not been substantiated.”.
- (2) The amendments to section 201 of the Principal Act effected by this section shall not apply to breaches or alleged breaches of the rules of a children detention school committed or alleged to have been committed before the commencement of this section and section 201 of the Principal Act shall apply to such breaches or alleged breaches as if *subsection (1)* had not been enacted.

Provisions consequent upon finding of disciplinary breach

19. The Principal Act is amended by the insertion of the following sections after section 201:

“Sanctions for disciplinary breach

201A.(1) If at the conclusion of an inquiry under section 201 (amended by *section 18* of the *Children (Amendment) Act 2015*), the Director of the children detention school concerned finds that a child has committed a

disciplinary breach, the Director may impose such one or more of the following sanctions as he or she considers appropriate:

- (a) caution;
 - (b) reprimand;
 - (c) prohibition, for a period not exceeding 60 days, on—
 - (i) engaging in specified recreational activities, or
 - (ii) possessing specified articles or articles of a specified class, the possession of which is permitted as a privilege;
 - (d) forfeiture of such sum (or portion of a sum) of pocket money as is provided to the child by the board of management;
 - (e) forfeiture of not more than 14 days' remission of portion of the child's period of detention on foot of a children detention order,
and the Director shall inform the child of the finding and if a sanction has been imposed, the imposition of the sanction, as soon as may be.
- (2) The Director may suspend, subject to such conditions as he or she may specify, the operation of the whole or any part of a sanction so imposed (other than a sanction of forfeiture of remission) for a period not exceeding 3 months from the date the child is informed under subsection (1) of the finding and the imposition of a sanction, if any.
 - (3) If any condition to which a suspension is subject is not complied with during the period of suspension, the Director may direct—
 - (a) that the sanction shall take effect either forthwith or from a specified date, or
 - (b) that it be abated in a specified manner and, as so abated, so take effect.
 - (4) If any such conditions are complied with during the period of suspension, the sanction ceases to have effect at the end of that period.
 - (5) The Director may restore all or any part of any remission of portion of a period of detention forfeited by a child under this section if—
 - (a) he or she considers that its restoration is justified by the child's good performance over a period of time, or
 - (b) the child has, in the opinion of the Director, performed an exceptionally meritorious act.
 - (6) Nothing in this section shall prevent the Director taking immediate provisional or protective measures to maintain order and discipline or the security of the children detention school.
 - (7) When the Director informs a child under subsection (1) of a finding that the child has committed a disciplinary breach and whether or not

the Director imposes a sanction on the child under that subsection in respect of the disciplinary breach, the Director shall explain in ordinary language to the child the content of section 201B(1) and, if any sanction imposed consists of or includes forfeiture of remission of portion of his or her period of detention, of section 201C(1).

- (8) Notwithstanding the imposition on a child of a sanction under subsection (1), the child may be—
- (a) permitted to be on an approved absence,
 - (b) ordered to be released under section 209, or
 - (c) ordered to be discharged under section 210.

Petition by child against finding of disciplinary breach or sanction or both

201B.(1) A child who is found by a Director to have committed a disciplinary breach under section 201 (amended by *section 18* of the *Children (Amendment) Act 2015*) may, not later than 7 days after the date the child was informed of the finding and the imposition of any sanction, send to the Director, for transmission to the Minister, a petition concerning the finding or sanction or both the finding and sanction.

- (2) On receiving such a petition the Minister may obtain from the Director any additional information that the Minister requires for the purposes of this section and shall, as soon as is reasonably practicable and in any event not later than 14 days from the date the Minister receives the petition—
- (a) where the finding is a subject of the petition, affirm, modify or revoke the finding, and
 - (b) where the sanction is a subject of the petition, affirm, modify, suspend (subject to any terms or conditions as he or she may specify), or revoke the sanction,

and shall cause the child concerned to be notified accordingly.

Appeal against forfeiture of remission

201C.(1) Without prejudice to section 201B, a child—

- (a) who is found by a Director to have committed a disciplinary breach under section 201 (amended by *section 18* of the *Children (Amendment) Act 2015*), and
- (b) on whom a sanction of forfeiture of remission of portion of his or her period of detention has been imposed,

may, not later than 21 days after the date that he or she is notified of the finding and sanction, notify the Director of his or her intention to appeal against the finding or sanction, or both finding and sanction, to an Appeal Tribunal.

