

CHILDREN AND YOUNG PERSONS, ENGLAND

Children Act (Miscellaneous Amendments) (England) Regulations 2002

Made - - - - 6th March 2002

Laid before Parliament *11th March 2002*

Coming into force 1st April 2002

The Secretary of State, in exercise of the powers conferred upon him by sections 23(2)(a) and (f), (5) and (9), 23A(3), 25(2) and (7), 26(1), (2), (5) and (6), 51(4), 59(2) to (5) and 104(4) of, and paragraphs 12 to 14 of Schedule 2, paragraph 4(1)(a) of Schedule 4, paragraph 7(1)(a) of Schedule 5, and paragraphs 10(1)(a) and (2)(l) of Schedule 6 to, the Children Act 1989**(a)**, and section 119(1) of the Care Standards Act 2000**(b)** and of all other powers enabling him in that behalf, hereby makes the following Regulations—

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Children Act (Miscellaneous Amendments) (England) Regulations 2002, and shall come into force on 1st April 2002.

(2) These Regulations extend to England only.

Amendment of the Arrangements for Placement of Children (General) Regulations 1991

2.—(1) The Arrangements for Placement of Children (General) Regulations 1991(c) shall be amended in accordance with the following provisions of this regulation.

(2) In regulations 1(2), 2(1), 5(1), 6, 10(2) and (3) and 11, and in paragraph 5 of Schedule 4, in each place in which they occur, for the words “registered children’s home”, substitute “private children’s home”.

(3) In regulation 1(2) (interpretation), in the definition of “placement”, in each of paragraphs (a) and (b), for “(b),(c),(d)” substitute “(aa)”**(d)**.

(4) In regulation 2(2) (application of regulations), for the words after “voluntary organisation”, substitute “, in a school which is a children’s home within the meaning of section 1(6) of the Care Standards Act 2000.”.

(5) In regulation 5(1) (notification of arrangements)—

(a) for sub-paragraph (b) substitute—

“(b) the Primary Care Trust, or if there is no Primary Care Trust, the Health Authority, for the area in which the child is living and, if it is different, for the area in which the child is to be placed;”;

(a) 1989 c.41. These powers are exercisable by the Secretary of State in relation to England. Their exercise in relation to Wales has been transferred to the National Assembly for Wales. See article 2 of, and the entry for the Children Act 1989 in Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).

(b) 2000 c.14. The power is exercisable by the appropriate Minister, who is defined in section 121(1) of the Care Standards Act in relation to England, Scotland and Northern Ireland, as the Secretary of State, and in relation to Wales, as the National Assembly for Wales.

(c) S.I.1991/890, as amended by S.I. 1991/2033, S.I.1993/3069, S.I.1995/2015 and S.I. 1997/649.

(d) As substituted by section 116 of, and paragraph 14 (1), (3) and (8) of Schedule 4 to, the Care Standards Act 2000.

- (b) in sub-paragraph (c), at the end, add “and, if it is different, for the area in which the child is to be placed;”; and
 - (c) in sub-paragraph (d), at the end, add “and, where applicable, any registered medical practitioner with whom the child is to be registered following the placement;”.
- (6) For regulation 7 (health requirements) substitute—

“Health assessments

- 7.—(1) Subject to paragraphs (3) and (4), a responsible authority shall—
- (a) before making a placement, or if that is not reasonably practicable, as soon as reasonably practicable after a placement is made, make arrangements for a registered medical practitioner to conduct an assessment, which may include a physical examination, of the child’s state of health;
 - (b) require the registered medical practitioner who conducts the assessment to prepare a written report of the assessment which addresses the matters listed in Schedule 2; and
 - (c) having regard to the matters listed in Schedule 2 and, unless paragraph (4) applies, to the assessment report, prepare a plan for the future health care of the child if one is not already in existence.
- (2) A responsible authority shall ensure that each child is provided during the placement with—
- (a) health care services, including medical and dental care and treatment; and
 - (b) advice and guidance on health, personal care and health promotion issues appropriate to his needs.
- (3) Paragraph (1) does not apply if within a period of three months immediately preceding the placement the child’s health has been assessed, and a report of the assessment prepared in accordance with that paragraph.
- (4) Sub-paragraphs (a) and (b) of paragraph (1) do not apply if the child, being of sufficient understanding to do so, refuses to consent to the assessment.”.
- (7) In regulation 11 (access by guardians ad litem to records and register), and in the heading to that regulation, for “guardian ad litem” substitute “officer of the service”(a).
- (8) In Schedule 2 (health considerations to which responsible authorities are to have regard)—
- (a) in paragraph 1, at the end, add “including his physical, emotional and mental health.”;
 - (b) in paragraph 2, at the end, add “including, as far as practicable, his family health history.”; and
 - (c) in paragraph 6, at the end, add “and for advice and guidance on health, personal care and health promotion issues appropriate to the child’s needs.”.
- (9) In Schedule 3 (educational considerations to which responsible authorities are to have regard), in paragraph 4—
- (a) for “Education Act 1981” substitute “Education Act 1996(b)”; and
 - (b) for “section 7” substitute “section 324”.

