

SCOTTISH STATUTORY INSTRUMENTS

**2009 No. 210**

**The Looked After Children (Scotland) Regulations 2009**

**PART V**

**KINSHIP CARE**

**Kinship carers**

**10.**—(1) A local authority may make a decision to approve a person mentioned in paragraph (2) as a suitable carer for a child <sup>F1</sup>... which carer shall be known as a “kinship carer”.

(2) The persons referred to in paragraph (1) are—

- (a) a person who is related to the child; or
- (b) a person who is known to the child and with whom the child has a pre existing relationship.

(3) Before making a decision under paragraph (1) the authority must—

- (a) so far as reasonably practicable obtain and record in writing the information specified in Schedule 3; and
- (b) taking into account that information, carry out an assessment of that person's suitability to care for the child.

(4) In paragraph (2)(a) “related” means related to the child either by blood, marriage or civil partnership.

**Textual Amendments**

**F1** Words in reg. 10(1) omitted (24.6.2013) by virtue of [The Childrens Hearings \(Scotland\) Act 2011 \(Modification of Subordinate Legislation\) Order 2013 \(S.S.I. 2013/147\)](#), art. 1, [sch. para. 11\(6\)](#); S.S.I. 2013/195, [arts. 2, 3](#)

**Placement of child with kinship carer**

**11.**—(1) A local authority must not place a child with a kinship carer where—

[<sup>F2</sup>(a) the placement is, or would be, contrary to the terms of any—

- (i) order or warrant made by the children’s hearing or the sheriff under the 2011 Act;
- (ii) permanence order; or
- (iii) exclusion order; or]

(b) the placement would return the child to the care of a person where the child was, by virtue of any order, authorisation or warrant, removed from the care of that person.

(2) A local authority must not place a child with a kinship carer unless they are satisfied that—

- (a) placement is in the best interests of the child;
- (b) placement of the child with that kinship carer is in the best interests of the child;

- (c) following the assessment referred to in regulation 10(3), that kinship carer is a suitable person to care for the child;
- (d) they have taken into account all information available to them relevant to the performance of their duties under section 17(1) to (5) of the 1995 Act;
- (e) the kinship carer has entered into a written agreement with the local authority under regulation 12; and
- (f) the kinship carer has entered into a written agreement with the local authority as to the matters specified in Schedule 4.

#### Textual Amendments

- F2** Reg. 11(1)(a) substituted (24.6.2013) by [The Childrens Hearings \(Scotland\) Act 2011 \(Modification of Subordinate Legislation\) Order 2013 \(S.S.I. 2013/147\)](#), art. 1, **sch. para. 11(7)**; S.S.I. 2013/195, **arts. 2, 3**

#### Agreement with kinship carers

**12.** Where a local authority make a decision to approve a kinship carer under regulation 11 that authority must enter into a written agreement with the kinship carer regarding the matters and obligations in Schedule 5 and any other matters and obligations as the authority consider appropriate.

#### Notification of placement with kinship carer

**13.—(1)** Where a local authority place a child with a kinship carer in accordance with regulation 11 they must, as soon as reasonably practicable, provide notification of the placement to—

- (a) the local authority for the area in which the kinship carer resides if different from the authority making the placement;
- (b) the Health Board which provides services in the area in which the kinship carer resides;
- (c) each parent of the child; and
- (d) any person who has any parental responsibilities or parental rights in relation to the child.

<sup>[F3]</sup>(1A) Where the child is subject to a compulsory supervision order or interim compulsory supervision order, the local authority must provide notification of the placement to—

- (a) the Principal Reporter; and
- (b) the child's relevant person.]

(2) The requirements under <sup>[F4]</sup>paragraphs (1)(c) and (d) and (1A)] do not apply in respect of any parent or person with parental responsibilities or parental rights who has already received a written copy of the child's care plan under regulation 5.

(3) Notification under paragraph (1)(c) or (d) must not be given to a person—

- (a) where the local authority are of the view that, taking into account their duties under section 17 of the 1995 Act, it would not be in the child's interests for notification to be given to that particular person;
- (b) where a permanence order, <sup>[F5]</sup>an exclusion order or any order or warrant made by the children's hearing or the sheriff under the 2011 Act] specifies that the place at which a child is to reside shall not be disclosed to a particular person.

(4) In this regulation “notification” means notification in writing and shall include particulars of the placement.

#### Textual Amendments

- F3** Reg. 13(1A) inserted (24.6.2013) by [The Childrens Hearings \(Scotland\) Act 2011 \(Modification of Subordinate Legislation\) Order 2013 \(S.S.I. 2013/147\)](#), art. 1, [sch. para. 11\(8\)\(a\)](#); [S.S.I. 2013/195](#), [arts. 2, 3](#)
- F4** Words in reg. 13(2) substituted (24.6.2013) by [The Childrens Hearings \(Scotland\) Act 2011 \(Modification of Subordinate Legislation\) Order 2013 \(S.S.I. 2013/147\)](#), art. 1, [sch. para. 11\(8\)\(b\)](#); [S.S.I. 2013/195](#), [arts. 2, 3](#)
- F5** Words in reg. 13(3)(b) substituted (24.6.2013) by [The Childrens Hearings \(Scotland\) Act 2011 \(Modification of Subordinate Legislation\) Order 2013 \(S.S.I. 2013/147\)](#), art. 1, [sch. para. 11\(8\)\(c\)](#); [S.S.I. 2013/195](#), [arts. 2, 3](#)

#### Short-term placements in kinship care

**14.**—(1) Where paragraph (2) applies a series of planned short-term placements with a kinship carer made in accordance with regulation 11 may be treated as a single placement with a kinship carer for the purposes of these Regulations.

- (2) This paragraph applies where—
- (a) all the placements occur within a period which does not exceed 12 months;
  - (b) no single placement is for a duration of more than 4 weeks; and
  - (c) the total duration of the placements does not exceed 120 days.

#### Establishment of case records for kinship carers

**15.**—(1) A local authority must compile a written case record, if one is not already in existence, in respect of each kinship carer who has been approved by that authority and with whom a child has been placed.

- (2) The written case record referred to in paragraph (1) must include any—
- (a) written agreement entered into under regulation 12;
  - (b) any agreement entered into under regulation 36;
  - (c) information specified in paragraph (3) in so far as it is relevant to the case.
- (3) The information referred to in paragraph (2)(c) is—
- (a) a record of each placement with the kinship carer to include—
    - (i) the name, age and sex of each child placed;
    - (ii) the dates on which each placement began and terminated;
    - (iii) the circumstances of any terminated placement; and
  - (b) the information obtained by the local authority in respect of the decision to approve the kinship carer.
- (4) The local authority must compile a written case record for each prospective kinship carer.
- (5) The written record referred to in paragraph (4) must include information obtained as to—
- (a) the prospective kinship carer;
  - (b) the members of the prospective kinship carer's household; and
  - (c) the prospective kinship carer's family.

### **Retention and confidentiality of case records for kinship carers**

**16.—(1)** A case record for a kinship carer compiled under regulation 15 must be retained by the local authority for at least 25 years from the date the placement with that kinship carer is terminated or until their death if earlier.

(2) The requirements of paragraph (1) may be complied with either by retaining the original written record or a copy of it or by keeping all the information from the record in some other accessible form (such as by means of a computer).

(3) Each local authority must secure the safe keeping of every case record and take all necessary steps to ensure that information contained in the case record is confidential subject only to—

- (a) any provision of, or made under or by virtue of any enactment under which access to such records or information may be obtained or given;
- (b) any court order under which access to such records or information may be given.

**Changes to legislation:**

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