
STATUTORY INSTRUMENTS

1991 No. 893

CHILDREN AND YOUNG PERSONS

The Placement of Children with Parents etc Regulations 1991

<i>Made</i>	- - - -	<i>2nd April 1991</i>
<i>Laid before Parliament</i>		<i>10th April 1991</i>
<i>Coming into force</i>	- -	<i>14th October 1991</i>

The Secretary of State for Health, in exercise of the powers conferred by sections 23(5), and (9) and 104(4) of, and paragraph 14 of Schedule 2 to, the Children Act 1989⁽¹⁾ and of all other powers enabling him in that behalf hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Placement of Children with Parents etc Regulations 1991 and shall come into force on 14th October 1991.

(2) In these Regulations, unless the context otherwise requires—

“the Act” means the Children Act 1989;

“area authority” means, in relation to a child who is or is to be placed, the local authority⁽²⁾ in whose area the child is or is to be placed where the child is in the care of a different authority;

“guardian ad litem” means a guardian ad litem appointed pursuant to section 41 of the Act (representation of child and his interests in certain proceedings) or under rules made under section 65 of the Adoption Act 1976⁽³⁾ (panels for selection of guardians and litem and reporting officers);

“placement” means allowing a child who is in the care of a local authority to live pursuant to section 23(5) of the Act (placement of a child in care with parents etc.) with

- (a) a parent of the child,
- (b) a person who is not a parent of the child but who has parental responsibility for him, or
- (c) where there was a residence order in force with respect to him immediately before the care order was made a person in whose favour the residence order was made,

(1) 1989 c. 41. Section 23 was amended by the insertion of a new subsection (5A) by paragraph 12(2) of Schedule 16 to the Courts and Legal Services Act 1990 (c. 41). Paragraph 14(d) of Schedule 2 to the 1989 Act was inserted by paragraph 26 of Schedule 16 to the 1990 Act.

(2) authority is defined in section 105(1) of the Act as the council of a county, a metropolitan district, a London Borough or the Common Council of the City of London. Pursuant to section 2 of the Local Authority Social Services Act 1970 (c. 42), local authority functions under the Children Act 1989 stand referred to the social services committee of a local authority.

(3) 1976 c. 36.

and the expressions “place” and “placed” shall be construed accordingly and “placed with” a person means being allowed to live with that person pursuant to that section;

“placement decision” means a decision to place a child which is made in accordance with regulation 5(2) (placement decisions by director of social services or nominated person);

“supervisory duties” means the duties imposed by regulation 9 (support and supervision of placements).

(3) Any notice required under these Regulations is to be in writing and any such notice may be sent by post.

(4) In these Regulations, unless the context otherwise requires—

(a) any reference to a numbered regulation is to the regulation in these Regulations bearing that number and any reference in a regulation to a numbered paragraph is to the paragraph of that regulation bearing that number;

(b) any reference to a numbered Schedule is to the Schedule to these Regulations bearing that number.

Scope of Regulations

2.—(1) These Regulations shall apply to every child who is in the care of a local authority (4) and who is or is proposed to be placed.

(2) Where a child who is to be placed is aged 16 or over regulations 3, 6, 7, 8, 9 and 12 shall not apply.

(3) These Regulations shall not apply to the placement of a child for adoption pursuant to the Adoption Act 1976.

(4) Nothing in these Regulations shall require 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.

(5) These Regulations shall not apply in a case to the extent that they are incompatible with any order made by a court under section 34 of the Act (parental contact with children in care etc), or any direction of a court which has effect under paragraph 16(5) of Schedule 14 to the Act (transitional provision as to directions) in that case.

Enquiries and assessment

3.—(1) Before a placement decision is made, a local authority shall make all necessary enquiries in respect of—

(a) the health of the child;

(b) the suitability of the person with whom it is proposed that 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 of the household, aged 16 and over, in which it is proposed a child will live.

(2) In considering the suitability of a person as required by paragraph (1)(b) or (e), the local authority shall, so far as practicable, take into account the particulars specified in paragraphs 1 and 2 respectively of Schedule 1.

(4) See the definition of order in section 105(1) of the Children Act 1989 and paragraphs 15 and 16 of Schedule 14 to that Act.