Amendment of the Placement of Children with Parents etc. Regulations 1991

3.—(1) The Placement of Children with Parents etc. Regulations 1991(c) shall be amended in accordance with the following provisions of this regulation.

- (2) In regulation 1(2) (interpretation), the definition of “guardian ad litem” is omitted.

(a) Section 105(1) of the Children Act provides that “officer of the service” has the same meaning as in the Criminal Justice and Court Services Act 2000 (c.43). See section 11(3) of that Act.

(b) 1996 c.56.

(c) S.I. 1991/893 as amended by S.I. 1995/2015.

- (3) In regulation 8(4) (notification of placements)—
 - (a) for sub-paragraph (a) substitute—
 - “(a) the Primary Care Trust, or if there is no Primary Care Trust, the Health Authority, for the area in which the child is living and, if it is different, for the area in which the child is to be placed;”;
 - (b) in sub-paragraph (b), at the end, add “and, if it is different, for the area in which the child is to be placed;”;
 - (c) in sub-paragraph (c), at the end, add “and, where applicable, any registered medical practitioner with whom the child is to be registered following the placement;”.
- (4) In paragraph 1 of Schedule 1 (particulars to be taken into account)—
 - (a) in sub-paragraph (f), for the words from “under” to “Act” substitute “for child minding or day care”; and
 - (b) for sub-paragraph (k) substitute—
 - “(k) details of any criminal offences of which he has been convicted, or in respect of which he has been cautioned by a constable and which, at the time the caution was given, he admitted.”.

Amendment of the Review of Children’s Cases Regulations 1991

4.—(1) The Review of Children’s Cases Regulations 1991(a) shall be amended in accordance with the following provisions of this regulation.

- (2) In regulation 1(2) (interpretation), the definition of “guardian ad litem” is omitted.
- (3) In regulations 1(2) and 12, in each place in which they occur, for the words “registered children’s home” substitute “private children’s home”.
- (4) For regulation 6 (health reviews), substitute—

“Health reviews

6.—(1) Subject to paragraph (2), the responsible authority shall, in respect of each child who continues to be looked after or provided with accommodation by them—

- (a) arrange for an assessment, which may include a physical examination, of the child’s state of health, to be conducted by a registered medical practitioner, or a registered nurse or registered midwife acting under the supervision of a registered medical practitioner—
 - (i) at least once in every period of six months before the child’s fifth birthday; and
 - (ii) at least once in every period of twelve months after the child’s fifth birthday;
- (b) require the person who carried out the assessment to prepare a written report which addresses the matters listed in Schedule 2; and
- (c) review the plan for the future health of the child prepared under regulation 7(1)(c) of the Arrangements for Placement of Children (General) Regulations 1991(b) at the intervals set out in sub-paragraphs (i) and (ii) of paragraph (a).

(2) Sub-paragraphs (a) and (b) of paragraph (1) do not apply if the child, being of sufficient understanding to do so, refuses to consent to the assessment.”.

(5) In regulation 13 (exceptions to application of Regulations), for the words from “on behalf of” to the end of the regulation, substitute “by a local authority or a voluntary organisation, in a school which is a children’s home within the meaning of section 1(6) of the Care Standards Act 2000.”.

(6) In Schedule 2 (considerations to which responsible authorities are to have regard), in paragraph 4, for “Education Act 1981” substitute “Education Act 1996”.

(a) S.I. 1991/895, as amended by S.I. 1991/2033, S.I.1993/3069, S.I.1995/2015, and S.I.1997/649.

(b) S.I. 1991/890, as amended by S.I. 1991/2033, S.I.1993/3069, S.I.1995/2015, S.I.1997/649 and these Regulations.

(7) In Schedule 3 (health considerations to which responsible authorities are to have regard)—

- (a) in paragraph 1, at the end, add “including his physical, emotional and mental health.”;
- (b) in paragraph 2, at the end, add “including, as far as practicable, his family health history.”; and
- (c) in paragraph 6, at the end, add “, and for advice and guidance on health, personal care and health promotion issues appropriate to the child’s needs.”.

Amendment of the Representations Procedure (Children) Regulations 1991

5. The Representations Procedure (Children) Regulations 1991**(a)** shall be amended as follows—

- (a) in regulation 11(2) (application to voluntary organisations and registered children’s homes), in each place in which they occur, for the words “registered children’s home” substitute “private children’s home”; and
- (b) in regulation 11A (exceptions to application of regulations) for the words after “voluntary organisation” to the end of the regulation, substitute “, in a school which is a children’s home within the meaning of section 1(6) of the Care Standards Act 2000.”.

