
Status: Point in time view as at 01/04/2024.

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STATUTORY INSTRUMENTS

1995 No. 755

The Children (Northern Ireland) Order 1995

PART IX

[^{F1}PRIVATE] CHILDREN'S HOMES

F1 2003 NI 9

Introductory

Interpretation

Para.(1) rep. by 2003 NI 9

(2) In this Part—

“home” includes any institution;

“notice” and “notify” mean respectively notice in writing and notify in writing;

“the relevant requirements” means any requirements of this Part and of regulations under Article 105, and any conditions imposed under Article 97.

(3) Any reference in this Part to an authority in relation to a [^{F2} private] children's home means the authority in whose area the home is, or is to be, situated.

F2 2003 NI 9

“Children's home” further defined

Para.(1)#(3) rep. by 2003 NI 9

(4) Schedule 5 shall have effect for the purpose of setting out the circumstances in which a person may foster more than three children without being treated [^{F3} for the purposes of this Order and the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003] as carrying on a children's home.

F3 2003 NI 9

General

Duties of person carrying on [^{F4} private] children's home

92.—(1) Where a child is accommodated in a [^{F4} private] children's home, the person carrying on the home shall—

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- (a) safeguard and promote the child's welfare;
 - (b) make such use of the services and facilities available for children cared for by their own parents as appears to that person reasonable in the case of the child; and
 - (c) advise, assist and befriend him with a view to promoting his welfare when he ceases to be so accommodated.
- (2) Before making any decision with respect to any such child the person carrying on the home shall, so far as is reasonably practicable, ascertain the wishes and feelings of—
- (a) the child;
 - (b) his parents;
 - (c) any other person who is not a parent of his but who has parental responsibility for him; and
 - (d) any person whose wishes and feelings the person carrying on the home considers to be relevant,
- regarding the matter to be decided.
- (3) In making any such decision the person carrying on the home shall give due consideration—
- (a) having regard to the child's age and understanding, to such wishes and feelings of his as he has been able to ascertain;
 - (b) to such other wishes and feelings mentioned in paragraph (2) as he has been able to ascertain; and
 - (c) to the child's religious persuasion, racial origin and cultural and linguistic background.
- (4) Every person carrying on a^{F4} private] children's home shall, at such times and in such form as the Department may direct, transmit to the Department such particulars as the Department may require with respect to the children accommodated in the home.

F4 2003 NI 9

Duties of an authority

93.—(1) Every authority shall satisfy itself that any person carrying on a^{F5} private] children's home which provides accommodation—

- (a) within the authority's area for any child; or
- (b) outside that area for any child on behalf of the authority,

is satisfactorily safeguarding and promoting the welfare of the children so provided with accommodation.

(2) Every authority shall arrange for children who are accommodated within its area in a^{F5} private] children's home to be visited in the interests of their welfare.

(3) The Department may make regulations—

- (a) requiring every child who is accommodated in a^{F5} private] children's home within an authority's area to be visited by an officer of the authority—
 - (i) in prescribed circumstances; and
 - (ii) on specified occasions or within specified periods; and
- (b) imposing requirements which must be met by any authority, or officer of an authority, carrying out functions under this Article.

(4) If an authority is not satisfied that the welfare of any child who is accommodated in a^{F5} private] children's home is being satisfactorily safeguarded or promoted, the authority shall—

- (a) unless it considers that it would not be in the best interests of the child, take such steps as are reasonably practicable to secure that the care and accommodation of the child are undertaken by—
 - (i) a parent of his;
 - (ii) any person who is not a parent of his but who has parental responsibility for him; or
 - (iii) a relative of his; and
 - (b) consider the extent to which (if at all) the authority should exercise any of its functions with respect to the child.
- (5) Any person authorised by an authority may, for the purpose of enabling the authority to discharge its duties under this Article—
- (a) enter at any reasonable time and inspect any^[F5] private] children's home;
 - (b) inspect any children there;
 - (c) require any person to furnish him with such records of a kind required to be kept by regulations made under^[F6] Article 23 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003] (in whatever form they are held), or allow him to inspect such records, as he may at any time direct.
- (6) Any person exercising the power conferred by paragraph (5) shall, if asked to do so, produce some duly authenticated document showing his authority to do so.
- (7) Any person authorised to exercise the power to inspect records conferred by paragraph (5)—
- (a) shall be entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records in question; and
 - (b) may require—
 - (i) the person by whom or on whose behalf the computer is or has been so used; or
 - (ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,to afford him such assistance as he may reasonably require.
- (8) Any person who intentionally obstructs another in the exercise of any power conferred by paragraph (5) or (7) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

F5 2003 NI 9

F6 2003 NI 9

Persons disqualified from carrying on, or being employed in,^[F7] private] children's homes

94.—(1) A person who is disqualified (under Article 109) from fostering a child privately shall not carry on, or be otherwise concerned in the management of, or have any financial interest in, a children's home unless he has—

- (a) disclosed to the ^[F8]RQIA] the fact that he is so disqualified; and
- (b) obtained^[F9] its consent] in writing.

(2) No person shall employ a person who is so disqualified in a children's home unless he has—

- (a) disclosed to the ^[F8]RQIA] the fact that that person is so disqualified; and
- (b) obtained^[F9] its consent] in writing.

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(3) Where^[F9] the [F8RQIA] refuses to give its consent under this Article,^[F9] it shall inform the applicant by a notice which states—

- (a) the reason for the refusal;
- ^[F9](b) the applicant's right to appeal under Article 94A against the refusal to the Care Tribunal; and]
- (c) the time within which he may do so.

(4) Any person who contravenes paragraph (1) or (2) shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both.

(5) Where a person contravenes paragraph (2) he shall not be guilty of an offence if he proves that he did not know, and had no reasonable grounds for believing, that the person whom he was employing was disqualified under Article 109.

F7 2003 NI 9

F8 Words in Order substituted (11.4.2014) by [Health and Social Care \(Amendment\) Act \(Northern Ireland\) 2014 \(c. 5\)](#), [Sch. para. 1\(1\)\(b\)](#) (with [Sch. para. 1\(2\)](#))

F9 2003 NI 9

^[F10]Appeal against refusal of consent under Article 94

94A.—(1) An appeal against a decision of the [F8RQIA] under Article 94 shall lie to the Care Tribunal.

(2) On an appeal the Care Tribunal may confirm the decision of the [F8RQIA] or direct it to give the consent in question.]

F8 Words in Order substituted (11.4.2014) by [Health and Social Care \(Amendment\) Act \(Northern Ireland\) 2014 \(c. 5\)](#), [Sch. para. 1\(1\)\(b\)](#) (with [Sch. para. 1\(2\)](#))

F10 2003 NI 9

Registration

Arts. 95#104 rep. by 2003 NI 9

Regulations

Regulations

105.—(1) The Department may make regulations—

(a) as to the placing of children in^[F11] private] children's homes;
Sub#paras.(b)#(c) rep. by 2003 NI 9

(2) The regulations may in particular—
Sub#paras.(a)#(e) rep. by 2003 NI 9

(f) prohibit the use of accommodation for the purpose of restricting the liberty of children in such homes;
Sub#paras.(g)#(k) rep. by 2003 NI 9

(l) make provision similar to that made by regulations under Article 45;
Sub#para.(m) rep. by 2003 NI 9

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(3) The regulations may provide that a contravention of any specified provision of the regulations, without reasonable excuse, shall be an offence against the regulations.

(4) Any person guilty of such an offence shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

F11 2003 NI 9

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