

**14**

Legislation  
and Regulation  
Reachtaíocht  
agus Rialú

# 14 Legislation and Regulation

The focus in this theme, which is one of the national Standards of *Síolta*, is primarily on the non-school sector as the legislative and regulatory frameworks are different for non-school and school-based services. This is due to the diverse traditions and practices that characterised their establishment and development.

This theme is composed of 63 publications. Following a process of thematic analysis, these publications were divided into the following two sub-themes:

- ECCE Legislation and Regulation [35]
- Related Legislation and Regulation [28]

## ECCE Legislation and Regulation

A large number of publications relate directly to ECCE Legislation and Regulation. Preschool services in general are governed by the Child Care Act (Department of Health, 1991). The subsequent Preschool Regulations (DHC, 1997a), updated in 2006 (DHC, 2006), act as the basis to inform the inspection process in ECCE services. A number of individuals and organisations have produced guidelines for those working in the sector to interpret these regulations and to give practical effect to their provisions within settings (Barnardos, 1992; Buckley *et al.*, 1999; Canavan and Gibbons, 1998; Dowd, 2000b; Ferguson and Kenny, 1995; South Eastern Health Board, 1992; 1997b; Ward, 1997; Western Health Board, 2004). National guidelines for the protection and welfare of all children have also been published by the government (DHC, 1999a; 2002e). Graham and Lafferty (2005) have compiled a booklet containing all legislation that affects the delivery of ECCE services in Ireland. The impact on quality of introducing the Preschool Regulations since 1996 has been the focus of a number of publications by Kernan and O’Kane (2006), O’Kane (2004a; 2004b; 2005a; 2005b) and O’Kane and Kernan (2002). A range of publications support providers and ECCE practitioners to understand the legislative and regulatory context within which they operate, such as Barnardos (1998b), East Coast Area Health Board *et al.* (2001b), OMC (2006a) and Westmeath CCC (2005). The school system is underpinned by a separate raft of legislation, most notably the Education Act (DES, 1998b) and the Education (Welfare) Act (DES, 2000a).

## Reachtaíocht agus Rialú

Baineann fócas an téama seo, atá ar cheann de Chaighdeáin náisiúnta *Síolta*, leis an earnáil neamhscoile den chuid is mó mar tá na creatlaigh reachtaíochta agus rialúcháin éagsúil do sheirbhísí neamhscoile agus scoilbhunaithe. Tá sé sin mar thoradh ar na traidisiúin agus na cleachtais éagsúla a bhí mar thréithe a mbunú agus a bhforbairt.

Cuimsíonn an téama seo 63 foilseachán. I ndiaidh anailíse téamaí, cuireadh na foilseacháin sin in dhá fho-théama, mar seo a leanas:

- Reachtaíocht agus Rialú COLO [35]
- Reachtaíocht agus Rialú Bainteach [28]

## Reachtaíocht agus Rialú COLO

Baineann líon mór foilseachán go díreach le Reachtaíocht agus Rialú COLO. De ghnáth, rialaíonn an tAcht um Chúram Leanáí (an Roinn Sláinte, 1991) seirbhísí réamhscoile. Tá na Rialacháin Réamhscoile (DHC, 1997a) a rinneadh ina dhiaidh, agus a leasaíodh i 2006 (DHC, 2006) mar bhonn an phróisis chigireachta i seirbhísí COLO. D’eisigh roinnt daoine agus eagraíochtaí treoirilínte do dhaoine a oibríonn san earnáil chun na rialacháin sin a mhíniú agus chun a bhforálacha a chur i bhfeidhm i suímh ar bhealach praiticiúil (Barnardos, 1992; Buckley *et al.*, 1999; Canavan agus Gibbons, 1998; Dowd, 2000b; Ferguson agus Kenny, 1995; Bord Sláinte an Oirdheiscirt, 1992; 1997b; Ward, 1997; Bord Sláinte an Iarthair, 2004). D’fhoilsigh an rialtas treoirilínte náisiúnta um chosaint agus leas na leanáí uile freisin (DHC, 1999a; 2002e). Thiomsaigh Graham agus Lafferty (2005) leabhrán ina bhfuil an reachtaíocht uile le tionchar aici ar sheachadadh seirbhísí COLO in Éirinn. Bhí fócas roinnt foilseachán le Kernan agus O’Kane (2006), O’Kane (2004a; 2004b; 2005a; 2005b) agus O’Kane agus Kernan (2002) ar an tionchar a bhí ag tabhairt isteach na Rialacháin Réamhscoile ar chaighdeán an tsoláthair ó 1996. Cabhraíonn raon foilseachán le soláthraithe agus cleachtóirí COLO tuiscint a fháil ar an gcomhthéacs reachtaíochta agus rialúcháin ina bhfeidhmíonn siad, cosúil le foilseacháin Barnardos (1998b), Bord Sláinte Cheantar an Chósta Thoir *et al.* (2001b), OMC (2006a) agus CCC na hIarmhí (2005). Tacaíonn sraith éagsúil reachtaíochta leis an gcóras scoile, go háirithe an tAcht Oideachais (DES, 1998b) agus an tAcht Oideachais (Leas) (DES, 2000a).

