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STATUTORY RULES OF NORTHERN IRELAND

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**1996 No. 435**

**CHILDREN**

**The Emergency Protection Order (Transfer of Responsibilities) Regulations (Northern Ireland) 1996**

*Made - - - - 18th September 1996*

*Coming into operation 4th November 1996*

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 71(3) and (4) of the Children (Northern Ireland) Order 1995(1) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Emergency Protection Order (Transfer of Responsibilities) Regulations (Northern Ireland) 1996 and shall come into operation on 4th November 1996.

**Transfer of responsibilities under emergency protection orders**

2. Subject to regulation 5, where—

- (a) an emergency protection order has been made with respect to a child;
- (b) the applicant for the order was not the authority within whose area the child is ordinarily resident; and
- (c) that authority is of the opinion that it would be in the child's best interests for the applicant's responsibilities under the order to be transferred to it,

that authority shall (subject to its having complied with the requirements imposed by regulation 3(1)) be treated, for the purposes of the Children (Northern Ireland) Order 1995, as though it and not the original applicant had applied for, and been granted, the order.

**Requirements to be complied with by authorities**

3.—(1) In forming its opinion under regulation 2(c) the authority shall consult the applicant for the emergency protection order and have regard to the following considerations—

- (a) the ascertainable wishes and feelings of the child having regard to his age and understanding;
  - (b) the child's physical, emotional and educational needs for the duration of the emergency protection order;
  - (c) the likely effect on him of any change in his circumstances which may be caused by a transfer of responsibilities under the order;
  - (d) his age, sex and family background;
  - (e) the circumstances which gave rise to the application for the emergency protection order;
  - (f) any directions of a court and other orders made in respect of the child;
  - (g) the relationship (if any) of the applicant for the emergency protection order to the child; and
  - (h) any plans which the applicant may have in respect of the child.
- (2) The authority shall give notice, as soon as possible after it forms the opinion referred to in regulation 2(c), of the date and time of the transfer to—
- (a) the court which made the emergency protection order;
  - (b) the applicant for the order; and
  - (c) those (other than the authority) to whom the applicant for the order gave notice of it.
- (3) A notice required under this regulation shall be given in writing and may be sent by ordinary post.

#### **When responsibility under emergency protection order transfers**

4. The time at which responsibility under any emergency protection order is to be treated as having been transferred to an authority shall be the time stated as the time of transfer in the notice given in accordance with regulation 3 by the authority to the applicant for the emergency protection order or the time at which notice is given to him under that regulation, whichever is the later.

#### **Exception for children in refuges**

5. These Regulations shall not apply where the child to whom the emergency protection order applies is in a refuge in respect of which there is in force a certificate issued by the Department under Article 70 of the Children (Northern Ireland) Order 1995 (refuges for children at risk) and the person carrying on the home, or the foster parent providing the refuge, having taken account of the wishes and feelings of the child, has decided that the child should continue to be provided with the refuge for the duration of the order.

Sealed with the Official Seal of the Department of Health and Social Services on 18th September 1996.

*P. A. Conliffe*  
Assistant Secretary

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## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These Regulations make provision for an authority to be treated as though it and not the original applicant for an emergency protection order had applied for and been granted the order. They make provision for requirements to have been complied with before responsibility under the order is transferred and for the time the transfer is to be treated as effected. The Regulations do not apply when the child who is the subject of the emergency protection order is in a refuge and the child is to continue to live there for the duration of the order.

Article 71(3) and (4) of the Children (Northern Ireland) Order 1995 is the enabling provision under which these Regulations are made. It was brought into operation on 18th July 1996 by virtue of Article 2(1) of, and Schedule 1 to, the Children (1995 Order) (Commencement No. 3) Order (Northern Ireland) 1996 ([S.R. 1996 No. 297 \(C. 17\)](#)).