
STATUTORY INSTRUMENTS

1988 No. 2183

CHILDREN AND YOUNG PERSONS

**The Accommodation of Children
(Charge and Control) Regulations 1988**

Made - - - - - *12th December 1988*
22nd December
Laid before Parliament *1988*
Coming into force - - - *1st June 1989*

The Secretary of State for Health in exercise of the powers conferred by sections 22A(1) and (2) and 85(1) and (4) of the Child Care Act 1980(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 Accommodation of Children (Charge and Control) Regulations 1988 and shall come into force on 1st June 1989.

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

“the Act” means the Child Care Act 1980;

“area authority” means, in relation to a child, the local authority(2) in whose area the dwelling of the person with whom the child is placed is situated, where the child is not in the care of that authority;

“custodian”, in relation to a child, means the person in whom legal custody of the child is vested under a custodianship order under section 33(1) of the Children Act 1975(3);

“guardian ad litem” means a guardian ad litem appointed pursuant to section 32B of the Children and Young Persons Act 1969(4), under rules made under section 65 of the Adoption Act 1976(5) or pursuant to section 7 or 12F(3) (6)(f) of the Act;

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- (1) 1980 c. 5; section 22A was inserted by section 1 of the Children and Young Persons (Amendment) Act 1986 (c. 28) and section 85(4) was amended by the same section.
- (2) “local authority” is defined in section 87(1) of the Act as the council of a county (other than a metropolitan county), of a metropolitan district of 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 Child Care Act 1980 stand referred to the social services committee of a local authority.
- (3) 1975 c. 72.
- (4) 1969 c. 54; section 32B was inserted by section 64 of the Children Act 1975.
- (5) 1976 c. 36.

“placement” means the accommodation of a child under the charge and control of a parent, guardian, relative or friend pursuant to section 21(2) of the Act (charge and control), the expressions “place” and “placed” shall be construed accordingly and “placed with” a person means accommodated under that person’s charge and control;

“placement decision” means a decision to place a child which is made in accordance with regulation 6 (placement decisions by Director of Social Services or nominated person).

“supervisory duties” means the duties imposed by regulation 8 (supervision of placements).

- (3) 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) Subject to the provisions of this regulation these Regulations shall apply to every child to whom Part III of the Act (which relates to the treatment of children in the care of a local authority) applies((7)g) and who is or is proposed to be placed.

(2) These Regulations shall not apply to a child who has been received into the care of a local authority under section 2 of the Act (voluntary care) unless a resolution has been passed under section 3 of the Act in respect of that child.

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

(4) Where a child is committed by a court to the care of a local authority by an order under section 7(2) of the Family Law Reform Act 1969, section 43 of the Matrimonial Causes Act 1973, section 2(2)(b) of the Guardianship Act 1973, sections 34(5) and 36(2) and (3)(a) of the Children Act 1975 or section 26(1)(b) of the Adoption Act 1976, the application of these Regulations is subject to any directions given by the court whether any such direction is given before or after the coming into force of these Regulations.

(5) Nothing in these Regulations shall require the temporary removal of a child from the person with whom the child is to be placed and with whom he is already living before he is placed.

(6) Section 12F was added by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41) Schedule 1, paragraph 1.

(7) In addition to the children specified in section 17 of the Act (children to whom Part III of the 1980 Act applies), Part III of the 1980 Act applies also to children committed to the care of a local authority under the following provisions: (i) section 3(2) of the *Matrimonial Proceedings (Magistrates' Courts) Act 1960 (c48)* (this Act was repealed by Schedule 3 to the Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22), but by virtue of paragraph 3 of Schedule 1 to the 1978 Act orders made under the 1960 Act are not affected); (ii) section 7(2) of the Family Law Reform Act 1969 (c. 46) as amended by paragraph 23 of Schedule 5 to the 1980 Act; (iii) section 43(1) of the Matrimonial Causes Act 1973 (c. 18) as amended by paragraph 34 of Schedule 5 to the 1980 Act; (iv) section 2(2)(b) of the Guardianship Act 1973 (c. 29) (which applies section 4 of that Act); (v) section 34(5) of the Children Act 1975 (c. 72) which applies section 2(2)(b) of the Guardianship Act 1973; section 34 was substituted by section 64 of the Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22); (vi) section 36(2) and (3) (a) of the Children Act 1975 (which applies section 4 of the Guardianship Act 1973 to orders under section 36(2) and (3)(a) as it applies to an order under section 2(2)(b) of the Guardianship Act 1973); (vii) section 26(1)(b) of the Adoption Act 1976 (c. 36) (which applies section 4 of the Guardianship Act 1973 to orders under section 26(1)(b) as it applies to an order under section 2(2)(b) of the Guardianship Act 1973); (viii) section 10(1) of the Domestic Proceedings and Magistrates' Courts Act 1978 as amended by paragraph 42 of Schedule 5 to the 1980 Act.