- (2) On receipt of a notification under subsection (1), the Director shall, as soon as practicable and in any event not later than 7 days after the date of such receipt, refer the matter to an Appeal Tribunal.
- (3) The Appeal Tribunal may invite the child and the Director concerned to make written submissions to it in relation to the appeal.
- (4) The child concerned shall be notified by the Appeal Tribunal of the date and time of the hearing of the appeal and that he or she—
 - (a) may attend the hearing, and
 - (b) may, for the purposes of the hearing, avail himself or herself of legal aid, advice or representation or apply for free legal aid under regulations made under subsection (7).
- (5) If the appeal relates only to the sanction imposed, the Appeal Tribunal may limit the hearing to issues relating to the sanction.
- (6) The Appeal Tribunal may, as soon as is reasonably practicable and in any event not later than 21 days after the date of the hearing of the appeal—
 - (a) affirm or annul the finding that the child has committed the disciplinary breach concerned,
 - (b) affirm or annul the sanction imposed by the Director,
 - (c) vary the period of remission to be forfeited, subject to the period, as so varied, not exceeding 14 days, or
 - (d) where it annuls the sanction imposed by the Director, substitute for it any other sanction provided for in section 201A.
- (7) The Minister for Justice and Equality may, with the consent of the Minister for Public Expenditure and Reform, make regulations providing for the granting of legal aid to children appealing to an Appeal Tribunal under this section.
- (8) The decision of an Appeal Tribunal shall be notified in writing to—
 - (a) the Director concerned,
 - (b) the child concerned,
 - (c) where the child is under 18, unless paragraph (d) applies, to the child's parents or guardian, and
 - (d) where on the date of the decision the child is in the care of the Child and Family Agency under the Act of 1991, to the Child and Family Agency.

Appeal Tribunal

- 201D.**(1) The Minister may, by direction in writing, establish, for a specified period, an Appeal Tribunal or more than one such Tribunal to adjudicate on appeals under section 201C.
- (2) An Appeal Tribunal shall be independent in the performance of its functions.
- (3) The Minister may appoint—
- (a) a practising barrister, or
- (b) a practising solicitor,
- of not less than 7 years' standing to be a member of and constitute an Appeal Tribunal.
- (4) The appointment shall be subject to such terms and conditions, including terms and conditions relating to remuneration, as the Minister may determine with the consent of the Minister for Public Expenditure and Reform.
- (5) A person constituting an Appeal Tribunal may at any time resign by a letter sent to the Minister, and the resignation shall take effect on the date on which the Minister receives the letter.
- (6) A person constituting an Appeal Tribunal may at any time be removed from office by the Minister for stated misbehaviour or if, in the opinion of the Minister, the person has become incapable through ill health or otherwise of effectively performing the functions of an Appeal Tribunal.
- (7) Subject to any general directions that the Minister may give to one or more Appeal Tribunals for the purpose of securing consistency of procedures in relation to appeals under section 201C, an Appeal Tribunal may determine its own procedure.”.

Amendment of section 205 of Principal Act

20. (1) Section 205 of the Principal Act is amended—

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

“(3) The Minister may suspend, for a specified period—

- (a) the temporary leave programme of a child, or
- (b) the temporary leave programmes of the children in a children detention school,

whether or not such programmes have been altered by the Director under subsection (4), where the Minister is satisfied that temporary leave would not be in the best interests of the child, the children detention school or society generally.”,

and

(b) by the substitution of the following subsection for subsection (4):

“(4) The Director may alter the temporary leave programme of a child where he or she is satisfied that to do so would be in the best interests of the child, the children detention school or society generally.”.

(2) Where a temporary leave programme stands suspended or altered by a Director immediately before the commencement of this section, section 205 of the Principal Act shall apply to such suspension or alteration as if *subsection (1)* were not enacted.

