

Statutory Document No. 2002/0874

*Children and Young Persons Act 2001*

PLACEMENT OF CHILDREN (GENERAL) 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 sections 28 and 53 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 (General) Regulations 2002 and, subject to section 104(2) of the Act, shall come into operation on the 1st February 2003.
- (2) In these Regulations —
 - “**the Act**” means the Children and Young Persons Act 2001;
 - “**care case**” means a case in which the child is in the care of the Department;
 - “**place**”, in relation to a child, means provide accommodation for him by any of the means specified in section 26 of the Act, and “placement” has a corresponding meaning;
 - “**responsible authority**” means —
 - (a) in relation to a placement by the Department, the Department itself,
 - (b) in relation to a placement in a children’s home of a child who is not looked after by the Department, the person carrying on the home.
- (3) Any notice required under these Regulations is to be given in writing and may be sent by post.

2 Application of Regulations

These Regulations apply to placements —

- (a) by the Department of any child, otherwise than in pursuance of arrangements made for his adoption by any person, and

¹ 2001 c.20

(b) in a children's home or a small home by the person carrying on the home, of a child who is not being looked after by the Department; but do not apply to placements to which the Placement of Children with Parents etc. Regulations 2002² apply.

3 Making of arrangements

- (1) Before placing a child the responsible authority shall, so far as is reasonably practicable, make immediate and long-term arrangements for that placement, and for promoting the welfare of the child.
- (2) Where it is not practicable to make those arrangements before the placement, the responsible authority shall make them as soon as reasonably practicable thereafter.
- (3) In the case of a child aged 16 or over who agrees to be provided with accommodation under section 25 of the Act, the arrangements shall so far as reasonably practicable be agreed by the responsible authority with the child before a placement is made, and if that is not practicable, as soon as reasonably practicable thereafter.
- (4) Except where the child is in the care of the Department or paragraph (3) applies, the arrangements shall so far as reasonably practicable be agreed by the responsible authority with —
 - (a) a person with parental responsibility for the child, or
 - (b) if there is no such person, the person who is caring for the childbefore a placement is made, and if that is not practicable, as soon as reasonably practicable thereafter.
- (5) Any arrangements made by the responsible authority under this regulation shall be recorded in writing.

4 Considerations on making, and contents of, arrangements

- (1) In making the arrangements referred to in regulation 3 the responsible authority shall in each case, so far as reasonably practicable, have regard to —
 - (a) the general considerations specified in Schedule 1,
 - (b) the considerations concerning the health of a child specified in Schedule 2, and
 - (c) the considerations concerning the education of a child specified in Schedule 3.
- (2) Except in a care case, the arrangements referred to in regulation 3 shall include, where practicable, arrangements concerning the matters specified in Schedule 4.

² SD 873/02

5 Notification of arrangements

- (1) The responsible authority shall, so far as is reasonably practicable, notify the following persons in writing of the arrangements to place a child, before the placement is made —
 - (a) any person an indication of whose wishes and feelings have been sought under section 24(3) or section 54(2), as the case may be, of the Act (consultation before decisions);
 - (b) the Department (where the Department is not the responsible authority);
 - (c) the Department of Education;
 - (d) the child's registered medical practitioner;
 - (e) any person, not being an officer of the Department, who is caring for the child immediately before the arrangements are made;
 - (f) except in a care case, any person in whose favour a contact order is in force with respect to the child, and
 - (g) in a care case, any person who has contact with the child pursuant to section 33 of the Act or to an order under that section.
- (2) Where it is not practicable to give the notification before the placement, it shall be given as soon as reasonably practicable thereafter.
- (3) Subject to paragraph (4), the responsible authority shall send with the notification referred to in paragraph (1) a copy of the record of the arrangements referred to in regulation 3(5), or such part of the record as it considers will not prejudice the welfare of the child.
- (4) The responsible authority shall send to a person specified in paragraph (1)(c) to (g) a copy of only so much of the record as relates to such part of the arrangements as it considers that that person needs to know.

6 Arrangements for contact

In operating the arrangements referred to in paragraph 6 of Schedule 4, a person carrying on a children's home shall, unless it is not reasonably practicable or consistent with the child's welfare, endeavour to promote contact between the child and the persons mentioned in that paragraph.

7 Health requirements

- (1) A responsible authority shall, so far as reasonably practicable before a placement is made, and if that is not reasonably practicable, as soon as practicable after the placement is made —
 - (a) ensure that arrangements are made for the child to be examined by a registered medical practitioner, and

- (b) require the practitioner who has carried out the examination to make a written assessment of the state of health of the child and his need for health care;
unless either –
 - (i) the child has been so examined and such assessment has been made within a period of 3 months immediately before the placement, or
 - (ii) the child is of sufficient understanding and refuses to submit to the examination.
- (2) During the placement of the child the responsible authority shall ensure that arrangements are made for a child to be provided with health care services, including medical and dental care and treatment.

8 Records

- (1) A responsible authority shall establish, if one is not already in existence, a written case record in respect of each child whom it places.
- (2) The record shall include –
 - (a) a copy of the arrangements referred to in regulation 3;
 - (b) a copy of any written report in its possession concerning the welfare of the child;
 - (c) a copy of any document considered or record established in the course of or as a result of a review of the child's case;
 - (d) details of arrangements for contact, of contact orders and of other court orders relating to the child; and
 - (e) details of any arrangements whereby another person acts on behalf of the responsible authority.

