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STATUTORY INSTRUMENTS

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**1995 No. 755**

**The Children (Northern Ireland) Order 1995**

**PART VIII**

**VOLUNTARY HOMES AND VOLUNTARY ORGANISATIONS**

*Voluntary homes*

**Persons disqualified from carrying on, or being employed in, voluntary homes**

**78.**—(1) A person who is disqualified (under Article 109) from fostering a child privately shall not carry on, or be otherwise concerned in the management of, or have any financial interest in, a voluntary home unless he has—

- (a) disclosed to the authority the fact that he is so disqualified; and
- (b) obtained the consent of the authority in writing.

(2) No person shall employ a person who is so disqualified in a voluntary home unless he has—

- (a) disclosed to the authority the fact that that person is so disqualified; and
- (b) obtained the consent of the authority in writing.

(3) Where an authority refuses to give its consent under this Article, the authority shall inform the applicant by a notice which states—

- (a) the reason for the refusal;
- (b) the applicant's right to appeal against the refusal to a Registered Homes Tribunal under Article 87; and
- (c) the time within which he may do so.

(4) Any person who contravenes paragraph (1) or (2) shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both.

(5) Where a person contravenes paragraph (2) he shall not be guilty of an offence if he proves that he did not know, and had no reasonable grounds for believing, that the person whom he was employing was disqualified under Article 109.

**Voluntary homes not to be carried on unless registered**

**79.**—(1) No voluntary home shall be carried on unless it is registered under this Part.

(2) The register may be kept by means of a computer.

(3) Any person who, without reasonable excuse, carries on a voluntary home in contravention of paragraph (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **Application for registration**

**80.**—(1) An application for the registration of a voluntary home shall be made—

- (a) by the person carrying on, or intending to carry on, the home; and
- (b) to the authority in whose area the home is, or is to be, situated.

(2) The application shall be made in the prescribed manner and shall be accompanied by such particulars as may be prescribed.

(3) If the authority is satisfied that a voluntary home with respect to which an application has been made in accordance with this Part complies or (as the case may be) will comply—

- (a) with such requirements as may be prescribed, and
- (b) with such other requirements (if any) as appear to the authority to be appropriate,

the authority shall grant the application, either unconditionally or subject to conditions imposed under Article 81.

(4) Before deciding whether or not to grant an application the authority shall comply with any prescribed requirements.

(5) Regulations made for the purposes of paragraph (4) may, in particular, make provision as to the inspection of the home in question at prescribed times.

(6) Where an application is granted, the authority shall notify the applicant that the home has been registered under this Part as from such date as may be specified in the notice.

(7) Where an application is granted subject to conditions imposed under Article 81, the authority shall also notify the applicant of those conditions.

(8) If the authority is not satisfied as mentioned in paragraph (3), it shall refuse the application.

### **Power to impose conditions**

**81.**—(1) The authority may grant an application for registration subject to such conditions relating to the conduct of the home as the authority thinks fit.

(2) The authority may—

- (a) vary or cancel any condition for the time being in force with respect to a home by virtue of this Article; or
- (b) impose an additional condition,

either on the application of the person carrying on the home or without such an application.

(3) Where the authority varies or cancels or imposes a condition under paragraph (2) with respect to a home, the authority shall notify the person carrying on the home that the condition has been varied or cancelled or imposed as from such date as may be specified in the notice.

(4) If any condition imposed or varied under this Article is not complied with, the person carrying on the home shall, if he has no reasonable excuse, be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### **Cancellation of registration**

**82.**—(1) The person carrying on a voluntary home may at any time make an application, in such manner and including such particulars as may be prescribed, for the cancellation by the authority of the registration of the home.

(2) If on any annual review under Article 86, or at any other time, it appears to the authority that a voluntary home is being carried on otherwise than in accordance with the relevant requirements, the authority may cancel the registration of the home.

- (3) The authority may at any time cancel the registration of a voluntary home on the ground—
  - (a) that the person carrying on the home has been convicted of an offence under this Part or any regulations made under Article 89; or
  - (b) that any other person has been convicted of such an offence in relation to the home.
- (4) Where the authority cancels the registration of a voluntary home, the authority shall notify the person carrying on the home that the registration has been cancelled as from such date as may be specified in the notice.