Barnardos (1992). *Child Care Act 1991: Information Pack*. Dublin: Barnardos' National Children's Resource Centre.

Barnardos (1998b). *Research Guidelines for Minimum Standards for Registration of Childcare Facilities*. Unpublished Draft Report to the Subgroup on Registration, Training and Qualifications of the Expert Working Group on Childcare.

Buckley, H., Skehill, C. and O'Sullivan, E. (1999). Protecting Children under the Child Care Act 1991: Getting the Balance Right. *Irish Journal of Family Law*, Volume 1, pp. 7-11.

Canavan, A. and Gibbons, N. (1998). *Child Care Act (1991) Part (V11) Supervision of Child Care Services: A Training Manual*. Dublin: Barnardos' National Children's Resource Centre.

Department of Education and Science (1998b). *Education Act*. Dublin: The Stationery Office.

Department of Education and Science (1999f). *Education Welfare Bill*. Dublin: The Stationery Office.

Department of Education and Science (2000a). *Education Welfare Act*. Dublin: The Stationery Office.

Department of Health (1991). *Child Care Act*. Dublin: The Stationery Office.

Department of Health (1996a). *Child Care (Preschool Services) Regulations and Explanatory Guide to Requirements and Procedures for Notification and Inspection*. Dublin: The Stationery Office.

Department of Health and Children (1997a). *Child Care (Preschool Services) Regulations 1996 and Child Care (Preschool Services) (Amended) Regulations 1997 and Explanatory Guide to Requirements and Procedures for Notification and Inspection*. Dublin: The Stationery Office.

Department of Health and Children (1999a). *Children First - National Guidelines for the Protection and Welfare of Children*. Dublin: The Stationery Office.

Department of Health and Children (2002e). *Our Duty to Care: The Principles of Good Practice for the Protection of Children and Young People*. Dublin: Department of Health and Children.

Department of Health and Children (2006). *Child Care (Pre-School Services) Regulations 2006*. Dublin: The Stationery Office.

Department of Justice, Equality and Law Reform (1997b). *The Children Act 1997*. Dublin: The Stationery Office.

Department of Justice, Equality and Law Reform (2001c). *The Children Act 2001*. Dublin: The Stationery Office.

Department of the Environment and Local Government (2001). *Childcare Facilities Guidelines for Planning Authorities*. Dublin: The Stationery Office.

Dowd, M. (2000b). *Check it Out: A Parent's Guide to the Preschool Regulations*. Dublin: Barnardos' National Children's Resource Centre.

East Coast Area Health Board, South Western Area Health Board and Northern Area Health Board (2001b). *Thinking of Setting up a Preschool Service? Guidelines on the Interpretation of the Child Care (Preschool Services) Regulations 1996*. Dublin: East Coast Area Health Board, South Western Area Health Board and Northern Area Health Board.

Ferguson, H. and Kenny, P. (Eds.) (1995). *On Behalf of the Child: Child Welfare, Child Protection and the Child Care Act 1991*. Dublin: A. and A. Farman.

Gleeson, M. (2003). *Preschool Regulations – Role in Promoting Quality in Preschool Services*. Paper presented at the National Children's Nurseries Association Annual Conference, Dublin Castle.

Graham, I. and Lafferty, L. (2005). *Legislation Handbook for Childcare Providers*. Dublin: Barnardos' National Children's Resource Centre.

Harnett O'Connor, A. (2004). The Family, the Law, the Nursery. Paper presented at National Children's Nurseries Association Conference, *Childcare – Supporting the Family*, Dublin, March 2004.

Kernan, M. and O'Kane, M. (2006). Pre-school Regulation in Ireland: Learning from the Past to Improve Young Children's Everyday Lives in Early Childhood Care and Education Services. *Irish Educational Studies*, Volume 25, No. 2, June 2006, pp. 171-185.

Office of the Minister for Children (2006a). *National Guidelines for Childminders*. Dublin: Office of the Minister for Children.

