

2005 No. 1972

CHILDREN AND YOUNG PERSONS, ENGLAND

The Children Act 2004 (Children's Services) Regulations 2005

Made - - - - *20th July 2005*

Laid before Parliament *2nd August 2005*

Coming into force - - *1st September 2005*

The Secretary of State, in exercise of the powers conferred upon her by sections 23(3) and 66(1) of the Children Act 2004(a), hereby makes the following Regulations:

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the Children Act 2004 (Children's Services) Regulations 2005 and shall come into force on 1st September 2005.

(2) These Regulations apply in relation to England only.

(3) In these Regulations—

“the 2000 Act” means the Care Standards Act 2000(b);

“the 2004 Act” means the Children Act 2004; and

“the Health and Social Care Act” means the Health and Social Care (Community Health and Standards) Act 2003(c).

Children's services

2.—(1) Anything done for or in relation to children and relevant young persons (alone or with other persons)—

(a) in secure training centres in England within the meaning in section 43(1)(d) of the Prison Act 1952(d) (remand centres, detention centres etc.);

(b) pursuant to section 8 of the Employment and Training Act 1973(e) (careers service);

(c) relating to the provision of child minding within the meaning in Part 10A of the Children Act 1989(f) (child minding and day care for children in England and Wales) provided by a person registered under that Part for child minding;

(d) relating to the provision of day care within the meaning in Part 10A of the Children Act 1989 provided on any premises by a person registered under that Part for providing day care on those premises;

(a) 2004 c.31.

(b) 2000 c.14.

(c) 2003 c.43.

(d) 1952 c.52. Section 43(1)(d) was inserted by section 5(2) of the Criminal Justice and Public Order Act 1994 (c.33) and amended by paragraph 5(1) and (2) of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c.6).

(e) 1973 c.50. Section 8 was substituted by section 45 of the Trade Union Reform and Employment Rights Act 1993 (c.19).

(f) 1989 c.41. Part 10A was inserted by section 79(1) of the Care Standards Act 2000.

- (e) that may be inspected in pursuance of section 87 of the Children Act 1989(a) (welfare of children in boarding schools and colleges);
- (f) in schools within the meaning of section 4(1) and (2) of the Education Act 1996(b) (schools: general);
- (g) relating to the provision of relevant nursery education within the meaning in paragraph 1(1) of Schedule 26 to the School Standards and Framework Act 1998(c) (inspection of nursery education: introductory);
- (h) by a local authority or youth offending team under section 39 of the Crime and Disorder Act 1998(d) (youth offending teams);
- (i) in a children's home within the meaning in section 1 of the 2000 Act (children's homes);
- (j) in an independent hospital within the meaning in section 2(2) and (3) of the 2000 Act (independent hospitals, etc.);
- (k) in an independent clinic within the meaning in section 2(4) of the 2000 Act;
- (l) by an independent medical agency within the meaning in section 2(5) of the 2000 Act(e);
- (m) in a residential family centre within the meaning in section 4(2) of the 2000 Act (other basic definitions);
- (n) by a fostering agency within the meaning in section 4(4) of the 2000 Act;
- (o) by a voluntary adoption agency within the meaning in section 4(7) of the 2000 Act(f);
- (p) by an adoption support agency within the meaning in section 4(7A) of the 2000 Act(g);
- (q) that may be inspected under section 54(3) of the Learning and Skills Act 2000(h) (inspection of education and training by Chief Inspector of Adult Learning);
- (r) that may be inspected under the following provisions of the Learning and Skills Act 2000—
 - (i) section 61(2)(b) (additional functions of Her Majesty's Chief Inspector of Schools in England),
 - (ii) section 62(1) (inspection of further education institutions),
 - (iii) section 65(i) (area inspections), or
 - (iv) section 118(1)(c) (inspection of services to encourage, etc., effective participation by young persons in education or training);
- (s) in schools entered in the register of independent schools kept by the Secretary of State under Part 10 of the Education Act 2002(j) (regulation of independent schools);
- (t) that is inspected under section 59 of the Courts Act 2003(k) (functions of inspectors of court administration);

