

1982 No. 13

CHILDREN AND YOUNG PERSONS

The Emigration of Children (Arrangements by Voluntary Organisations) Regulations 1982

<i>Made - - - -</i>	7th January 1982
<i>Laid before Parliament</i>	15th January 1982
<i>Coming into Operation</i>	15th February 1982

The Secretary of State for Social Services, in exercise of powers conferred on him by section 62(1), (2) and (3) of the Child Care Act 1980 (a), 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 Emigration of Children (Arrangements by Voluntary Organisations) Regulations 1982 and shall come into operation on 15th February 1982.

(2) In these regulations “parent” includes a person in whom the parental rights and duties relating to a child are vested by an order made under section 25 of the Children Act 1975(b).

Scope of the regulations

2. These regulations shall apply to any child the arrangements for whose emigration are made and carried out by a voluntary organisation except a child—

- (a) in the care of a local authority or
- (b) who is removed from England and Wales by authority of an order made under section 53 of the Adoption Act 1958(c) (provisional adoption by persons domiciled outside Great Britain) or by a person in whom the parental rights and duties relating to that child are vested by an order made under section 25 of the Children Act 1975 and who removes him in connection with his adoption of that child under the law of or within the country in which that person is domiciled.

Requirements relating to emigration of children

3.—(1) A voluntary organisation which makes and carries out arrangements for the emigration of a child shall, before the child emigrates —

(a) 1980 c. 5. (b) 1975 c. 72.
 (c) 1958 c. 5 (7 & 8 Eliz.2); section 53 was amended by the Children Act 1975, section 108 and Schedule 3, paragraph 21(2) and by the Children Act 1975 (Commencement No.1) Order 1976 (S.I. 1976/1744) and by the Children Act 1975 (Commencement No.3) Order 1978 (S.I. 1978/1433).

- (a) be satisfied that emigration would benefit the child and that suitable arrangements have been or will be made for the child's reception and welfare in the country to which he is going;
 - (b) be satisfied that the parents and guardians, if any, of the child have been consulted or that it is not practicable to consult them;
 - (c) where the child is capable of consenting, be satisfied that he consents to his emigration;
 - (d) where the child is not capable of consenting and no resolution under section 64(1) of the Child Care Act 1980 (transfer of parental rights and duties to voluntary organisations) is in force with respect to that child, be satisfied that the parents and guardians, if any, of the child consent to his emigration or, if such consent is not obtained, obtain the consent thereto of the Secretary of State; and
 - (e) where a resolution under section 64(1) of the Child Care Act 1980 is in force with respect to that child, obtain the consent to his emigration of the Secretary of State.
- (2) The Secretary of State shall not give his consent under this regulation unless he is satisfied—
- (a) that emigration would benefit the child and that suitable arrangements have been or will be made for the child's reception and welfare in the country to which he is going;
 - (b) that the parents and guardians, if any, of the child have been consulted or that it is not practicable to consult them;
 - (c) in the case of a child to whom paragraph (1)(d) of this regulation applies, that the child is to emigrate in company with or for the purpose of joining a parent, guardian, relative or friend of his; and
 - (d) in the case of a child to whom paragraph (1)(e) of this regulation applies—
 - (i) where the child is capable of consenting, that he consents to his emigration or
 - (ii) where the child is not capable of consenting, that he is to emigrate in company with or for the purpose of joining a parent, guardian, relative or friend of his.

Information to be supplied by voluntary organisations

4. A voluntary organisation shall in connection with obtaining the consent of the Secretary of State to the emigration of a child supply the Secretary of State with such information as may be necessary to enable him to decide whether he should give his consent.

Offences

5. Section 62(3) of the Child Care Act 1980 (regulations as to arrangements by voluntary organisations for emigration of children) shall have effect in relation to these regulations.

Signed by authority of the Secretary of State for Social Services

Gerard Vaughan,

Minister of State,

Department of Health and Social Security.

7th January 1982.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations apply to children for whose emigration arrangements are made and carried out by voluntary organisations, other than children in the care of local authorities or leaving England and Wales by virtue of provisional adoption orders or with persons intending to adopt them abroad where the parental rights and duties are vested in such persons under section 25 of the Children Act 1975.

They set out requirements to be fulfilled by the voluntary organisation before the child emigrates. These include obtaining the consent of the Secretary of State in all cases where a resolution under section 64(1) of the Child Care Act 1980 (transfer of parental rights and duties to voluntary organisations) is in force in respect of the child and where no such resolution is in force but the child is not capable of consenting and the consent of his parents and guardians has not been obtained. They also require the voluntary organisation to supply the Secretary of State with information in connection with obtaining his consent.

By virtue of regulation 5, contravention of or failure to comply with these regulations is an offence.

The regulations apply only to England and Wales.

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