O'Kane, M. (2004a). A Study of the Impact of the Child Care (Pre-school Services) Regulations (1996) on the Quality of Early Childhood Services in Ireland: The IEA Pre-primary Project Revisited (in) Horgan, M. and Douglas, F. (Eds.) (2004a). *Children of the Global Village: Proceedings of the OMEP (Ireland) Conference 2004*. Cork: OMEP (Ireland), pp. 56-70.

O'Kane, M. (2004b). *A Study of the Impact of the Child Care (Pre-school Services) Regulations (1996) on the Quality of Early Childhood Services in Ireland: The IEA Preprimary Project Revisited*. M. Phil. Thesis. Dublin: Dublin Institute of Technology.

O'Kane, M. (2005a). Quality and Regulation in Early Childhood Care and Education: A Study of the Impact of the Child Care (Pre-School Services) Regulations (1996) on the Quality of Early Childhood Services in Ireland (in) Centre for Early Childhood Development and Education (Ed.) (2005d). 'Questions of Quality' - Conference Proceedings. Dublin: Centre for Early Childhood Development and Education, pp. 231-240.

O'Kane, M. (2005b). The Effect of Regulation on the Quality of Early Childhood Services in Ireland. *Child Care in Practice*, Volume 11, No. 2, April 2005, pp. 231-251.

O'Kane, M. and Kernan, M. (2002). The Impact of the Child Care (Preschool Services) Regulations (1996) on the Quality of Early Childhood Services in Ireland: The IEA Pre-Primary Project Revisited (in) Horgan, M. and Douglas, F. (Eds.) (2002). *Lessons for the 21st Century – Research, Reflection, Renewal: Proceedings of the OMEP (Ireland) Conference 2002*. Cork: OMEP (Ireland), pp. 344-357.

O'Sullivan, M. (1996). *Action Research Project, Preschool Services in the Context of the Child Care Act 1991: Internal Report*. Dublin: Barnardos in Partnership with the Mid-Western Health Board. (Unpublished).

South Eastern Health Board (1992). *The Child Care Act 1991*. Kilkenny: South Eastern Health Board.

South Eastern Health Board (1997b). *Child Care (Preschool Services) Regulations 1996: Explanatory Guide to Requirements and Procedures for Notification and Inspection*. Kilkenny: South Eastern Health Board.

Ward, P. (1997). *The Child Care Act (1991)*. Dublin: Round Hall Sweet and Maxwell.

Western Health Board (2004). *Draft Guidelines - Guidelines to the Childcare (Pre-school Services) Regulations 1996 and Explanatory Guide to Requirements and Procedures for Notification and Inspection*. Galway: Western Health Board.

Westmeath County Childcare Committee (2005). *Employment Support Pack Incorporating Employment Legislation Guide for Small and Medium Businesses*. Westmeath: Westmeath County Childcare Committee.

The sub-theme of Related Legislation and Regulation is comprised of ancillary pieces of legislation and regulation that impact on the delivery of ECCE services. General commentaries and interpretations of the rights of children in Irish society, especially in relation to education, are provided by Coffey (1992), Farry (1996), Glendenning (1999), Martin (2006), Richardson (2001) and Shannon (1999; 2000; 2001). The training, qualifications and employment rights of workers within the ECCE sector are determined by the Qualifications Act (DES, 1999h) and the Employment Equality Act (DJELR, 1998b). The establishment of the position of Ombudsman for Children is underpinned by legislation in the form of the Ombudsman for Children Act (DHC, 2002d). The Equal Status Act legislation (DJELR, 2000d; 2004b) informs all aspects of equality proofing for all stakeholders in the ECCE sector, including children, practitioners and parents. Provision for children with special education needs and with disabilities has recently been formalised by legislation, most notably the Education for Persons with Special Educational Needs Act (DES, 2004) and the Disability Act (Government of Ireland, 2005).

Coffey, P. (1992). *Constructing a Childhood: The Law and Children in Modern Ireland*. LL. M. Thesis. Cork: University College Cork.

Department of Community, Rural and Gaeltacht Affairs (2002). *Official Languages Bill 2002*. Dublin: The Stationery Office.

Department of Community, Rural and Gaeltacht Affairs (2003). *Official Languages Act 2003*. Dublin: The Stationery Office.

Department of Education and Science (1999g). *Qualifications (Education and Training) Bill*. Dublin: The Stationery Office.

Department of Education and Science (1999h). *Qualifications (Education and Training) Act*. Dublin: The Stationery Office.

Department of Education and Science (2004). *The Education for Persons with Special Educational Needs Act*. Dublin: The Stationery Office.

Department of Health and Children (2002c). *Ombudsman for Children Bill*. Dublin: The Stationery Office.

Department of Health and Children (2002d). *Ombudsman for Children Act*. Dublin: The Stationery Office.