Consultation and notification

3.—(1) Before a placement decision is made a local authority shall, so far as is practicable, seek written views on the proposed placement from the persons specified in paragraph (2) and shall take those views into account in reaching such a decision.

(2) The persons from whom views are to be sought are—

- (a) the child, having regard to his age and understanding;
- (b) the child’s parent, guardian or custodian where appropriate;
- (c) the district health authority for the district in which the child is living and the appropriate officer;
- (d) the child’s medical practitioner;
- (e) the area authority, where the proposed placement is in the area of that authority;
- (f) a person, not being an officer of a local authority, who is or has been involved with the arrangements for the child’s welfare during the period the child has been in the care of the local authority or immediately before that period;
- (g) any other person whose views the local authority considers should be sought.

(3) In paragraph (2)(c) “appropriate officer” means such officer as may be appointed for the purposes of that subparagraph by the local education authority for the area in which the child is living.

(4) The local authority shall, so far as practicable, give written notice to all the persons whose views have been sought pursuant to paragraph (1) of the placement decision and, subject to paragraphs (5) and (7), of where the child is to be placed.

(5) Where the child is placed with a person other than his parent, guardian or custodian, as the case may be, the local authority’s notice in writing to his parent, guardian or custodian under paragraph (4) shall contain—

- (a) the name and address of the person with whom the child is placed;
- (b) arrangements for access to the child having regard to the Code of Practice made under section 12G(8) of the Act;
- (c) any other particulars relating to the care and welfare of the child which it appears to the local authority ought to be supplied.

(6) In relation to termination of a placement a local authority shall, so far as practicable—

- (a) give notice in writing of any decision to terminate the placement to the child, having regard to his age and understanding, to the person with whom the child is placed and to the child’s parent, guardian or custodian; and
- (b) give notice in writing of the termination of the placement to all persons, other than the child, whose views were sought pursuant to paragraph (1) and the person with whom the child was placed.

(7) A local authority shall not be required to give notice under paragraph (4) in the case of a person whose whereabouts are unknown to the authority or cannot be readily obtained nor in any case where the authority determine that such notification would not be in accordance with their general duty under section 18 of the Act (general duty of local authority in relation to children in their care) in respect of the child.

(8) Section 12G was added by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41) Schedule 1, paragraph 1.

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 general duty under section 18 of the Act and that the placement is the most suitable having regard to all the circumstances.

Enquiries to be made before placement decisions

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

- (a) the health of the child, by means of a health assessment unless such an assessment has been made and recorded in a written report by a registered medical practitioner within three months of the proposed placement decision;
- (b) the suitability of the person with whom it is proposed 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 or over in which it is proposed a child will live.

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

Placement decisions by Director of Social Services or nominated person

6. The decision 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(9) or by an officer of the local authority nominated in writing for the purpose by the Director.

Provision 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 to all the particulars specified in Schedule 2, and the placement shall not be put into effect until such an agreement on all the particulars so specified has been reached and a copy of it has been given or sent to that person.