### **Cases where an authority must serve notice of proposal**

- 83.**—(1) Where—
- (a) a person applies for the registration of a voluntary home; and
  - (b) the authority proposes to grant his application subject to conditions,
- the authority shall give him notice of its proposal and of the conditions subject to which it proposes to grant his application.
- (2) The authority need not give notice under paragraph (1) if it proposes to grant the application subject only to conditions which—
- (a) the applicant specified in the application; or
  - (b) the authority and the applicant have subsequently agreed.
- (3) The authority shall give an applicant notice of a proposal to refuse his application.
- (4) The authority shall give any person carrying on a voluntary home notice of a proposal—
- (a) to cancel the registration;
  - (b) to vary or cancel any condition for the time being in force with respect to the home by virtue of this Part; or
  - (c) to impose any additional condition.
- (5) The authority need not give notice under paragraph (4) if it proposes—
- (a) to cancel the registration on the application of the person carrying on the home; or
  - (b) to vary or cancel or impose a condition as mentioned in paragraph (4) on the application of, or with the agreement of, that person.
- (6) A notice under this Article shall give the authority's reasons for its proposal.

### **Right to make representations**

- 84.**—(1) A notice under Article 83 shall state that within 14 days of service of the notice any person on whom it is served may in writing require the authority to give him an opportunity to make representations to it concerning the proposal.
- (2) Where a notice has been served under Article 83, the authority shall not determine the matter until—
- (a) any person on whom the notice was served has made representations to the authority concerning the matter;
  - (b) the period during which any such person could have required the authority to give him an opportunity to make representations has elapsed without the authority being required to give such an opportunity; or
  - (c) the conditions specified in paragraph (3) are satisfied.
- (3) The conditions are—

- (a) that a person on whom the notice was served has required the authority to give him an opportunity to make representations to the authority concerning the matter;
  - (b) that the authority has allowed him a reasonable period to make his representations; and
  - (c) that he has failed to make them within that period.
- (4) The representations may be made, at the option of the person making them, either in writing or orally.
- (5) If he informs the authority that he desires to make oral representations, the authority shall give him an opportunity of appearing before and of being heard by the authority.

### **Decision to adopt proposal**

- 85.**—(1) If the authority decides to adopt the proposal it shall serve notice of its decision on any person on whom it was required to serve notice of the proposal.
- (2) A notice under this Article shall be accompanied by an explanation of the right of appeal conferred by Article 87.
- (3) Subject to paragraph (4), the authority’s decision shall not take effect—
- (a) if no appeal is brought, until the end of the period of 28 days referred to in Article 87(3); and
  - (b) if an appeal is brought, until it is determined or abandoned.
- (4) Paragraph (3) does not apply to a decision to adopt a proposal to refuse an application for registration.

### **Annual review of registration**

- 86.**—(1) The authority shall, at the end of the period of twelve months beginning with the date of registration of a voluntary home, and annually thereafter, review its registration for the purpose of determining whether the registration should continue in force or be cancelled under Article 82(2).
- (2) If on any such annual review the authority is satisfied that the home is being carried on in accordance with the relevant requirements, the authority shall determine that the registration should continue in force.
- (3) The authority shall give to the person carrying on the home notice of the determination under paragraph (2).

### **Appeals**

- 87.**—(1) An appeal against a decision of an authority under this Part shall lie to a Registered Homes Tribunal.
- (2) An appeal shall be brought by notice given to the authority.
- (3) No appeal shall be brought by a person more than 28 days after service on him of notice of the decision.
- (4) On an appeal the Tribunal may confirm the authority’s decision or direct that it shall not have effect.
- (5) A Tribunal may also on an appeal—
- (a) vary any condition in force by virtue of Article 81 with respect to the home to which the appeal relates;
  - (b) direct that any such condition shall cease to have effect; or

- (c) direct that any such condition as the Tribunal thinks fit shall have effect with respect to the home.
- (6) An authority shall comply with any direction given by a Tribunal under this Article.

**Prohibition on further applications**

**88.**—(1) Where an application for the registration of a home is refused, no further application may be made within the period of six months beginning with the date when the applicant is notified of the refusal.

(2) Paragraph (1) shall have effect, where an appeal against the refusal of an application is determined or abandoned, as if the reference to the date when the applicant is notified of the refusal were a reference to the date on which the appeal is determined or abandoned.

(3) Where the registration of a home is cancelled, no application for the registration of the home shall be made within the period of six months beginning with the date of cancellation.

(4) Paragraph (3) shall have effect, where an appeal against the cancellation of the registration of a home is determined or abandoned, as if the reference to the date of cancellation were a reference to the date on which the appeal is determined or abandoned.