Department of Justice, Equality and Law Reform (1998b). *Employment Equality Act*. Dublin: The Stationery Office.

Department of Justice, Equality and Law Reform (2000d). *Equal Status Act*. Dublin: The Stationery Office.

Cuimsíonn an fo-théama Reachtaíocht agus Rialú Bainteach píosaí reachtaíochta agus rialúcháin tánaisteacha a mbíonn tionchar acu ar sheachadadh seirbhísí COLO. Tugann Coffey (1992), Farry (1996), Glendenning (1999), Martin (2006), Richardson (2001) agus Shannon (1999; 2000; 2001) tráchtas agus mínithe ginearálta ar chearta leanaí i sochaí na hÉireann, go háirithe maidir leis an oideachas. Leagann Acht na gCáilíochtaí (DES, 1999h) agus an tAcht um Chomhionannas Fostaíochta amach oiliúint, cáilíochtaí agus cearta fostaíochta oibríthe san earnáil COLO. Tacaíonn an tAcht Ombudsman do Leanaí (DHC, 2002d) le bunú an phoist Ombudsman do Leanaí. Bíonn gach gné den phromhadh comhionannais a dhéantar do na páirtithe leasmhara uile san earnáil COLO, lena n-áirítear leanaí, cleachtóirí agus tuismitheoirí, bunaithe ar an Acht um Stádas Comhionann (DJELR, 2000d; 2004b). Le déanaí, rinneadh reachtaíocht fhoirmiúil chun an soláthar do leanaí le riachtanais oideachais speisialta agus leanaí faoi mhíchumas a rialú, go háirithe an tAcht um Oideachas do Dhaoine le Riachtanais Speisialta (DES, 2004) agus an tAcht Míchumais (Rialtas na hÉireann, 2005).

Department of Justice, Equality and Law Reform (2001d). *The Disability Bill 2001*. Dublin: The Stationery Office.

Department of Justice, Equality and Law Reform (2004b). *Equal Status Acts 2000 to 2004*. Dublin: The Stationery Office.

Dublin Travellers Education and Training Group, Irish Traveller Movement and Irish Council for Civil Liberties (1993). *Anti-Racist Law and the Travellers*. Dublin: Irish Traveller Movement.

Farry, M. (1996). *Education and the Constitution*. Dublin: Round Hall Sweet and Maxwell.

Glendenning, D. (1999). *Education and the Law*. Dublin: Butterworths Ireland Ltd.

Government of Ireland (2003). *Education for Persons with Disabilities Bill 2003*. Dublin: The Stationery Office.

Government of Ireland (2004). *The Disabilities Bill*. Dublin: The Stationery Office.

Government of Ireland (2005). *Disability Act 2005*. Dublin: The Stationery Office.

Martin, F. (2006). Judges, Parents and the Child: Where is the Child in this Hierarchy? Paper presented at the OMEP (Ireland) Annual Research Conference, *In Celebration of Difference in the Early Years*, University College Cork, April 2006.

Meaney, M. (2004). Education for Persons with Special Educational Needs Bill. Paper presented at National Disability Authority Conference, *Living Learning and Working with Special Educational Needs*, Dublin, July 2004.

Meaney, M. (2005). Policy, Legislation and Practice for Children with Special Needs in Ireland (in Centre for Early Childhood Development and Education (Ed.) (2005d). *'Questions of Quality' - Conference Proceedings*. Dublin: Centre for Early Childhood Development and Education, pp. 136-144.

National Disability Authority (2002b). *Submission to Childcare (Preschool Services) Regulations 1996 and (Amendment) Regulations 1997 Review Group*. Dublin: National Disability Authority.

National Disability Authority (2005c). *Education for Persons with Special Educational Needs Act 2004*. Dublin: National Disability Authority.

National Federation of Voluntary Bodies (2003). *Response to Education for Persons with Disabilities Bill 2003*. Dublin: National Federation of Voluntary Bodies.

Richardson, V. (2001). Legal and Constitutional Rights of Children in Ireland (in Cleary, A., Nic Ghiolla Phádraig, M. and Quin, S. (Eds.) (2001a). *Understanding Children, Volume 1: State, Education and Economy*. Dublin: Oak Tree Press, pp. 21-44.

Shannon, G. (1999). Children in the Legal Process. Paper presented at the *Children at Risk in Ireland* Anniversary Conference, October 1999.

Shannon, G. (2000). *Children and the Law: Papers of Continuing Legal Education Seminar*. Dublin: Blackhall Place.

Shannon, G. (2001). *European Convention on Human Rights Bill, 2001 and Child Law*. Paper presented to the Family Law Conference, Dublin, September, 2001.