
STATUTORY INSTRUMENTS

1996 No. 3259 (S.249)

CHILDREN AND YOUNG PERSONS

The Refuges for Children (Scotland) Regulations 1996

Made - - - - *18th December 1996*
Laid before Parliament *31st December 1996*
Coming into force - - *1st April 1997*

The Secretary of State, in exercise of the powers conferred on him by section 38(2) of the Children (Scotland) Act 1995(1), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Refuges for Children (Scotland) Regulations 1996 and shall come into force on 1st April 1997.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“the Act” means the Children (Scotland) Act 1995;

“the 1968 Act” means the Social Work (Scotland) Act 1968(2);

“authorised officer” means a police constable for the time being authorised for the purpose of these Regulations by the chief constable for the police area within which—

- (a) a residential establishment which is designated or approved as a refuge in pursuance of section 38(1) (short-term refuges for children at risk of harm) of the Act is situated, or
- (b) a household which is designated as a refuge in pursuance of section 38(1)(a)(ii) of the Act is situated;

“responsible person” in relation to a child means—

- (a) except where a person has care of the child as mentioned in paragraph (b), (c) or (d) below—
 - (i) a parent of his;

(1) 1995 c. 36.
(2) 1968 c. 49.

- (ii) a person who is not a parent of his, but who has parental responsibility in respect of him; and
- (iii) any person who ordinarily has charge of, or control over, him;
- (b) any person (excluding a local authority) who for the time being has responsibilities as respects the child by virtue of an order made, or authorisation or warrant granted, under Chapter 2, 3 or 4 of Part II of the Act;
- (c) any local authority looking after a child in terms of section 17(6) of the Act;
- (d) any person (including a local authority) providing accommodation to a child looked after by a local authority by any of the means specified in section 26 of the Act.

(2) In these Regulations any reference to a numbered regulation shall be construed as a reference to the regulation bearing that number in these Regulations.

Designation of refuges: local authority establishments and foster households

3. A local authority may designate for the purpose of providing refuge to children under section 38(1)(a) of the Act—

- (a) a residential establishment controlled or managed by them; and
- (b) a household which is approved by virtue of section 5(3)(b) of the 1968 Act (provision for securing that persons are not placed in any household unless the household has prescribed approval),

where the authority are satisfied as to the matters specified in regulation 4.

4. A local authority shall, before making a designation under regulation 3, satisfy itself that—
- (a) the establishment or, as the case may be, the household is a suitable place in which to provide refuge for a child, and has accommodation and facilities suitable for that purpose;
 - (b) the officer in charge of that establishment or as the case may be the person whose household is approved is a suitable person to have responsibility for a child while refuge is being provided for the child at the establishment or household; and
 - (c) appropriate services to safeguard a child being provided with refuge are available to the child while taking refuge at that establishment or household.

Approval of other residential establishments as refuges

5. A local authority may, on an application to them in writing by a person who carries on a residential establishment in respect of which the person is registered as mentioned in section 61(2)(3) of the 1968 Act, and where satisfied as to the matters specified in regulation 6, give approval to the use of the establishment or such part of the establishment as the authority may specify for the purpose of providing a refuge for children under section 38(1)(b) of the Act.

6. A local authority shall, before giving approval under regulation 5, satisfy itself that—
- (a) the establishment or the specified part of it is a suitable place in which to provide refuge for a child, and has accommodation and facilities suitable for that purpose;
 - (b) the person carrying on the establishment (or the specified part of the establishment) or, where that person is not the manager of the establishment, the manager, is a suitable person to have responsibility for a child while refuge is being provided for the child at the establishment; and

(3) Section 61(2) was amended by the Registered Establishments (Scotland) Act 1987 (c. 40), section 1(2); and the Children (Scotland) Act 1995 (c. 36), section 34(2).

- (c) appropriate services to safeguard the child being provided with refuge are available to the child while taking refuge in the establishment or the specified part of it.

Certificate of designation and approval

7. Where a local authority make a designation under regulation 3, or give approval under regulation 5, the authority shall—

- (a) draw up a certificate of designation or as the case may be of approval which—
 - (i) is dated and signed on its behalf;
 - (ii) describes the purpose of the designation or approval; and
 - (iii) specifies the establishment or part of the establishment or household, to which the designation or approval relates; and
- (b) send the certificate to—
 - (i) the officer in charge of the establishment, which is designated under regulation 3(a);
 - (ii) the person whose household is designated under regulation 3(b); and
 - (iii) the person carrying on the establishment, which is approved under regulation 5.

Requirements where designation or approval in force

8.—(1) The provisions of this regulation shall apply while a designation or as the case may be an approval under these Regulations is in force with respect to a residential establishment or household.

(2) A person whose household has been designated under regulation 3(b) shall notify the local authority forthwith of—

- (a) any change in the composition of his household or in the accommodation in the household; and
- (b) any other change in his personal circumstances and any other event affecting either his capacity to provide refuge for a child or the suitability of his household for that purpose.

