
STATUTORY INSTRUMENTS

1985 No. 792

CHILDREN AND YOUNG PERSONS**The Custodianship (Reports) Regulations 1985**

<i>Made - - - -</i>	22nd May 1985
<i>Laid before Parliament</i>	30th May 1985
<i>Coming into Operation</i>	1st December 1985

The Secretary of State for Social Services as respects England and the Secretary of State for Wales as respects Wales, in exercise of powers conferred on them by section 40(3) of the Children Act 1975(a), and of all other powers enabling them in that behalf, hereby make the following regulations:—

Citation and commencement

1. These regulations may be cited as the Custodianship (Reports) Regulations 1985 and shall come into operation on 1st December 1985.

Matters to be included in report under section 40(2) of the Children Act 1975

2. The matters which shall be included in a report under section 40(2) of the Children Act 1975 (report by a local authority to court considering custodianship application) are specified in the Schedule to these regulations.

Signed by authority of the Secretary of State for Social Services

John Patten,
Parliamentary Under-Secretary of State,
Department of Health and Social Security.

20th May 1985.

Nicholas Edwards,
Secretary of State for Wales.

22nd May 1985.

(a) 1975 c.72; see the Children Act 1975 and the Domestic Proceedings and Magistrates' Courts Act 1978 (Commencement) Order 1985 (S.I. 1985/779).

Regulation 2

SCHEDULE

MATTERS TO BE INCLUDED IN A REPORT UNDER SECTION 40(2) OF THE CHILDREN ACT 1975

The report which a local authority makes to a court under section 40(2) of the Children Act 1975 shall, so far as the information can reasonably be obtained, include the following particulars:—

1. *In respect of the child*

- (a) name, address, sex and date and place of birth;
- (b) whether legitimate or illegitimate at birth and, if illegitimate whether subsequently legitimated; whether an affiliation order has been made and the date of any such order;
- (c) nationality;
- (d) physical description;
- (e) personality and social development;
- (f) religion, including details of baptism, confirmation or equivalent ceremonies;
- (g) details of the person who has legal custody of the child, and of any wardship proceedings and any court orders or local authority resolutions relating to the parental rights and duties in respect of the child or to his custody and maintenance;
- (h) details of any brothers and sisters, including dates of birth, arrangements in respect of care and custody and whether any brother or sister is the subject of an application for a custodianship order;
- (i) if the child has been in the care of a local authority or voluntary organisation, details (including dates) of any placements with foster parents, or other arrangements for the care of the child, including particulars of the persons with whom the child has had his home and observations on the care provided;
- (j) the extent of access to and other contact with the child by the child's mother, father (including any person in relation to whom the child was treated as a child of the family) and relatives and in each case where there is such access or contact the nature of the relationship enjoyed; similar information as the case may be in respect of other persons with whom the child has had his home;
- (k) the date and circumstances in which the child came into the care of the applicant;
- (l) the names, addresses and types of schools attended, with dates, and educational attainments;
- (m) any special needs in relation to the child's health (whether physical or mental), his emotional and behavioural development and whether he is subject to a statement made under section 7 of the Education Act 1981(a);
- (n) a statement of the child's wishes and feelings in relation to the application including any wishes in respect of religious and cultural upbringing; and
- (o) any other relevant information which might assist the court.

2. *In respect of each parent of the child, including where appropriate, the father of an illegitimate child*

- (a) name, address and date and place of birth;
- (b) marital status and date and place of marriage (if any);
- (c) past and present relationship (if any) with the other natural parent, including comments on its stability;
- (d) religion;
- (e) educational attainments;

(a) 1981 c.60.

- (f) past and present occupations and interests;
- (g) details of income and of major outgoings, including responsibility for maintenance of members of family or household;
- (h) wishes and feelings in relation to the application, including any wishes in respect of the child's religious and cultural upbringing, and extent of understanding of the nature and effect of a custodianship order, and if consent has been given to the application for the order whether it has been freely given;
- (i) the reasons why any of the above information is unavailable; and
- (j) any other relevant information which might assist the court.

3. *In respect of any guardian of the child*

The particulars specified in paragraph 2(a), (d), (h), (i) and (j).

4. *In respect of the applicant for a custodianship order*

- (a) name, address and date and place of birth;
- (b) relationship (if any) to the child;
- (c) marital status, date and place of marriage (if any) and comments on stability of relationship;
- (d) details of any previous marriage;
- (e) religion, and whether willing to follow any wishes of the child or his parents or guardian in respect of the child's religious and cultural upbringing;
- (f) educational attainments;
- (g) past and present occupations and interests;
- (h) particulars of the home and living conditions (and particulars of any home where the applicant proposes to live with the child, if different);
- (i) details of the applicant's income and major outgoings and comments on the living standards of the applicant's household;
- (j) details of other members of the applicant's household (including any children of the applicant even if not resident in the household);
- (k) attitudes to the application and to the child's continued residence in the household of the other members of the applicant's household and of such others of his family as the local authority considers appropriate;
- (l) reasons for wishing to obtain custody and extent of understanding of the nature and effect of a custodianship order;
- (m) any hopes and expectations for the child's future;
- (n) an assessment of his relationship with the child and of standard of care of the child during the period or periods the child has had his home with the applicant; an assessment of the extent to which the child's needs have been met, including any special health or educational needs;
- (o) an assessment of his suitability to continue to care for and bring up the child having regard to (n) above; and an assessment, where appropriate, of his ability in bringing up his own children and of the care given at any time to any other children fostered or boarded out with him;
- (p) his attitude to the child's mother, father (including any person in relation to whom the child was treated as a child of the family) and relatives, and other persons with whom the child has had his home, as the case may be, maintaining any existing access to and other contact with the child if a custodianship order is made;
- (q) whether the local authority proposes to pay any contribution to the cost of the child's accommodation and maintenance by virtue of section 34(6) of the Children Act 1975;
- (r) confirmation that referees have been interviewed, with a report of their views, and opinion of the weight to be placed thereon; and
- (s) any other relevant information which might assist the court.

5. Generally

- (a) confirmation that notice was given under section 40(1) of the Children Act 1975, with the date of that notice;
- (b) whether any respondent appears to be under the age of majority or under a mental disability;
- (c) whether, in the opinion of the local authority, any other person should be made a respondent to the application; and
- (d) any other information relevant to the operation of section 1 of the Guardianship of Minors Act 1971 (a) (principle on which questions relating to custody are to be decided).

6. Conclusions

The final part of the report shall be framed with a view to providing the court with a fuller picture of the child, his natural parents and the applicant. In so doing it shall comment on the following matters:—

- (a) except where the applicant is married to a parent of the child, comments on the implications for the child's health of the order sought and on how any special health needs of the child might be met;
- (b) opinion on whether making the order sought would be in the child's best interests, and on how any special emotional, behavioural and educational needs of the child might be met;
- (c) opinion on the effect on the child's natural parents (or other person who has legal custody) of making the order sought;
- (d) opinion on how well the child is integrated into the household, family and community of the applicant;
- (e) final conclusions on whether the order sought should be made (and, if not, alternative proposals, including any proposals as to the making of a supervision order or a care order).

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations prescribe the matters which are to be included in the local authority report to the court following notice to the local authority by the applicant under section 40 of the Children Act 1975 of his application to the court for a custodianship order.

(a) 1971 c.3.

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