Amendment of section 206 of Principal Act

21. Section 206 of the Principal Act is amended—

(a) in subsection (1), by the substitution of “Subject to subsection (1A), a child” for “A child”, and

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

“(1A) Where a Director is of opinion, when formulating a temporary leave programme under section 205(1) or altering a temporary leave programme under section 205(4) for a child aged 18 years or over detained in a children detention school pursuant to section 155, that it is not appropriate for subsection (1) to apply to the child while on temporary leave, and the Director so certifies in writing, then in relation to that child or to the grant of temporary leave to that child—

(a) subsections (1) and (2) shall not apply,

(b) subsection (3) shall apply with the modification that the child shall reside in accommodation specified or approved by the Director, and subsection (4) shall have effect accordingly, and

(c) the requirement in subsection (6) for a member of the Garda Síochána to inform the person who undertook to supervise the child shall not apply.

(1B) In forming an opinion under subsection (1A), the Director shall take into account—

(a) the child’s record of behaviour while in detention,

(b) the family circumstances of the child,

(c) the child’s physical, emotional and mental health, and

(d) any other matters affecting the child’s suitability to be the subject of certification under subsection (1A) that the Director in his or her discretion considers relevant.”.

Amendment of section 207 of Principal Act

22. Section 207 of the Principal Act is amended—

(a) in subsection (1), by the substitution of “Subject to subsection (1A), where a child” for “Where a child”,

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

“(1A) In the case of a child aged 18 years or over detained in a children detention school pursuant to section 155, the Director of the school may, if he or she is of opinion that it is appropriate to do so, authorise under subsection (1) the placing out of the child without a requirement for that child to reside with any specified person, but with a requirement that he or she reside in a place specified or approved by the Director, and if the Director so authorises—

(a) subsection (4)(a)(i) shall not apply to the authorisation,

(b) the provisions of subsection (5)(a) relating to the communication of the conditions of the child’s placing out to the person receiving and taking charge of the child shall not apply to the Director, and

(c) subsection (8) shall not apply to the child.

(1B) In forming an opinion under subsection (1A), the Director shall take into account—

(a) the child’s record of behaviour while in detention,

(b) the family circumstances of the child,

(c) the child’s physical, emotional and mental health, and

(d) any other matters affecting the child’s suitability to be the subject of a placing out referred to in subsection (1A) that the Director in his or her discretion considers relevant.”,

and

(c) in subsection (7), by the insertion of the following paragraph after paragraph (a):

“(aa) the child, without reasonable excuse, fails to comply with a requirement under subsection (1A) to reside in a place specified or approved by the Director.”,

Amendment of section 215 of Principal Act

23. Section 215 of the Principal Act is amended—

(a) in subsection (1), by the substitution of “any time, including on or after his or her 18th birthday,” for “any time”,

(b) by the substitution of the following subsection for subsection (2) (inserted by section 155(a) of the Act of 2006):

“(2) A person guilty of an offence under subsection (1) shall be liable, on summary conviction, to detention or imprisonment for a term not exceeding 3 months.”,

(c) by the insertion of the following subsections:

“(4A) Where a person to whom subsection (1) applies is arrested and returned by a member of the Garda Síochána pursuant to that subsection or otherwise returns to the children detention school, hospital or other institution concerned and the person had attained the age of 18 years during the period of his or her escape but is below the age of 18 years and 6 months on the date of his or her return—

(a) subject to *section 11(2)* of the *Children (Amendment) Act 2015*, *section 155* (other than subsections (1) and (7)) shall, with any necessary modifications, apply to that person,

(b) reference in subsections (2) and (3) of *section 155* to ‘before the relevant date’ shall be construed as ‘as soon as may be’, and

(c) reference in subsections (2) and (4) of *section 155* to ‘on the relevant date’ shall be construed as a reference to the day after the date of authorisation by the Minister for Children and Youth Affairs under subsection (3) of *section 155*.

(4B) Where a person to whom subsection (1) applies is arrested and returned by a member of the Garda Síochána pursuant to that subsection or otherwise returns to the children detention school, hospital or other institution concerned, and the person before his or her escape had been detained pursuant to *section 155* and is below the age of 18 years and 6 months on the date of his or her return, the Director of the children detention school in which the person had been detained prior to his or her escape may as he or she considers appropriate—

(a) request the Minister to authorise a transfer of the person to a prison or a place of detention provided under *section 2* of the Act of 1970, and in such a case paragraphs (b) and (c) of subsection (4C) shall apply, or

(b) make a new determination under *section 155(5)* in respect of the person and in such case, subsections (6) and (8) of *section 155* shall apply with any necessary modifications.