Duties of local authorities in relation to placements

4. A local authority shall satisfy themselves that the placement of a child is the most suitable way of performing their duty under section 22(3) of the Act (general duty of local authority in respect of children looked after by them) and that the placement is the most suitable having regard to all the circumstances.

Placement decisions by director of social services or nominated person

5.—(1) A placement shall be made only after a placement decision has been made.

(2) The decisions to place a child shall be made on behalf of the local authority by the director of social services appointed by the authority under section 6 of the Local Authority Social Services Act 1970 (5) (director of social services) or by an officer of the local authority nominated in writing for that purpose by the director.

Immediate Placements

6.—(1) Subject to paragraph (2), nothing in regulation 3 shall prevent the immediate placement of a child pursuant to a placement decision in circumstances in which the local authority consider that to be necessary and in accordance with their duty under section 22(3) of the Act and in such a case the authority shall take steps to ensure that the provisions of these Regulations that would otherwise have to be complied with before the placement decision is made are complied with as soon as practicable thereafter.

(2) Before an immediate placement is made pursuant to this regulation a local authority 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, and
- (b) arrange to obtain as much of the information specified in paragraph 2 of Schedule 1 in relation to other members of the household aged 16 and over, in which it is proposed the child will live, as can be readily ascertained at the time of that interview.

Provisions of agreements

7. Following a placement decision the local authority shall seek to reach agreement with the person with whom the child is to be placed on all the particulars, so far as is practicable, specified in Schedule 2 and the placement shall not be put into effect unless and until such an agreement on all such particulars has been reached and recorded in writing and a copy of it has been given or sent to that person.

Notification of placements

8.—(1) Subject to paragraph (3) the local authority shall, so far as practicable, give notice to all the persons whose wishes and feelings have been sought in relation to the decision to place the child pursuant to section 22(4) of the Act (persons to be consulted concerning local authority decisions) and to those persons specified in paragraph (4) of—

- (a) the placement decision, and
- (b) details of where the child is to be placed.

(2) Where the child is placed with a person other than a parent the local authority's notice under paragraph (1) to the persons referred to in the paragraph shall contain—

- (a) the name and address of the person with whom the child is placed;
- (b) particulars of arrangements for contact with the child;
- (c) any other particulars relating to the care and welfare of the child which it appears to the local authority ought to be supplied.

(3) A local authority shall not be required to give notice under paragraph (1) in the case of a person whose whereabouts are unknown to the authority, or cannot be readily ascertained, or in any case where the authority determine that to give such notice would not be in accordance with their duty under section 22(3) of the Act.

(4) For the purposes of paragraph (1) the persons specified are—

- (a) the district health authority for the district in which the child is living;
- (b) the local education authority for the area in which the child is living;
- (c) the child's registered medical practitioner;
- (d) the area authority;
- (e) any person, not being an officer of a local authority, who has been caring for the child immediately before the placement; and
- (f) 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.

Support and supervision of placements

9.—(1) A local authority shall satisfy themselves that the welfare of each child who has been placed by them continues to be appropriately provided for by his placement and for that purpose the authority shall—

- (a) give such advice and assistance to the person with whom the child is placed as appears to the local authority to be necessary;
- (b) make arrangements for a person authorised by the local authority 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,
 - (iii) thereafter at intervals of not more than three months and also whenever reasonably requested by the child or the person with whom the child is placed

and for the person so authorised to make arrangements, so far as practicable, on each visit to see the child alone.

(2) On each occasion on which a child is visited in pursuance of this regulation by any person authorised by the local authority which placed the child the local authority shall cause a written report on the child to be prepared by that person.

Placements outside England and Wales

10. A local authority which make arrangements to place a child outside England and Wales in accordance with the provisions of paragraph 19 of Schedule 2 to the Act (placement of child in care outside England and Wales) 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 in England and Wales.

Termination of placements

11.—(1) If it appears to a local authority that the placement is no longer in accordance with their duty in respect of the child under section 22(3) of the Act or would prejudice the safety of the child, they shall terminate the placement and shall remove the child forthwith from the person with whom he is placed.

