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## STATUTORY INSTRUMENTS

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# 1995 No. 755

## The Children (Northern Ireland) Order 1995

### PART VIII

#### VOLUNTARY HOMES AND VOLUNTARY ORGANISATIONS

##### *Introductory*

##### **Interpretation**

74.—(1) In this Order—

[<sup>F1</sup>“voluntary home” means a children's home which is carried on by a voluntary organisation;]

“voluntary organisation” means any association carrying on or proposing to carry on any activities otherwise than for the purpose of gain by the association or by individual members.

*Paras. (2) & (3) rep. by 2003 NI 9*

(4) Any reference in this Part to an authority in relation to a voluntary home is a reference to the authority in whose area the home is, or is to be, situated.

**F1** 2003 NI 9

##### *Voluntary organisations*

##### **Provision of accommodation for children**

75.—(1) A voluntary organisation which provides accommodation for a child shall do so by—

(a) placing him (subject to paragraph (2)) with—

(i) a family;

(ii) a relative of his; or

(iii) any other suitable person,

on such terms as to payment by the organisation and otherwise as the organisation may determine;

[<sup>F2</sup>(aa) maintaining him in an appropriate children's home;]

(f) making such other arrangements (subject to paragraph (3)) as seem appropriate to the organisation.

(2) The Department may make regulations as to the placing of children with foster parents by voluntary organisations and the regulations may, in particular, make provision similar to the provision that may be made under Article 27(2)(a) (placing of children by an authority).

**Status:** Point in time view as at 01/04/2024.

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(3) The Department may make regulations as to the arrangements which may be made under paragraph (1)(f) and the regulations may in particular make provision similar to the provision that may be made under Article 27(2)(f) (other arrangements made by an authority).

(4) The Department may make regulations requiring any voluntary organisation which is providing accommodation for a child—

- (a) to review his case; and
- (b) to consider any representations (including any complaint) made to the organisation by any prescribed person,

in accordance with the provisions of the regulations.

(5) Regulations under paragraph (4) may in particular make provision similar to the provision that may be made under Article 45 (reviews where child looked after by an authority).

(6) Regulations under paragraphs (2) to (4) may provide that any person who, without reasonable excuse, contravenes a regulation shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

**F2** 2003 NI 9

### **Duties of voluntary organisations**

**76.**—(1) Where a child is accommodated by or on behalf of a voluntary organisation, the organisation shall—

- (a) safeguard and promote his welfare;
- (b) make such use of the services and facilities available for children cared for by their own parents as appears to the organisation reasonable in his case; 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 organisation shall, so far as is reasonably practicable, ascertain the wishes and feelings of—

- (a) the child;
- (b) his parents;
- (c) any person who is not a parent of his but who has parental responsibility for him; and
- (d) any other person whose wishes and feelings the organisation considers to be relevant,

regarding the matter to be decided.

(3) In making any such decision the organisation shall give due consideration—

- (a) having regard to the child's age and understanding, to such wishes and feelings of his as the organisation has been able to ascertain;
- (b) to such other wishes and feelings mentioned in paragraph (2) as the organisation has been able to ascertain; and
- (c) to the child's religious persuasion, racial origin and cultural and linguistic background.

(4) Every voluntary organisation 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 children accommodated by or on behalf of the voluntary organisation.

## **Duties of an authority**

77.—(1) Every authority shall satisfy itself that any voluntary organisation providing 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 by or on behalf of voluntary organisations to be visited in the interests of their welfare.

(3) The Department may make regulations—

- (a) requiring every child who is accommodated by or on behalf of a voluntary organisation, 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 by or on behalf of a voluntary organisation 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 premises in which children are being accommodated as mentioned in paragraph (1) or (2);
- (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<sup>F3</sup> 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

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(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.

**F3** 2003 NI 9

### *Voluntary homes*

#### **Persons disqualified from carrying on, or being employed in, voluntary homes**

**78.**—(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 voluntary home unless he has—

- (a) disclosed to the [F4RQIA] the fact that he is so disqualified; and
- (b) obtained[F5 its consent] in writing.

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

- (a) disclosed to the [F4RQIA] the fact that that person is so disqualified; and
- (b) obtained[F5 its consent] in writing.

(3) Where[F5 the [F4RQIA]] refuses to give its consent under this Article,[F5 it] shall inform the applicant by a notice which states—

- (a) the reason for the refusal;
- [F5(b) the applicant's right to appeal under Article 78A 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.

**F4** 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\(2\)](#))

**F5** 2003 NI 9

#### **[F6 Appeal against refusal of consent under Article 78**

**78A.**—(1) An appeal against a decision of the [F4RQIA] under Article 78 shall lie to the Care Tribunal.

(2) On an appeal the Care Tribunal may confirm the decision of the [F4RQIA] or direct it to give the consent in question.]

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- F6** [2003 NI 9](#)

*Arts. 79#88 rep. by 2003 NI 9*

### *Regulations*

#### **Regulations**

**89.**—(1) The Department may make regulations—

(a) as to the placing of children in voluntary 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)#(l) rep. by 2003 NI 9*

(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.

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