

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the duties and functions of local authorities in respect of children who are looked after by them in terms of section 17(6) of the Children (Scotland) Act 1995 (“the 1995 Act”). They revoke the Arrangements to Look After Children (Scotland) Regulations 1996 (S.I. 1996/3262) and the Fostering of Children (Scotland) Regulations 1996 (S.I. 1996/3263).

Part II makes provision for the care planning process when a child is or is about to be looked after in terms of section 17(6) of the 1995 Act. This Part prescribes the information which must be obtained by the local authority and the assessments which must be made.

Part III makes provision for general matters affecting looked after children (death of a looked after child and recommendations to the Principal Reporter).

Part IV, regulations 8 and 9, give local authorities the power to allow looked after children to be cared for either by their own parents or persons who have parental rights and responsibilities.

Part V makes provision for a group of carers to be known as “kinship carers” who will be related or known to the child (regulation 10(2)). Regulations 11 and 12 prescribe the requirements which must be met before a child may be placed with a kinship carer whilst regulation 13 specifies the notification requirements once a placement is made. Regulations 15 and 16 make provision for establishing and maintaining case records for kinship carers.

Parts VI and VII make provision for foster care. Part VI regulates the creation and functions of foster panels whilst Part VIII regulates the approval of foster carers, review of approval and placement of children in foster care. Regulations 31 and 32 also make provision for establishing and maintaining case records for foster carers. Part VII, regulation 33, makes provision for fostering and kinship allowances.

Part IX makes provision for cases where a child is placed in a residential establishment.

Regulation 34 prescribes notification requirements and regulation 35 the information which must be supplied and the arrangements which must be made with the manager of the establishment.

Part X concerns emergency placements and regulates when they may be made with a carer (regulation 36) or in a residential establishment (regulation 37). Regulations 38 and 41 prescribe the review of emergency placements whilst regulation 39 allows for emergency placement under regulation 36 to be extended in certain circumstances.

Part XI prescribes the requirement to establish a case record for all looked after children. Part XII provides a system for review of the child's case. Regulation 46, in addition, requires visits to be made on behalf of the local authority. Regulation 47 places a duty on the local authority to terminate any placement where it is no longer in the child's interests to remain there.

Part XIII allows local authorities to enter into agreements with other fostering services (who are not local authorities and who are registered with the Care Commission) for the purposes of discharging certain functions in respect of looked after children on their behalf.

Status:

Point in time view as at 26/07/2021.

Changes to legislation:

There are currently no known outstanding effects for the The Looked After Children (Scotland) Regulations 2009.