
STATUTORY INSTRUMENTS

1996 No. 3256

**The Residential Establishments – Child
Care (Scotland) Regulations 1996**

PART II

**GENERAL PROVISIONS APPLYING TO
CONDUCT OF RESIDENTIAL ESTABLISHMENTS**

General

3. This Part of these Regulations shall apply to any residential establishment which provides residential accommodation for children and—

- (a) is controlled or managed by a local authority; or
- (b) is one in respect of which a person is required to be registered under section 61 of the Act⁽¹⁾; or
- (c) is a school which is registered voluntarily in accordance with section 61A of the Act⁽²⁾.

4. The managers of any residential establishment to which these Regulations apply shall ensure that the welfare of the child placed and kept in such accommodation is safeguarded and promoted and that the child receives such provision for his development and control as is conducive to his best interests.

Statement of functions and objectives

5.—(1) Subject to the provisions of this Part of the Regulations the managers of a residential establishment which provides residential accommodation for children shall, in consultation with the person in charge, prepare within 6 months of these Regulations coming into force a statement of functions and objectives for that establishment which shall include the particulars specified in the Schedule to these regulations.

(2) The managers referred to in paragraph (1) shall keep under review the preparation of and implementation of the said statement of functions and objectives and for that purpose they—

- (a) shall ensure that the person in charge reports in writing to them at intervals of not more than 12 months on the implementation of the statement of functions and objectives for that establishment; and
- (b) shall make arrangements to ensure that each residential establishment they provide is visited on their behalf at intervals of not more than 6 months to furnish them with a report on the implementation of the statement of functions and objectives for each establishment.

(1) Section 61 was amended by section 1 of the Registered Establishments (Scotland) Act 1987 (c. 40) and by section 34 of the Children (Scotland) Act 1995.

(2) Section 61A was inserted by section 2 of the Registered Establishments (Scotland) Act 1987, and substituted by section 34(3) of the Children (Scotland) Act 1995.

(3) Without prejudice to the arrangements made under paragraph (2)(b), the managers may make arrangements for each residential establishment they provide to be visited at such other times as they consider necessary by a person authorised for that purpose.

(4) Where the managers consider it necessary or appropriate, they shall in consultation with the person in charge make such amendments to the statement of functions and objectives prepared in accordance with paragraph (1) as they consider appropriate.

(5) The managers shall arrange for the statement of functions and objectives for any residential establishment they provide to be made available, on request, to any local authority or children's hearing considering the placing of a child in such an establishment.

Number of children who may be accommodated

6. Subject to section 62(5) of the Act⁽³⁾ the managers shall, as they consider appropriate, determine the total number of children who may normally be resident in each residential establishment they provide.

Appointment of person in charge

7.—(1) Where a residential establishment is not provided by a local authority, the managers shall appoint a person to be in charge of the establishment and shall in writing—

- (a) delegate such duties under these Regulations or otherwise to the person in charge as the managers may determine;
- (b) specify the persons who will have charge of the establishment in the absence of the person in charge.

(2) Where a residential establishment is provided by a local authority, the person in charge shall be an officer appointed by the local authority.

Appointment and vetting of staff in residential establishments

8. The managers of a residential establishment shall have in place appropriate procedures to be followed in the vetting of staff in relation to their suitability to work in the establishment both prior to their appointment and regularly thereafter.

Precautions against fire and accident

9.—(1) The managers shall, in consultation with the fire authority for the area in which any residential establishment they provide is situated, ensure that adequate precautions are taken against fire and shall review such precautions at suitable intervals having regard to any recommendations they may receive at any time from the fire authority.

(2) The managers shall make arrangements to ensure that by means of drills and practices the staff of residential establishments provided by them and, as far as practicable, children resident there are adequately trained and instructed in procedures to be followed in the event of fire.

(3) The managers shall ensure that adequate precautions are taken against the occurrence of other forms of accident in a residential establishment and that the staff and, as far as practicable, children resident there are acquainted with such precautions.

(3) Section 62(5) was substituted by section 3 of the Registered Establishments (Scotland) Act 1987.

Sanctions

10.—(1) Arrangements for sanctions, relevant to the control of children resident in a residential establishment, shall be determined by the managers in accordance with the statement of functions and objectives formulated under regulation 5(1).

(2) The arrangements shall not authorise the giving of corporal punishment and corporal punishment shall for this purpose have the same meaning as in section 48A of the Education (Scotland) Act 1980(4).

Provision of education

11.—(1) The managers of each residential establishment shall ensure, in consultation with the appropriate education authority, that each child of school age accommodated in the establishment, and not meanwhile receiving education at a school or other place outwith the establishment, receives adequate and efficient education.

(2) In making provision for education under paragraph (1), the managers shall have regard to—

- (a) the requirements of sections 1 (duty of education authorities to secure provision of education) and 30 (duty of parents to provide education for their children) of the Education (Scotland) Act 1980;
- (b) the number of children normally resident in the establishment in respect of whom education may require to be provided, either within the establishment or, where that is not appropriate or is not provided, at a school;
- (c) the age, ability, aptitude and progress of each child.

(3) For the purposes of paragraph (2)(b) in deciding where a child might best receive education the managers, in consultation with the appropriate education authority, shall have regard to the period for which the child is normally expected to be resident within the establishment.

(4) Any arrangements made under paragraph (1) for the provision of education within the establishment shall include accommodation for teaching purposes together with other requisite facilities and the employment, or arrangement for the services, of an adequate and appropriately qualified teaching staff.

(5) In this regulation the expression “school age” has the meaning assigned to it by section 31 of the Education (Scotland) Act 1980.

Log book or books

12. The managers shall ensure in consultation with the person in charge that there is maintained for each residential establishment a log book or books of day-to-day events of importance or of an official nature, including, without prejudice to this generality and to the inclusion of such information in personal records maintained under regulation 13, details of sanctions imposed.

Personal records

13. The managers in consultation with the person in charge shall ensure that all necessary records, including where necessary health particulars, are maintained in respect of each child resident in a residential establishment.

(4) 1980 c. 44; section 48A was inserted by the Education (No.2) Act 1986 (c. 61), section 48, and subsequently amended by the Self-Governing Schools etc. (Scotland) Act 1989 (c. 39), Schedule 10, paragraph 8, and the Education Act 1993 (c. 35), section 294.

Religious instruction

14. The managers of a residential establishment shall, so far as is practicable and having regard to the child's wishes and feelings, arrange that every child resident in the establishment is able to attend such religious services and to receive such religious instruction as may be appropriate to the child's religious persuasion.

Health and medical care

15. The managers shall ensure that arrangements are made—
- (a) within the residential establishment for the maintenance of conditions conducive to good health among the children resident there including the maintenance of satisfactory conditions of hygiene; and
 - (b) where appropriate, in consultation with the relevant local authority responsible for the child's welfare, for such medical and dental treatment to be available as may be required for each child.

Monitoring of registered establishments

16. Where the registering authority have issued a certificate of registration in accordance with section 62(3) of the Act, they shall satisfy themselves by visits—
- (a) at intervals of not more than 1 year, that the operation of the residential establishment continues to conform to the requirements for registration and in doing so shall have regard to the statement of functions and objectives prepared in accordance with regulation 5; and
 - (b) otherwise as they consider necessary or appropriate, that the safety and welfare of children resident within the establishment are being maintained.