Supervision of placements

8.—(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 case within one week of the beginning of the placement and at intervals of not more than 6 weeks during the first year of the placement and thereafter when reasonably requested by the child or the person with whom the child is placed and as circumstances may require, but in any case at intervals of not more than 3 months, and for the person so authorised so far as practicable to make arrangements to see the child alone on each visit;

- (c) review the child's welfare and progress including his health, and his physical, emotional, educational and social development, within the period of 3 months from the beginning of the placement and thereafter at intervals of not more than 6 months.
- (2) In carrying out a review in accordance with paragraph (1)(c) a local authority shall, so far as practicable, ascertain and give due consideration to the child's wishes and feelings having regard to his age and understanding and seek and take into account the views of—
- (a) the child's parent or guardian, or
 - (b) where a custodianship order relating to the child is in force, the custodian and, where the custodian and a parent of the child have legal custody jointly, that parent, and
 - (c) the person with whom the child is placed.
- (3) In carrying out a review in accordance with paragraph (1)(c) a local authority shall reconsider whether—
- (a) the placement of the child is the most suitable way of performing their general duty under section 18 of the Act;
 - (b) the placement continues to be the most suitable placement having regard to all the circumstances;
 - (c) the child's needs arising from his cultural background, racial origin and religious persuasion are being met;
 - (d) there is a continuing need for the child to be in the care of the local authority.
- (4) On each occasion on which a child is visited in pursuance of a provision of these Regulations by any person on behalf of the local authority which placed the child, the local authority shall cause a written report on the child to be prepared by that person.
- (5) On each occasion on which a review of the case of a child is carried out pursuant to paragraph (1)(c) the authority carrying out the review shall cause a written report thereon to be made.

Arrangements between local authorities and area authorities

9. Where arrangements are made by a local authority with an area authority in respect of a child placed by a local authority in the area of the area authority for the area authority to carry out the supervisory duties in regulation 8 (supervision of placements) on behalf of the authority in whose care the child is—

- (a) the authority in whose care the child is shall supply the area authority with all such information as is necessary to enable the area authority to carry out the supervisory duties on behalf of the other authority;
- (b) the area authority shall keep the other authority informed of the progress of the child and, in particular, shall furnish reports to the other authority following each visit to the home in which the child is placed and following each review of the case of the child carried out by the area authority on behalf of the other authority in accordance with regulation 8(1)(c);
- (c) the local authority and the area authority shall consult each other from time to time as necessary and as soon as practicable after each such review of the case of the child with regard to what action is required in relation to the child.

Health requirements

10. A local authority shall ensure that arrangements are made in respect of a child who has been placed for him to be provided with health care, including medical and dental attention and ensure that

the name of the child is included on the list of a general medical practitioner who provides general medical services under Part II of the National Health Service Act 1977⁽¹⁰⁾ during the placement.

Restriction on placements outside England and Wales

11.—(1) A local authority in whose care a child is shall not place a child outside the British Islands⁽¹¹⁾ unless the authority consider that the exceptional circumstances of his case make such placement desirable.

(2) If a local authority in whose care a child is make arrangements to place a child outside England and Wales the authority shall take steps to ensure that, so far as 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

12.—(1) A local authority shall not allow a child who has been placed by them to remain placed if it appears to them that the placement is no longer in accordance with the general duty of the authority in respect of the child under section 18 of the Act or would prejudice the safety of the child.

(2) Where, in the case of a child who has been placed in the area of an area authority by another 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 charge and control of 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.

Registers to be kept by local authorities

13.—(1) A local authority shall, in respect of every child placed in their area, whether by them or by another local authority, enter into a register to be kept for the purpose, the particulars specified in paragraph (2) and such of the particulars specified in paragraph (3) as may be appropriate.

(2) The particulars to be entered in the register in accordance with paragraph (1) shall be—

- (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 those of the child's, parent, guardian and custodian;
- (c) the name of the local authority by whom the child is placed;
- (d) the statutory provision by virtue of which the child is in the care of a local authority;
- (e) whether the child's name is entered on any local authority register indicating that the child is at risk of being abused;
- (f) the date on which each placement of the child began and terminated and the reason for each termination.

(3) The additional particulars to be entered in the register, where appropriate, in accordance with paragraph (1) are—

⁽¹⁰⁾ 1977 c. 49.