(2) Where, in the case of a child who has been placed in the area of an area authority by another local authority, it appears to the area authority that it would be detrimental to the welfare of the child if he continued to be so placed, the area authority may remove the child forthwith from the person with whom he is placed.

(3) Where a child is removed under paragraph (2) the area authority shall forthwith notify the other authority of that fact and that authority shall make other arrangements for the care of the child as soon as is practicable.

Notification of termination of placements

12. In relation to a decision to terminate a placement a local authority shall, so far as is reasonably practicable—

- (a) give notice in writing of any decision to terminate the placement before it 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 22(4) of the Act,
 - (iii) the person with whom the child is placed,
 - (iv) the other persons to whom regulation 8(1) refers; and
- (b) give notice in writing of the termination of the placement to all those persons, other than the child and the person with whom the child was placed.

Application of Regulations to short-term placements

13.—(1) This regulation applies to a series of short-term placements with the same person where the following conditions are satisfied—

- (a) all the placements occur within a period which does not exceed one year;
- (b) no single placement is for a duration of more than four weeks; and
- (c) the total duration of the placements does not exceed 90 days.

(2) Any series of short-term placements to which this regulation applies may be treated as a single placement for the purpose of these Regulations.

(3) Regulation 9(1)(b) shall apply in relation to short-term placements to which this regulation applies as if for paragraphs (1)(b)(i) to (iii) of that regulation there were substituted—

- “(i) during the first of the series of short-term placements to which this regulation applies, and
- (ii) on one other occasion while the child is in fact placed during the series of short-term placements.”

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Signed by authority of the Secretary of State for Health.

2nd April 1991

Virginia Bottomley
Minister of State,
Department of Health

SCHEDULE 1

Regulation 3(2)

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) age;
 - (b) health;
 - (c) personality;
 - (d) marital status and particulars of any previous marriage;
 - (e) 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 71 (registration as child-minder) of the Act and details of any prohibition on his acting as a child-minder, providing day care, or caring for foster children privately or children in a voluntary or registered children's home;
 - (g) details of children in his household, whether living there or not;
 - (h) religious persuasion and degree of observance, racial origin and cultural and linguistic background;
 - (i) past and present employment and leisure activities and interests;
 - (j) details of the living standards and particulars of accommodation of his household;
 - (k) subject to the provisions of the Rehabilitation of Offenders Act 1974, any criminal conviction.
2. In respect of members of the household aged 16 and over 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 (k) of this Schedule.

SCHEDULE 2

Regulation 7

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

1. The authority'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 the person authorised by or on behalf of the local authority or area authority, and frequency of visits and reviews of the child's case under regulations made under section 26 of the Act (6) (review of cases).
4. Arrangements for contact, if any, (including prohibition of contact) in pursuance of section 34 of the Act (parental contact etc for children in care).
5. Removal of the child from the placement in the circumstances specified in regulation 11.

(6) See Review of Children's Cases Regulations 1991, S.I.1991/895.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

6. The need to notify the local authority of relevant changes in circumstances of the person with whom the child is placed, including any intention to change his address, changes in the household in which the child will live and 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 local authority'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 that such information is not disclosed to any person without the consent of the local authority.
10. The circumstances in which it is necessary to obtain in advance the approval of the local authority 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.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the accommodation of children in the care of a local authority with a parent, person who is not a parent but has parental responsibility and a person in whose favour there was a residence order immediately before the care order was made.

They make provision for the children to whom the regulations apply (regulation 2); the enquiries and assessment to be made by local authorities before making decisions to place children in such accommodation (regulation 3); the duties of local authorities in relation to placements in those circumstances (regulation 4); the taking of such decisions by the director of social services or a person nominated by him (regulation 5); immediate placements (regulation 6); the provision of and particulars to be included in agreements between local authorities and those who are to accommodate the children (regulation 7); notification of placements (regulation 8); support and supervision of placements by local authorities (regulation 9); the application of the regulations to placements which may be made outside England and Wales (regulation 10); the circumstances in which there may be termination of placements (regulation 11); notification of termination of placements (regulation 12); and the application of these Regulations to short-term placements (regulation 13).