

*These notes refer to the Children (Leaving Care) Act (Northern Ireland)  
2002 (c.11) which received Royal Assent on 22 November 2002*

# Children (Leaving Care) Act (Northern Ireland) 2002

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### ***Section 4 – Advice and assistance for certain children and young persons aged 16 or over***

Section 4 restates Articles 35 and 36 of the Children Order and divides them into four (Articles 35, 35A, 35B and 35C) to make the provisions simpler to follow. They have also been amended to take account of the new concept of the responsible authority and to increase an authority's responsibilities to assist care leavers with further and higher education.

#### **Article 35 – Persons qualifying for advice and assistance**

*Paragraphs (1) to (3)* restate the definition of “a person qualifying for advice and assistance” previously found in Article 35(2) and (3) of the Children Order *before* amendment by the Act. The term applies to any person who is under the age of 21 who was after reaching the age of 16, but whilst still under 18, looked after by an authority, accommodated in a voluntary or private children's home or privately fostered. The term also applies to such a person who was accommodated for a consecutive period of 3 months in certain other establishments. This applies even if the 3-month period began before the young person reached the age of 16.

*Paragraph (4)* provides that in the case of a young person qualifying for advice and assistance, the authority which last looked after the young person must take such steps as it considers appropriate to keep in touch with him or her in order to discharge its functions under Articles 35A and 35B. This duty is intended to apply to those young people who leave care but do not qualify for the full package of support under the provisions of the Act.

*Paragraph (5)* defines which authority is to be responsible for providing aftercare services (the “relevant authority”) to a person qualifying for advice and assistance. Paragraph (5)(a) provides that the relevant authority for a care leaver is the authority which last looked after the young person. Paragraph (5) (b) provides that for any other young person qualifying for help under Article

35, the relevant authority is the one in whose area the young person is currently living.

### **Article 35A – Advice and assistance**

Article 35A restates with amendments the powers and duties of authorities in respect of qualifying persons previously found in Articles 35(4) to (6) and 36(1) and (4) of the Children Order *before* amendment by the Act.

*Paragraph (1)* places a duty on the relevant authority to consider whether a qualifying person meets the conditions set out in paragraph (2).

*Paragraph (2)* sets out the conditions, which are: that the qualifying person needs help of a kind which the relevant authority can give him, and (if not qualifying by virtue of being a care leaver) the authority is satisfied that the person who was looking after the young person is not in a position to offer that help.

*Paragraph (3)* states that if the conditions in paragraph (2) are met, the relevant authority must advise and befriend a young person who has been looked after by an authority or voluntary organisation, and may advise and befriend other qualifying young people.

*Paragraph (4)* provides that where an authority has a duty or a power to advise and befriend someone under this Article, it may also give him assistance.

*Paragraph (5)* enables an authority which gives assistance under paragraph (4) to provide such assistance in kind or, in exceptional circumstances, in cash.

*Paragraph (6)* applies existing Article 18(7) to (9) of the Children Order to any assistance which may be given under this Article or Article 35B. This requires an authority to take account of the means of the child concerned and his or her parents, and permits the authority, depending on their means, to require some or all of this assistance to be repaid.

### **Article 35B – Employment, education and training**

Article 35B replaces the powers to provide assistance with employment, education and training previously found in Article 36(2) and (3) of the Children Order *before* amendment by the Act. In addition to the general powers to provide assistance under Article 35A, an authority has specific powers to provide assistance to young care leavers where this is in connection with the young person's employment (Article 35B(1)), education or training (Article 35B(2)).

*Paragraph (1)* provides that a relevant authority may give assistance to a person under 21 who was looked after by the authority after reaching the age of 16, by contributing to expenses incurred by the young person in living near the place where he or she is, or is to be, employed.

*Paragraphs (2) and (3)* provide that a relevant authority may give assistance to a person under the age of 24 who was looked after by the authority after reaching

age 16, by contributing to expenses incurred by the young person in living near the place where he or she is, or will be, receiving education or training. The authority may also make a grant to enable the young person to meet expenses in connection with his or her education or training.

*Paragraph (4)* enables an authority to disregard any interruption in a young person's attendance at a course connected with education or training if he or she resumes it as soon as is reasonably practicable.

*Paragraph (5)* places a new duty on an authority to provide, should it be needed, suitable out of term accommodation, or the funds to secure it, to young care leavers in full-time further or higher education.

*Paragraph (6)* gives the Department the power to make regulations to define the terms "full-time", "further education", "higher education" and "vacation" for the purposes of this Article.

### **Article 35C - Information**

Article 35C provides for the necessary communication and liaison between authorities in respect of care leavers who move from one authority area to another. It replaces the notification provisions previously found in Article 37(3) and (4) of the Children Order *before* amendment by the Act.

*Paragraph (1)* requires authorities to notify each other in certain circumstances. If an authority is under a duty to keep in touch with an "eligible", "relevant" or "former relevant" child and becomes aware that he or she proposes to live, or does live, in the area of another authority, it must inform the other authority. An authority is under the same duty if it is advising or assisting a young person under Article 35A or 35B of the Children Order.

*Paragraph (2)* provides that if a young person ceases, after reaching the age of 16, to be accommodated by or on behalf of a voluntary organisation or in a private children's home or in accommodation mentioned in Article 35(2)(d) of the Children Order, then the person providing the accommodation must inform the authority in whose area the young person proposes to live.