⁽¹¹⁾ "British Islands" are defined in the Interpretation Act 1978 (c. 30) as meaning the United Kingdom, the Channel Islands and the Isle of Man.

- (a) in the case of a child in respect of whom arrangements have been made under regulation 9 (arrangements for supervisory duties to be carried out by area authorities) a note of that fact and the name of the local authority with whom the arrangements were made; and
 - (b) in the case of a child in respect of whom arrangements have been made for supervisory duties under regulation 8 (supervision of placements) to be carried out on behalf of the local authority by a voluntary organisation a note of that fact and the name of the voluntary organisation with whom the arrangements were made.
- (4) Entries in registers kept in accordance with this regulation shall be retained for at least 5 years beginning with the date on which the child to whom the entry relates attains the age of 18 or, if the child has died before attaining that age, the period of 5 years beginning with the date of his death.
- (5) Any register kept in accordance with this regulation shall be open to inspection at all reasonable times by any person duly authorised in that behalf by the Secretary of State.
- (6) A local authority shall provide such access as may be required to entries in the register relating to a particular child and information about him—
- (a) to the child’s guardian ad litem, and
 - (b) subject to the provisions of sections 29(7) and 32(3) of the Local Government Act 1974(12) (investigations and disclosure) to a Local Commissioner appointed under section 23 of that Act, for the purposes of any investigation conducted in accordance with Part III of that Act.
- (7) A local authority shall secure the safekeeping of registers kept in accordance with this regulation and shall take all necessary steps to ensure that information contained therein is treated as confidential.

Case records relating to placements

- 14.—(1) A local authority shall compile and keep up to date a case record in respect of—
- (a) every child placed by them;
 - (b) every child placed in their area by another authority in respect of whom they perform supervisory duties.
- (2) Every case record compiled in accordance with paragraph (1) shall include the documents specified in paragraph (3) and the information specified in paragraph (4).
- (3) The documents referred to in paragraph (2) are as follows—
- (a) copies of reports made in pursuance of regulation 8(3) and (4);
 - (b) copies of reports of each review carried out in respect of the child under section 27(4) of the Children and Young Persons Act 1969(13);
 - (c) copies of agreements made in pursuance of regulation 7;
 - (d) copies of any notice given under section 12B of the Act (termination of access) and any access order made by a court under section 12C of the Act (access orders)(14);
 - (e) copies of any agreements setting out the terms of arrangements made by the local authority for the performance of supervisory duties in respect of the child by an area authority or voluntary organisation.
- (4) The information to be included in case records is all the information relating to the child’s history and background and the child’s health, and his physical, emotional, educational and social

(12) 1974 c. 7.

(13) 1969 c. 54.

(14) Sections 12B and 12C were added by the Health and Social Services and Social Security Adjudications Act 1983, Schedule 1, paragraph 1.

development which in the opinion of the local authority is relevant to the child's welfare during periods in which the child is placed.

Retention of and access to case records

15.—(1) Any case record compiled in accordance with regulation 14 or a complete recording thereof, shall be retained for at least 75 years beginning with the date of birth of the child to whom it relates or, if the child has died before attaining the age of 18 the period of 15 years beginning with the date of his death.

(2) A local authority shall secure the safe keeping of records compiled in accordance with regulation 14 and shall take all necessary steps to ensure that information contained therein is treated as confidential.

(3) Case records compiled in accordance with regulation 14 or, as the case may be, a complete recording thereof, shall be open to inspection at all reasonable times by any person duly authorised in that behalf by the Secretary of State.

(4) A local authority shall provide such access as may be required to case records compiled in accordance with regulation 14 or a complete recording thereof and information about a particular child—

- (a) to the child's guardian ad litem, and
- (b) subject to the provisions of section 29(7) and 32(3) of the Local Government Act 1974 (investigations and disclosure), to the Local Commissioner appointed under section 23 of that Act, for the purpose of any investigation conducted in accordance with Part III of that Act.

(5) A local authority may make and preserve a complete recording of any record compiled in accordance with regulation 14 and may destroy any record of which they have made a recording which reproduces the total contents of such record.