(4C) Where a person escapes from lawful custody within the meaning of subsection (1) and attains the age of 18 years and 6 months during the period of his or her escape—

(a) the Director of the children detention school in which the person had been detained prior to his or her escape shall, as soon as may be, request the Minister to authorise the transfer of the person under paragraph (b),

- (b) on receiving a request under paragraph (a), the Minister shall, as soon as may be and after consultation with the Minister for Justice and Equality, authorise the transfer of the person to such—
 - (i) place of detention provided under section 2 of the Act of 1970, or
 - (ii) prison,
 - as the Minister, having consulted with the Minister for Justice and Equality, considers appropriate, to serve the period of detention remaining to be served by that person on the date of his or her escape, and
- (c) on the return of the person to the children detention school, hospital or other institution concerned, whether on foot of an arrest by a member of the Garda Síochána pursuant to subsection (1) or otherwise, the Director shall, as soon as may be, transfer the person to the place of detention or prison pursuant to the authorisation under paragraph (b).”,

and

- (d) in subsection (5), by the substitution of “detained in a children detention school, or in a prison or place of detention if the person is transferred under this section” for “detained”.

Amendment of section 217 of Principal Act

- 24. Section 217 of the Principal Act is amended by the substitution of “a child, or a person other than a child who has escaped when a child from lawful custody within the meaning of section 215(1), or otherwise prevents a child or such an escaped person” for “a child or otherwise prevents a child”.

Unauthorised provision of mobile telecommunications device

- 25. The Principal Act is amended by the insertion of the following section after section 218:

“Unauthorised provision of mobile telecommunications device

218A.(1) A person who, without lawful authority, supplies or attempts to supply a mobile telecommunications device to a child who is—

- (a) detained in a children detention school,
- (b) remanded to a remand centre, or
- (c) a child to whom paragraph (a) or (b) applies but who is for the time being in lawful custody outside the children detention school or the remand centre, as the case may be,

commits an offence and is liable on summary conviction to a class D fine or imprisonment for a term not exceeding 6 months or both.

- (2) In this section ‘mobile telecommunications device’ includes a component of such a device.”.

Amendment of section 221 of Principal Act

26. Section 221 of the Principal Act is amended, in subsection (1), by the insertion of the following paragraphs after paragraph (d):

“(dd) remission of portion of a child’s period of detention in a children detention school on foot of a children detention order,

(de) without prejudice to the generality of paragraph (d), the acts (other than those referred to in section 201(1)(a)) that constitute disciplinary breaches and in particular the Minister may specify the disciplinary breaches that may result in forfeiture of remission under section 201A(1)(e).”.

PART 3

MISCELLANEOUS

Definitions (Part 3)

27. In this Part—

“Act of 1908” means the Prevention of Crime Act 1908;

“Act of 1914” means the Criminal Justice Administration Act 1914.

Amendment of section 1 of Act of 1908

28. Section 1 of the Act of 1908 is amended, in subsection (1), by the substitution of “eighteen” for “sixteen”.

Amendment of section 10 of Act of 1914

29. Section 10 of the Act of 1914 is amended, in subsection (1)(a), by the substitution of “eighteen” for “sixteen”.

Amendment of section 13 of Act of 1960

30. Section 13 of the Act of 1960 is amended—

(a) in subsection (1), by the substitution of “eighteen” for “seventeen”, and

(b) by the deletion of subsection (2).