Amendment of the Refuges (Children’s Homes and Foster Placements) Regulations 1991

6. The Refuges (Children’s Homes and Foster Placements) Regulations 1991**(b)** shall be amended as follows—

- (a) in regulation 2(1), in the definition of “home” and in regulation 4(2), for the words “registered children’s home” substitute “private children’s home”; and
- (b) in regulation 4(1) (withdrawal of a certificate)—
 - (i) in sub-paragraph (b), for “Part II of the Children’s Homes Regulations 1991” substitute “Parts III to V of the Children’s Homes Regulations 2001**(c)**”; and
 - (ii) for sub-paragraph (c), substitute—

“(c) where a foster parent providing a refuge fails to comply with any provision of—

 - (i) the agreements with him concerning the matters to which paragraphs 7 to 15 of Schedule 5, or paragraphs 4 to 8 of Schedule 6, to the Fostering Services Regulations 2002**(d)** apply; or
 - (ii) an agreement with him concerning the duties set out in regulation 38(3) of those Regulations in respect of an emergency placement under those Regulations; or”.

Amendment of the Children (Secure Accommodation) Regulations 1991

7. The Children (Secure Accommodation) Regulations 1991**(e)** shall be amended as follows—

- (a) in regulation 2(1) (interpretation), in the definition of “children’s home”, for “registered” substitute “private”;
- (b) in regulation 5 (children to whom section 25 of the Act shall not apply), in paragraph (1), for “section 53” to the end of that paragraph, substitute “section 90 or 91 of the Powers of the Criminal Courts (Sentencing) Act 2000 (detention at Her Majesty’s pleasure or for specified period)**(f)**.”; and

(a) S.I.1991/894, as amended by S.I. 1991/2033, S.I. 1993/3069 and S.I. 2001/2874.

(b) S.I.1991/1507.

(c) S.I.2001/3967.

(d) S.I.2002/57.

(e) S.I.1991/1505, as amended by S.I.1992/2117, S.I. 1995/1398, S.I. 1996/692, S.I. 2000/694 and S.I.2001/2237.

(f) 2000 c.6.

(c) in regulation 7 (children to whom section 25 of the Act shall apply and have effect subject to modifications)—

(i) in each of paragraphs (1)(b) and (3)(b), for “residential care homes, nursing homes or mental nursing homes” substitute “care homes or independent hospitals”; and

(ii) in paragraph (3)(a) for “residential care home, a nursing home or a mental nursing home” substitute “care home or an independent hospital”.

Amendment of the Children (Secure Accommodation) (No 2) Regulations 1991

8. Regulation 2 of the Children (Secure Accommodation) (No 2) Regulations 1991**(a)** shall be amended as follows—

(a) in paragraph (1), after the second mention of “health authority”, insert the words “Primary Care Trust”; and

(b) in paragraph (2), for “residential care home, nursing home or mental nursing home” substitute “care home or independent hospital”.

Amendment of the Children (Leaving Care) (England) Regulations 2001

9. In regulation 4 of the Children (Leaving Care) (England) Regulations 2001**(b)**, for paragraph (4)(b)(ii) substitute—

“(ii) a registered establishment within the meaning of section 34(1) of the Mental Health Act 1983**(c)**.”.

Signed by authority of the Secretary of State for Health

6th March 2002

Jacqui Smith
Minister of State,
Department of Health

(a) S.I. 1991/2034, as amended by S.I. 2000/694.

(b) S.I. 2001/2874.

(c) 1983 c.20. Section 34(1) is amended by section 116 to, and paragraph 9(4) of Schedule 4 to, the Care Standards Act 2000. A registered establishment is an establishment which is not a hospital for the purposes of Part II of the 1983 Act, in respect of which a person is registered under Part II of the Care Standards Act 2000 as an independent hospital in which treatment or nursing (or both) are provided for persons liable to be detained under the 1983 Act.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make miscellaneous amendments to a number of sets of Regulations which govern the placement, care and accommodation of children looked after by local authorities in the exercise of their functions under the Children Act 1989, and related matters.

Firstly, they make consequential amendments to reflect the implementation of Parts I and II of the Care Standards Act 2000 in respect of children's homes and care homes. Various other minor and updating amendments are also made.

Secondly, amendments are made to the Arrangements for Placement of Children (General) Regulations 1991 and the Review of Children's Cases Regulations 1991 relating to the health and health care of children looked after by local authorities or accommodated by voluntary organisations and others. The Schedule of matters to be considered in relation to a child's health on placement and review is expanded. A health care plan is to be prepared for each child. The frequency of health reviews for children aged between two and five is increased. Health assessments on placement or review may, but need not, include a physical examination of the child, and reviews may be conducted by a registered nurse or midwife, under the supervision of a registered medical practitioner.

2002 No. 546

CHILDREN AND YOUNG PERSONS, ENGLAND

**Children Act (Miscellaneous Amendments) (England)
Regulations 2002**

£2.00

© Crown copyright 2002

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo,
Controller of Her Majesty's Stationery Office and Queen's Printer of
Acts of Parliament

E0374 4/02 ON (MFK)