
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Looked After Children (Scotland) Regulations 2009 (“the 2009 Regulations”). The 2009 Regulations make provision for the duties and functions of local authorities in respect of children who are looked after by them in terms of section 17(6) of the Children (Scotland) Act 1995 (“the 1995 Act”).

Siblings

Regulation 3(2) inserts a new definition in regulation 2 (interpretation) of the 2009 Regulations to clarify that “sibling of the child” means a person who has at least one parent in common with the child, and any other person with whom the child has lived or is living, and with whom the child has an ongoing relationship with the character of a relationship between siblings.

Regulation 3(3) amends regulation 4 (assessment) of the 2009 Regulations so that, where appropriate, a local authority must also take into account views of any sibling of the child. Regulation 3(3)(c) omits regulation 4(5) of the 2009 Regulations in consequence of the new regulation 5A (duty to place siblings together) inserted by regulation 3(5).

Regulation 3(4) amends regulation 5 (child’s plan) of the 2009 Regulations in relation to taking account of the views of any sibling before preparing the child’s plan.

Regulation 3(5) inserts a new regulation 5A (duty to place siblings together) in the 2009 Regulations. This provides that the local authority must, where appropriate, place the child and any sibling of the child who is also looked after with the same carer or in the same residential establishment, or in homes which are near to each other. In determining what is appropriate the local authority must be satisfied that the placement safeguards and promotes the welfare of the child (the paramount consideration). A local authority may only place a child in homes that are near together rather than in the same placement if that better safeguards and promotes the welfare of the child.

Regulation 3(10) amends regulation 35(b)(iii) (child placed in residential establishment: information to be supplied) of the 2009 Regulations to clarify that arrangements for contact with the child’s family includes contact with their siblings.

Regulation 3(11) amends regulation 36(3)(e)(i) (emergency placement with carer) of the 2009 Regulations to include reference to the duty to promote contact with siblings in section 17(1)(d) of the Children (Scotland) Act 1995 (section 17(1)(d) is inserted by section 13 of the Children (Scotland) Act 2020).

Regulation 3(12) makes amendments to schedule 1 (information relating to the child) in relation to siblings.

Regulation 3(13) makes amendments to schedule 4 (matters and obligations to be covered in foster and kinship placement agreements) with regard to contact with siblings.

Placement limit

Regulation 3(8) inserts a new 27A(2)(c) in the 2009 Regulations to provide that there is a further exception to the placement limit referred to in regulation 27A(1) where regulation 27B(4) applies.

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

Regulation 3(9) inserts a new regulation 27B into the 2009 Regulations to provide a procedure for the local authority to follow if it considers that it is in the best interests of a child to continue the current short term or emergency placement of a child, despite the placement limit.

Regulation 3(6) amends regulation 20 (functions of the fostering panel) of the 2009 Regulations in consequence of regulations 27A(2)(c) and 27B.

Regulation 3(7) amends regulation 25(1)(a) (reviews and termination of approval) of the 2009 Regulations in consequence of regulation 27B(4).