

Statutory Document No. 2003/0873

*Children and Young Persons Act 2001*

PLACEMENT OF CHILDREN WITH PARENTS ETC. REGULATIONS 2002¹

Approved by Tynwald: 22 January 2003
Coming into Operation: 1 February 2003

In exercise of the powers conferred on the Department of Health and Social Security by section 28 of the Children and Young Persons Act 2001¹, and of all other enabling powers, the following Regulations are hereby made: —

1 Citation, commencement and interpretation

- (1) These Regulations may be cited as the Placement of Children with Parents etc. Regulations 2002 and, subject to section 104(2) of the Act, shall come into operation on 1st February 2003.
- (2) In these Regulations —
“**the Act**” means the Children and Young Persons Act 2001;
“**place**”, in relation to a child to whom these Regulations apply, means provide accommodation for him by placing him with a family or other person pursuant to section 26(1)(a) of the Act, and “placement” has a corresponding meaning;
“**placement decision**” means a decision to place a child.
- (3) Any notice required under these Regulations is to be in writing and any such notice may be sent by post.

2 Application of regulations

- (1) These Regulations apply to every child who is in the care of the Department and is, or is proposed to be, placed —
 - (a) with a parent of his,
 - (b) with a person who is not a parent of the child but who has parental responsibility for him,

¹ 2001 c.20

- (c) where a residence order was in force with respect to him immediately before the care order was made, a person in whose favour the residence order was made, or
 - (d) with a relative of his,
otherwise than in pursuance of arrangements made for his adoption by that person.
- (2) Regulations 4, 5, 6, 7 and 9 do not apply to a child aged 16 or over.
 - (3) Nothing in these Regulations requires the temporary removal of a child from the person with whom he is already living and with whom he may be placed, before a placement decision is made concerning him.
 - (4) These Regulations shall not apply in any case to the extent that they are incompatible with any order made by a court under section 33 of the Act (parental contact).

3 Duties of Department in relation to placement

In relation to every placement the Department shall satisfy itself—

- (a) that the placement is the most suitable way of performing its general duty under section 24(2) of the Act (duties of Department where it looks after children), and
- (b) that the placement is the most suitable having regard to all the circumstances.

4 Enquiries and assessment

- (1) Before a child is placed, the Department shall, except in a case of urgency, make all necessary enquiries in respect of —
 - (a) the health of the child;
 - (b) the suitability of the person with whom it is proposed the child should be placed;
 - (c) the suitability of the proposed accommodation, including the proposed sleeping arrangements;
 - (d) the educational and social needs of the child; and
 - (e) the suitability of all other members aged 16 and over of the household in which it is proposed the child will live.
- (2) In considering the suitability of a person as required in paragraph (1)(b) or (e), the Department shall, so far as practicable, take into account the particulars specified in paragraph 1 or 2 respectively of Schedule 1.
- (3) Where in a case of urgency the Department does not make the enquiries required by paragraph (1) before the child is placed, it shall —
 - (a) arrange for the person with whom the child is to be placed to be interviewed in order to obtain as much of the information specified

in paragraph 1 of Schedule 1 as can be readily ascertained at the interview;

- (b) arrange to obtain as much of the information specified in paragraph 2 of Schedule 1 in relation to other members aged 16 and over of the household in which it is proposed the child will live, as can be readily ascertained at the time of that interview; and
- (c) make the rest of those enquiries as soon as practicable thereafter.

5 Agreement as to placement

- (1) Except in case of urgency, a child shall not be placed unless —
 - (a) the Department and the person with whom he is to be placed have reached an agreement on all the matters specified in Schedule 2, and
 - (b) the agreement has been recorded in writing and a copy of it has been given or sent to that person.
- (2) Where in a case of urgency an agreement is not reached and recorded as required by paragraph (1) before the child is placed —
 - (a) the Department shall as soon as practicable thereafter seek to reach such an agreement with the person with whom the child is placed; and
 - (b) the agreement shall be recorded in writing and a copy of it given or sent to that person.

6 Notification of placement

- (1) Subject to paragraph (3) the Department shall, so far as practicable, give notice to the persons specified in paragraph (2) of —
 - (a) the decision to place the child,
 - (b) details of where the child is to be placed; and
 - (c) where the child is placed with a person other than a parent —
 - (i) the name and address of the person with whom the child is placed;
 - (ii) particulars of arrangements for contact with the child;
 - (iii) any other particulars relating to the care and welfare of the child which it appears to the Department ought to be supplied.
- (2) The persons to whom notice is to be given under paragraph (1) are —
 - (a) all the persons whose wishes and feelings have been sought in relation to the decision to place the child pursuant to section 24(3) of the Act;
 - (b) the Department of Education;

- (c) the child's registered medical practitioner;
 - (d) any person who has been caring for the child immediately before the placement, and
 - (e) where there was a residence order in force with respect to the child immediately before the care order was made, the person in whose favour the residence order was made.
- (3) The Department shall not be required to give notice under paragraph (1) —
- (a) to a person whose whereabouts are unknown to the Department, or cannot be readily ascertained, or
 - (b) in any case where the Department determines that to give such notice would not be in accordance with its duty under section 24(2) of the Act.

7 Support and supervision of placement

- (1) The Department shall satisfy itself that the welfare of each child who has been placed by it continues to be appropriately provided for by his placement.
- (2) For that purpose the Department shall —
- (a) give such advice and assistance to the person with whom the child is placed as appears to be necessary;
 - (b) make arrangements for a person authorised by the Department to visit the child from time to time as necessary but in any event —
 - (i) within one week of the beginning of the placement,
 - (ii) at intervals of not more than 6 weeks during the first year of the placement, and
 - (iii) thereafter at intervals of not more than 3 months;and also whenever reasonably requested by the child or the person with whom the child is placed.
- and the person so authorised shall make arrangements, so far as practicable, on each visit to see the child alone.
- (3) On each occasion on which a child is visited in pursuance of this regulation by any person authorised by the Department, it shall cause a written report on the child to be prepared by that person.