9 Retention and confidentiality of records

- (1) A case record relating to a child who is placed shall be retained by the responsible authority –
 - (a) until the 75th anniversary of the date of birth of the child, or
 - (b) if the child dies before attaining the age of 18, for a period of 15 years beginning with the date of his death.
- (2) The requirements of paragraph (1) may be complied with either by retaining the original written record, or a copy of it, or by keeping all of the information from such record in some other accessible form (such as by means of a computer).
- (3) A responsible authority shall secure the safe keeping of case records and shall take all necessary steps to ensure that information contained in them is treated as confidential, subject only to –

- (a) any statutory provision by virtue of which access to such records or information may be obtained or given;
- (b) any court order under which access to such records or information may be obtained or given.

10 Registers

- (1) A responsible authority, shall, in respect of every child placed by it, enter in a register to be kept for the purpose the following particulars —
 - (a) the name, sex and date of birth of the child;
 - (b) the name and address of the person with whom the child is placed and, if different, of those of the child's parents and any other person who has parental responsibility for him;
 - (c) the name of the responsible authority;
 - (d) whether the child's name is entered on any register kept by the Department indicating that the child is at risk of being abused;
 - (e) whether the child's name is entered on any register of disabled children kept by the Department;
 - (f) the date on which each placement of the child began and terminated and the reason for each termination;
 - (g) the legal provisions under which the child is being looked after.
- (2) An entry in a register kept in accordance with this regulation shall be retained until the child to whom the entry relates attains the age of 23 or, if the child has died before attaining 23, the period of 5 years beginning with the date of his death.
- (3) A responsible authority shall secure the safe keeping of registers kept in accordance with this regulation and shall take all necessary steps to ensure that information contained in them is treated as confidential, subject only to —
 - (a) any statutory provision by virtue of which access to such records or information may be obtained or given;
 - (b) any court order under which access to such records or information may be obtained or given.

11 Access to records and registers

A responsible authority shall provide to a person requested to make a report —

- (a) by a court under section 30 of the Act, or
- (b) by an advocate for the child concerned (including an advocate appointed under section 96 of the Act to represent the child),

such access as that person may require to —

- (i) case records and registers maintained in accordance with these Regulations; and
- (ii) information from such records or registers (in whatever form held).

and such copies of the records or entries in the registers as he may require.

12 Application to short-term placements

- (1) This regulation applies where a responsible authority 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.

13 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(1)

CONSIDERATIONS TO WHICH RESPONSIBLE AUTHORITIES ARE TO HAVE REGARD

1. In the case of a child in the care of the Department, whether an application should be made to revoke the care order.
2. Where the responsible authority is the Department, whether it should seek a change in the child's legal status.
3. Arrangements for contact, and whether there is any need for changes in the arrangements in order to promote contact with the child's family and others so far as is consistent with his welfare.
4. The responsible authority's immediate and long term arrangements for the child, previous arrangements in respect of the child and whether a change in those arrangements is needed and consideration of alternative courses of action.
5. Where the responsible authority is the Department, whether a visitor should be appointed under paragraph 3 of Schedule 2 to the Act, if one has not already been appointed.
6. Whether arrangements need to be made for the time when the child will no longer be looked after by the responsible authority.
7. Whether plans need to be made to find a permanent substitute family for the child.

SCHEDULE 2

Regulation 4(1)

HEALTH CONSIDERATIONS

1. The child's state of health.
2. The child's health history.
3. The effect of the child's health and health history on his development.
4. Existing arrangements for the child's medical and dental care and treatment and health and dental surveillance.
5. The possible need for an appropriate course of action which should be identified to assist necessary change of such care, treatment or surveillance.
6. The possible need for preventive measures, such as vaccination and immunisation, and screening for vision and hearing.

SCHEDULE 3

Regulation 4(1)

EDUCATIONAL CONSIDERATIONS

1. The child's educational history.
2. The need to achieve continuity in the child's education.
3. The need to identify any educational need which the child may have and to take action to meet that need.
4. The need to carry out any assessment in respect of any special educational need under the Education Act 2001³ and meet any such needs identified.

³ 2001 c.33

SCHEDULE 4

Regulation 4(2)

MATTERS TO BE INCLUDED IN ARRANGEMENTS TO ACCOMMODATE CHILDREN NOT IN THE CARE OF THE DEPARTMENT

1. The type of accommodation to be provided and its address together with the name of any person who will be responsible for the child at that accommodation on behalf of the responsible authority.
2. The details of any services to be provided for the child.
3. The respective responsibilities of the responsible authority and —
 - (a) the child;
 - (b) any parent of his; and
 - (c) any other person who has parental responsibility for him.
4. What arrangements have been made by the persons referred to in paragraph 3(b) and (c) for the exercise by the responsible authority on their behalf of parental responsibility for the child's day-to-day care.
5. The arrangements for involving those persons and the child in decision making having regard to the responsible authority's duty under section 24(2) and (3) or section 54(1) and (2) of the Act, as the case may be.
6. The arrangements for contact between the child and —
 - (a) his parents;
 - (b) any other person who has parental responsibility for him; and
 - (c) any relative, friend or other person connected with him.and if appropriate the reasons why contact with any such person would not be reasonably practicable or would be inconsistent with the child's welfare.
7. The arrangements for notifying changes in arrangements to any of the persons referred to in paragraph 6.
8. In the case of a child aged 16 or over, whether he has agreed to being provided with accommodation under section 25 of the Act.
9. The expected duration of the arrangements and the steps which should apply to bring the arrangements to an end, including arrangements for rehabilitation of the child with the person with whom he was living before the arrangements were made or some other suitable person, having regard in particular, in the case of the Department looking after a child, to section 26(2) of the Act (duty to place children where practicable with parents etc.) and paragraph 1 of Schedule 2 to the Act (contact between child and family).

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.