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- (a) Section 87 was amended by section 105 of, and paragraph 14 of Schedule 4 to, the Care Standards Act 2000, and by section 111 of, and paragraph 10(3) of Schedule 9 to, the Health and Social Care (Community Health and Standards) Act 2003.
 - (b) 1996 c.56. Section 4(1) was substituted by section 51 of the Education Act 1997 (c.44) and amended by Part 3 of Schedule 22 to the Education Act 2002 (c.32); section 4(2) was amended by paragraph 10 of Schedule 7, and Schedule 8, to that Act.
 - (c) 1998 c.31. Paragraph 1(1) is amended by Part 3 of Schedule 22 to the Education Act 2002 and paragraph 9 of Schedule 7 to the Education Act 2005 (c.18).
 - (d) 1998 c.37. Section 39 was amended by paragraphs 4, 150 and 151 of Schedule 7 to the Criminal Justice and Court Services Act 2000 (c.43), paragraph 35(4) of Schedule 1 to the Health Act (Supplementary, Consequential etc. Provisions) Order 2000, S.I. 2000/90, paragraph 25 of Schedule 1 to the National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc. Provisions) Regulations 2002, S.I. 2002/2469, and section 18(9) of, and paragraph 5(3) of Schedule 2 to, the Children Act 2004.
 - (e) Section 2(5) was amended by section 106 of the Health and Social Care (Community Health and Standards) Act 2003.
 - (f) Section 4(7) is amended by paragraph 104 of Schedule 3 to the Adoption and Children Act 2002 (c.38).
 - (g) Section 4(7A) is inserted by section 8(3)(a) of the Adoption and Children Act 2002.
 - (h) 2000 c.21. The Chief Inspector of Adult Learning is the chief officer of the Adult Learning Inspectorate, established by section 52(1) of the Learning and Skills Act 2000. He is appointed as a member of the Inspectorate, and its chief officer, by the Secretary of State under section 52(2) and (3) of that Act respectively.
 - (i) Section 65 was amended by section 178(3) of the Education Act 2002.
 - (j) 2002 c.32.
 - (k) 2003 c.39. Section 59 was amended by regulation 4 of the Transfer of Functions (Children, Young People and Families) Order 2005, S.I. 2005/252.

- (u) by way of the provision of health care within the meaning in section 45(2) of the Health and Social Care Act (quality in health care);
- (v) in pursuance of an English local authority social service within the meaning in section 148 of the Health and Social Care Act (interpretation of Part 2);
- (w) in pursuance of a function conferred on or exercisable by a children's services authority in their capacity as a local education authority other than a function specified in or under section 18(3) of the 2004 Act (director of children's services);
- (x) in pursuance of any other function of a children's services authority;
- (y) in pursuance of a function of a district council in an area for which there is a county council, so far as the function relates to the provision of facilities for recreation,

is specified or prescribed for the purposes of section 23(3)(a) of the 2004 Act (definition of "children's services" for the purposes of sections 20 to 22).

(2) Anything done for or in relation to children and relevant young persons (alone or with other persons)—

- (a) in prisons within the meaning in section 53(1) of the Prison Act 1952 (interpretation);
- (b) in removal centres within the meaning in section 147 of the Immigration and Asylum Act 1999(a) (interpretation of Part 8);
- (c) in pursuance of arrangements made by a local probation board under section 5 of the Criminal Justice and Court Services Act 2000(b) (functions of local probation boards);
- (d) by—
 - (i) a police force maintained under section 2 of the Police Act 1996(c),
 - (ii) the metropolitan police force, maintained under section 5A of that Act, or
 - (iii) the City of London police force,

is specified or prescribed for the purposes of section 23(3)(a) of the 2004 Act in so far as it relates to children.

20th July 2005

Beverley Hughes
Minister of State,
Department for Education and Skills

(a) 1999 c.33. The definition of "removal centre" was inserted by section 66(1)(b) of the Nationality, Immigration and Asylum Act 2002 (c.41).
 (b) 2000 c.43.
 (c) 1996 c.16. Section 5A was inserted by section 310(1) of the Greater London Authority Act 1999 (c.29). See definitions in section 101(1) of the Police Act 1996 in relation to the police force for the City of London police area.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Sections 20 to 23 of the Children Act 2004 (“the Act”) are concerned with the inspection of children’s services. Section 23(3) defines children’s services for the purposes of sections 20 to 22.

Section 20 of the Act provides for the review of children’s services in the area of a children’s services authority in England. A review under section 20(1) or (2) involves two or more of the persons and bodies listed at section 20(4); the purpose of a review is set out in section 20(3). Section 21 provides for there to be a Framework for Inspection of Children’s Services containing principles to be applied when a person or body conducts a review, or any other type of assessment of children’s services (“assessment” is defined in section 23(2)). Section 22 requires persons or bodies with a function of conducting an assessment of children’s services to co-operate with each other, and permits delegation of their assessment functions to another such body.

Regulation 2(1) specifies and prescribes as children’s services a list of services, etc., done for or in relation to children (persons under the age of eighteen) and relevant young persons (persons of eighteen or over in relation to whom arrangements may be made to promote co-operation with a view to improving their well-being, under section 10 of the Act). Regulation 2(2) specifies and prescribes as children’s services a list of services, etc., done for or in relation to children and relevant young persons in so far as they relate to children.

The assessment of the services, etc., listed in regulation 2 (whether as part of a review under section 20 of the Act or otherwise) will be governed by the Framework referred to above.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

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