8 Termination of placement

If it appears to the Department that the placement —

- (a) is no longer in accordance with its duty in respect of the child under section 24(2) of the Act, or
- (b) would prejudice the safety of the child,

it shall terminate the placement and shall remove the child forthwith from the person with whom he is placed.

9 Notification of termination of placement

Where the Department decides to terminate a placement it shall, so far as is reasonably practicable —

- (a) give notice in writing of the decision before the placement is terminated to —
 - (i) the child, having regard to his age and understanding,
 - (ii) the other persons whose wishes and feelings have been sought in relation to the decision to terminate the placement pursuant to section 24(3) of the Act,
 - (iii) the person with whom the child is placed,
 - (iv) the persons referred to in regulation 6(2)(b)(c), (d) and (e);
and
- (b) when the placement is terminated, give notice in writing of the termination to all the persons mentioned in paragraph (a), other than the child and the person with whom the child was placed.

10 Short-term placement

- (1) This regulation applies where the Department has arranged to place a child in a series of placements with the same person, so that —
 - (a) no single placement is to last for more than 4 weeks, and
 - (b) the total duration of the placements is not to exceed 120 days in any period of 12 months.
- (2) Any series of placements to which this regulation applies may be treated as a single placement for the purpose of these Regulations.
- (3) Regulation 7(2) shall apply in relation to short-term placements to which this regulation applies with the substitution for sub-paragraph (b) of the following—
 - “(b) make arrangements for a person authorised by the Department to visit the child from time to time as necessary but in any event —
 - (i) on a day when the child is in fact placed (a “placement day”) within the first 7 placement days of a series of placements to which regulation 10 applies, and
 - (ii) thereafter, if the series continues, on placement days falling at intervals of not more than 6 months or, if the interval between placements exceeds 6 months, during the next placement;

and also whenever reasonably requested by the child or the person with whom the child is placed.”.

11 Placement outside the Island

When the Department makes arrangements to place a child outside the Island in accordance with the provisions of paragraph 6 of Schedule 2 to the Act (arrangements to assist children to live abroad) it shall take steps to ensure that, so far as is reasonably practicable, requirements corresponding with the requirements of these Regulations are complied with in relation to that child as would be required to be complied with under these Regulations if the child were placed within the Island.

MADE 20 DECEMBER 2002

SCHEDULE 1

Regulation 4

**PARTICULARS TO BE TAKEN INTO ACCOUNT IN CONSIDERING
SUITABILITY OF PERSONS AND HOUSEHOLDS**

1. In respect of a person with whom it is proposed the child should be placed –
 - (a) his age:
 - (b) his health:
 - (c) his personality:
 - (d) his marital status and particulars of any previous marriage:
 - (e) his previous experience of looking after and capacity to look after children and capacity to care for the child:
 - (f) the result of any application to have a child placed with him or to adopt a child or of any application for registration under section 64 (registration as child-minder etc.) of the Act, and any disqualification under section 52 (children's homes), 58 (private fostering) or 65 (childminding and day-care) of the Act:
 - (g) children in his household. whether living there or not:
 - (h) his religious persuasion and degree of observance, racial origin and cultural and linguistic background:
 - (i) his past and present employment and leisure activities and interests:
 - (j) the living standards and particulars of accommodation of his household:
2. In respect of members aged 16 and over of the household of a person with whom a child is to be placed, so far as is practicable, all the particulars specified in paragraph 1(a), (b), (c), (d), (f), (i) and (j).

SCHEDULE 2

Regulation 5

PARTICULARS ON WHICH THERE SHOULD BE AGREEMENT WITH THE PERSON WITH WHOM A CHILD IS TO BE PLACED

1. The Department's plans for the child and the objectives of the placement.
2. The arrangements for support of the placement.
3. Arrangements for visiting the child in connection with the supervision of the placement by a person authorised by or on behalf the Department. and frequency of visits and reviews of the child's case under arrangements made under paragraph 5 of Schedule 2 to the Act.
4. Arrangements for contact. if any. (including prohibition of contact) in pursuance of section 33 of the Act (parental contact etc with children in care).
5. Removal of the child from the placement in the circumstances specified in regulation 8.
6. The need to notify the Department of relevant changes in circumstances of the person with whom the child is placed, including —
 - (a) any intention to change his address.
 - (b) changes in the household in which the child will live, and
 - (c) any serious occurrence involving the child such as injury or death.
7. The provision of a statement concerning the health of the child, the child's need for health care and surveillance, and the child's educational needs and the Department's arrangements to provide for all such needs.
8. Any arrangements for any delegation and exercise of responsibility for consent to medical examination or treatment.
9. The need to ensure that any information relating to any child or his family or any other person given in confidence to the person with whom the child is placed in connection with the placement is kept confidential and is not disclosed to any person without the consent of the Department.
10. The circumstances in which it is necessary to obtain in advance the approval of the Department for the child living. even temporarily. in a household other than the household of the person with whom the child has been placed.
11. The arrangements for requesting a change in the agreement.

ENDNOTES

Table of Endnote References

¹ The format of this legislation has been changed as provided for under section 75 of, and paragraph 2 of Schedule 1 to, the Legislation Act 2015. The changes have been approved by the Attorney General after consultation with the Clerk of Tynwald as required by section 76 of the Legislation Act 2015.