(3) A person who carries on a residential establishment which has been approved under regulation 5 shall notify the local authority forthwith of—

- (a) any change in the accommodation in the establishment (or the part of it) approved for use as a refuge; and
- (b) any other change in his circumstances or any other event affecting either his capacity (or the capacity of his employees at the establishment) to provide refuge for a child or the suitability of the establishment for that purpose.

(4) As soon as reasonably practicable after providing refuge for a child, and in any event within 24 hours of such provision, the person carrying on a residential establishment approved under regulation 5 shall notify the local authority and the authorised officer—

- (a) that a child is being provided with refuge;
- (b) of the name of the child, his last permanent address, and the name and address of any responsible person in relation to the child as far as he has been able to ascertain that information;
- (c) of the telephone number by which the person providing the refuge may be contacted.

(5) Where subsequent to giving notification under paragraph (4) above the person discovers any of the information specified in that paragraph not previously known to him, he shall immediately notify the local authority and the authorised officer accordingly.

(6) As soon as reasonably practicable after a local authority provide refuge for a child in a designated residential establishment, or arrange for a person to provide a child with refuge in a designated household, and in any event within 24 hours of such provision, the authority shall notify the authorised officer of the information specified in paragraph (4) above.

(7) Where subsequent to giving notice under paragraph (6) the local authority discover any information specified in paragraph (4) not previously known to them, they should immediately notify the authorised officer accordingly.

(8) Where a local authority:–

- (a) has been notified under paragraph (4); or
- (b) has provided refuge for a child in a designated residential establishment, or arranged for a person to provide a child with a refuge in a designated household,

they shall have a duty as soon as reasonably practicable after providing a refuge or arranging a refuge or receiving notification under paragraph 8(4) to notify in writing, insofar as the information is reasonably ascertainable by the local authority–

- (i) a responsible person in relation to the child; and
- (ii) any local authority in whose area the child had his last permanent address (and this duty shall subsist in respect of subsequently ascertained relevant information about the identity of responsible persons or last permanent address),

with the said notification only required to advise that the child has been admitted to a refuge.

Review of designation or approval

9. A local authority shall at such times as they consider appropriate review the designation or approval under these Regulations, and in particular as to whether they continue to be satisfied as to the matters specified in regulation 4 or, as the case may be, regulation 6.

Withdrawal of designation or approval

10.—(1) A local authority may, in any of the circumstances described in paragraph (2) below, withdraw a designation made or approval given under these Regulations at any time by giving notice in writing to the person to whom the certificate was sent under regulation 7.

(2) The circumstances in which a local authority may withdraw a designation or approval are–

- (a) where on a review under regulation 9 the authority cease to be satisfied as to the matters specified in regulation 4 or, as the case may be, regulation 6;
- (b) where a person carrying on a registered establishment fails to comply with any provision of Part II of the Residential Establishments – Child Care (Scotland) Regulations 1996(4);
- (c) where a person whose household is approved by virtue of section 5(3)(b) of the 1968 Act has had the approval terminated in terms of regulation 10 of the Fostering of Children (Scotland) Regulations 1996(5);
- (d) where the person providing the refuge or any person assisting him in that respect has had proceedings instituted against him in relation to, or has been convicted of, any criminal offence;
- (e) where a person providing a refuge fails to comply with a requirement of regulation 8; and

(4) S.I.1996/3256.

(5) S.I. 1996/3263.

- (f) where for any other reason the local authority are satisfied that an establishment of theirs, an approved household or a registered establishment, or a specified part of the establishment, is unsuitable to provide a refuge for children.
- (3) A local authority shall withdraw an approval given under these Regulations by giving notice to the person to whom the certificate of approval was sent—
- (a) where the person carrying on a registered establishment intimates in writing that he no longer wishes the establishment to be approved for the purposes of providing a refuge; and
 - (b) where the registration of an establishment under section 61 of the 1968 Act has been cancelled under section 64 of the 1968 Act, and in the use of (b) withdrawal of designation shall be effective from the time of the cancellation of the registration under section 64 of the 1968 Act.
- (4) Where a designation or approval is withdrawn, the person to whom the certificate was sent shall return it forthwith to the local authority.

Extension of refuge: exceptional circumstances

11. The circumstances hereby prescribed as exceptional circumstances for the purposes of section 38(5) of the Act in which any reference in that section to the relevant period shall be construed as a period which does not exceed fourteen days are where—

- (a) a responsible person in relation to a child has not been found within a period of seven days from the first day on which the child was provided with refuge; and
- (b) at the end of that period of seven days the authority do not at that time have suitable alternative accommodation for the child.

St Andrew's House,
Edinburgh
18th December 1996

James Douglas-Hamilton
Minister of State, Scottish Office

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations made under section 38(2) of the Children (Scotland) Act 1995 make provisions concerning the designation and approval of establishments or households as refuges and for the review and withdrawal of such designation or approval.

The Regulations specify requirements to be complied with where designation or approval is in force and persons who should be notified, by when they should be notified and the information about which they should be notified where a child is provided with refuge.

The Regulations also prescribe the exceptional circumstances where a child may be provided with a refuge beyond the normal 7 day limit to a 14 day limit.