Transitional provisions

16.—(1) Any child who is not a child to whom regulation 2(2) applies and who is under the charge and control of a parent, guardian, relative or friend, pursuant to section 21(2) of the Act immediately before the coming into force of these Regulations shall be deemed to have been placed under these Regulations on the day they come into force.

(2) A local authority who are deemed by paragraph (1) to have placed a child under these Regulations shall, subject to paragraphs (3) and (4), comply with these Regulations, so far as they apply to placements, as soon as practicable after they come into force and in any event within 12 months of the coming into force of these Regulations.

(3) A local authority shall carry out a review in accordance with the provisions of regulation 8(1)(c) (review) in respect of each child who is deemed to be placed pursuant to paragraph (1), so however that the review of the deemed placement shall be carried out within six months of the date of such placement and thereafter at intervals of not more than six months, and for this purpose the authority shall cause each such child to be visited, which such visits shall be deemed to be visits for the purposes of regulation 8(4).

(4) The local authority's obligations under regulation 4 (duties of local authorities in relation to placements) and regulation 12 (termination of placements) shall apply to each child who is deemed to be placed pursuant to paragraph (1) from the date these Regulations come into force.

Signed by authority of the Secretary of State for Health.

12th December 1988

D. Mellor
Minister of State, Department of Health

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

SCHEDULE 1

Regulation 5(2)

PARTICULARS 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) details of two persons nominated by him who are able to provide personal reference for him;
 - (g) the result of any application to have a child boarded out or placed with him or to adopt a child or of any application for registration under section 1 of the Nurseries and Child-Minders Regulation Act 1948(15) and details of any prohibition on his being a childminder or looking after foster children;
 - (h) details of children in his household, whether living there or not;
 - (i) religion and degree of observance, cultural background and racial origin;
 - (j) past and present employment and leisure activities and interests;
 - (k) details of the living standards and particulars of accommodation of his household;
 - (l) any criminal convictions.
2. In respect of members of the household 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), (g), (j), and (l).

SCHEDULE 2

Regulation 7

PARTICULARS TO BE INCLUDED IN THE AGREEMENT

1. The authority's plans for the child and the objectives of the placement.
2. The arrangements for support of the placement other than financial support.
3. Particulars of 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 placement, including reviews under regulation 8(1)(c) and section 27(4) of the Children and Young Persons Act 1969, and any regulations made thereunder.
4. Particulars of arrangements for access, if any, to the child by a parent, guardian or custodian of the child, where not placed with such a person, having regard to the provisions of Part 1A of the Act and the Code of Practice on Access made under section 12G of the Act.
5. The duty of the local authority or area authority or person authorised on their behalf to remove the child pursuant to regulation 12 and the agreement of the person with whom the child is to be placed to allow the child to be removed in such circumstances as are specified in that regulation.

(15) 1948 c. 53.

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. 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 such needs.

8. Particulars of any arrangements for delegation 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 need 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 is to be placed.

11. Particulars of any financial arrangements relating to the placement of the child.

12. Particulars of any other terms or conditions agreed between the local authority and the person with whom the child is to be placed.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the accommodation, under the charge and control of a parent, guardian, relative or friend, of children in the care of a local authority.

They make provision for the categories of children to whom the regulations apply (regulation 2); and provide for the persons to be consulted and notified by local authorities before placing children in accommodation under the charge and control of a parent, guardian, relative or friend (regulation 3); the duties of local authorities in relation to placements in those circumstances (regulation 4); the enquiries to be made by local authorities before taking decisions to place children in such accommodation (regulation 5); the taking of such decisions by the Director of Social Services or a person nominated by him (regulation 6); the particulars to be included in agreements between local authorities and those who are to accommodate the children (regulation 7); supervision of placements by local authorities (regulation 8); arrangements between local authorities and area authorities (regulation 9); health requirements (regulation 10); the restriction on placements which may be made outside England and Wales (regulation 11); and the circumstances in which there may be termination of placements (regulation 12).

The Regulations make provision also for registers to be kept by local authorities (regulation 13); case records relating to placements (regulation 14); the retention of and access to case records (regulation 15) and transitional provisions (regulation 16).