
STATUTORY INSTRUMENTS

2012 No. 2813

**CHILDREN AND YOUNG
PERSONS, ENGLAND AND WALES**

**The Legal Aid, Sentencing and Punishment of Offenders
Act 2012 (Children Act 1989) (Children Remanded to
Youth Detention Accommodation) Regulations 2012**

Made - - - - *7th November 2012*
Laid before Parliament *12th November 2012*
Coming into force - - *3rd December 2012*

The Secretary of State, in exercise of the powers conferred by sections 104(2) and 106 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(1), makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Children Act 1989) (Children Remanded to Youth Detention Accommodation) Regulations 2012 and come into force on 3rd December 2012.

(2) In these Regulations—

“the 1989 Act” means the Children Act 1989(2);

“the 2012 Act” means the Legal Aid, Sentencing and Punishment of Offenders Act 2012;

“a relevant child” means a child who is remanded to youth detention accommodation(3) and who is to be treated as looked after by virtue of section 104(1) of the 2012 Act.

Application of provisions in the 1989 Act to children on remand and savings

2. The following provisions of the 1989 Act do not apply in relation to a relevant child—

(1) 2012 c.10.

(2) 1989 c.41.

(3) For the meaning of “youth detention accommodation” see section 102 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

- (a) section 22C(4) (ways in which looked after children are to be accommodated and maintained);
 - (b) section 22D(5) (review of child’s case before making alternative arrangements for accommodation);
 - (c) until such time as section 8 of the Children and Young Persons Act 2008 comes fully into force in relation to Wales, section 23(2) to (8) (provision of accommodation and maintenance by local authority for children whom they are looking after); and
 - (d) paragraph 21 of Schedule 2(6) (liability to contribute towards maintenance of looked after children).
3. Notwithstanding the provision made by regulation 2(a), the Care Planning, Placement and Case Review (England) Regulations 2010(7) continue to have effect in relation to a relevant child.
4. Notwithstanding the provision made by regulation 2(c), section 23(2) to (8) of the 1989 Act continue to have effect for the purpose of making regulations under section 23 of that Act.
5. Paragraph 21 of Schedule 2 to the 1989 Act does not apply in relation to a child who is remanded to local authority accommodation under section 91(3) of the 2012 Act.

Application of the Children (Secure Accommodation) Regulations 1991

6. After regulation 5 of the Children (Secure Accommodation) Regulations 1991(8) insert—
- “(5A) Section 25 of the Act shall not apply to a child who is remanded to youth detention accommodation and who is to be treated as looked after by virtue of section 104(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.”.

Edward Timpson
Parliamentary Under Secretary of State
Department for Education

7th November 2012

(4) Section 22C was substituted in relation to England by section 8(1) of the Children and Young Persons Act 2008 (c.23) (“the 2008 Act”).

(5) Section 22D was substituted in relation to England by section 8(1) of the 2008 Act.

(6) There are amendments to Paragraph 21 of Schedule 2 which are not relevant to these Regulations.

(7) S.I. 2010/959.

(8) S.I. 1991/1505 (amended by S.I. 1992/2117, S.I. 1995/1398, S.I. 1996/692, S.I. 2000/694, S.I. 2001/2237 (E), S.I. 2002/546 (E), S.I. 2002/808 (W), S.I. 2002/2935 (W), S.I. 2004/696, S.I. 2006/2986 (W), S.I. 2010/1172).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (“the 2012 Act”) and extend to England and Wales. Section 104(1) of the 2012 Act makes provision that where a child is remanded to youth detention accommodation, they will be treated as a child who is looked after by the designated local authority. These Regulations provide that certain duties of local authorities under the Children Act 1989 (“the 1989 Act”) in relation to looked after children do not apply in relation to children where they are remanded to youth detention accommodation (“a relevant child”). The relevant duties under the 1989 Act which do not apply in relation to such children are in section 22C (ways in which looked after children are to be accommodated and maintained), section 22D (review of a child’s case before making alternative arrangements for accommodation), section 23(2) to (8) (until such time as section 8 of the Children and Young Persons Act 2008 comes fully into force in relation to Wales) and paragraph 21 of Schedule 2 (liability to contribute towards maintenance of looked after children). Saving provisions are made in relation to the Care Planning, Placement and Case Review (England) Regulations 2010 and for the purpose of making regulations under section 23 of the 1989 Act.

Regulation 5 provides that the duty in paragraph 21 of Schedule 2 to the 1989 Act does not apply in relation to a child who is remanded to local authority accommodation under section 91(3) of the 2012 Act.

Section 25 of the 1989 Act limits the circumstances in which a looked after child may be placed and kept in secure accommodation by a local authority. Regulation 6 provides that section 25 of the 1989 Act does not apply in relation to children remanded to youth detention accommodation by adding a new regulation 5A to the Children (Secure Accommodation) Regulations 1991.

An impact assessment has not been prepared for these Regulations as no impact on businesses or civil society organisations is foreseen.