Amendment of section 42 of Criminal Justice Act 1999

31. Section 42 of the Criminal Justice Act 1999 is amended—

- (a) by the substitution, other than in subsection (1), of “prisoner or child detainee” for “prisoner” wherever it occurs,
- (b) in subsection (1)—
 - (i) by the insertion of the following definitions:
 - “ ‘Act of 2001’ means the Children Act 2001;
 - ‘board of management’ in relation to a remand centre that is not situated in a children detention school, means the board of management of the remand centre appointed under section 88(9) of the Act of 2001;
 - ‘child detainee’ means a person who—
 - (a) is detained in a children detention school, or on remand in a remand centre, pursuant to the Act of 2001, or
 - (b) is under the age of 18 years and is detained or remanded in a place of detention;
 - ‘children detention school’ has the same meaning as it has in section 3 of the Act of 2001;
 - ‘Director’ has the same meaning as it has in section 157 of the Act of 2001;
 - ‘place of detention’ means—
 - (a) Saint Patrick’s Institution, or
 - (b) a place of detention provided under section 2 of the Prisons Act 1970;
 - ‘remand centre’ has the same meaning as it has in section 3 of the Act of 2001.”,
 - (ii) in the definition of “prison”, by the substitution of “place of custody, other than a place of detention in respect of the detention or remand of child detainees therein,” for “place of custody”, and
 - (iii) in the definition of “prisoner”, by the substitution of “or otherwise;” for “or otherwise.”,
- (c) in subsection (2)—
 - (i) in paragraph (a), by the substitution of “imprisoned, detained or remanded, as the case may be” for “imprisoned”, and
 - (ii) in paragraph (c)—
 - (I) by the substitution of “imprisonment, detention or remand, as the case may be,” for “imprisonment”, and
 - (II) by the substitution of “prisoner’s or child detainee’s, as the case may be,” for “prisoner’s”,

(d) by the substitution of the following subsection for subsection (6):

“(6) On termination of the detention in accordance with subsection (5) or by reason of the expiry of the period referred to in subsection (3)(a), the member of the Garda Síochána in charge of the Garda Station where the person is detained shall transfer him or her, or cause him or her to be transferred, forthwith back into the custody of, as the case may be—

- (a) the governor of the prison where the person was imprisoned at the time of the arrest,
- (b) the governor of the place of detention where the child detainee was detained or remanded, as the case may be, at the time of the arrest,
- (c) the Director of the children detention school—
 - (i) where the child detainee was detained at the time of the arrest, or
 - (ii) in which the remand centre where the child detainee was remanded at the time of the arrest was situated within the meaning of section 88 of the Act of 2001,
- or
- (d) the board of management of the remand centre where the child detainee was remanded at the time of the arrest, if the remand centre is not situated within the meaning of section 88 of the Act of 2001 in a children detention school.”,

and

(e) in subsection (7), by the substitution of “prisoners or child detainees” for “prisoners”.

Transitional arrangements in relation to sections 28 to 30

32. (1) The amendment of—

- (a) section 1 of the Act of 1908 by *section 28*,
- (b) section 10 of the Act of 1914 by *section 29*, and
- (c) section 13 of the Act of 1960 by *section 30*,

shall not affect the lawfulness of the detention of any person sentenced to detention in or, as the case may be, remanded to Saint Patrick’s Institution under the said sections 1, 10 or 13 before the date of commencement of *sections 28 to 30* (in this section referred to as the “commencement date”).

- (2) Any person under the age of 18 years who immediately before the commencement date was—
 - (a) to be detained in Saint Patrick’s Institution to serve a sentence of detention, or

(b) remanded to Saint Patrick's Institution,

by virtue of an order made or warrant issued by the court under—

(i) section 1(1) of the Act of 1908,

(ii) section 10(1) of the Act of 1914, or

(iii) section 13(1) or (2) of the Act of 1960,

as the case may be, that was in force immediately before the commencement date but which had not been executed by that date, shall be detained in a children detention school, or remanded to a remand centre, as the case may be, specified in an order under *subsection (5)*.

- (3) A reference in an order made or warrant issued by a court referred to in *subsection (2)* to Saint Patrick's Institution shall, on and after the commencement date, be construed as a reference to the children detention school or remand centre, as the case may be, specified by order under *subsection (5)*, and the order made or warrant issued by the court shall have effect accordingly.
- (4) The lawfulness and the period of the custody of a person to whom *subsection (2)* applies shall not be affected where, on or after the commencement date and pursuant to this section, he or she is detained in a children detention school or remanded to a remand centre, as the case may be, specified by order under *subsection (5)*.
- (5) The Minister may, by order, specify a children detention school or a remand centre or both for the purposes of this section.
- (6) An order under this section shall be laid by the Minister before each House of the Oireachtas as soon as may be after it is made.