
STATUTORY INSTRUMENTS

1987 No. 2233

**The Social Work (Residential Establishments-
Child Care) (Scotland) Regulations 1987**

PART III

**ARRANGEMENTS BY A CARE AUTHORITY
TO PLACE A CHILD IN RESIDENTIAL CARE**

Application

17.—(1) This Part of these Regulations applies to a care authority which has responsibility for a child in relevant circumstances and which places the child in any of the following:—

- (a) a residential establishment;
- (b) a school within the meaning of the Education (Scotland) Act 1980 where the child will normally reside there for the duration of the placement; or
- (c) a hospital, convalescent home, private nursing home or other health establishment within the meaning of the National Health Service (Scotland) Act 1978 where the child will normally reside there for the duration of the placement.

(2) Where paragraph (1)(b) applies the relevant local authority to whom this Part of the Regulations applies is the local authority for the purposes of its functions under the Act.

(3) “Relevant circumstances” for the purposes of paragraph (1) means where a child is in the care of the care authority or, as the case may be, the care authority has responsibility for the child by virtue of any of the following:—

- (a) sections 15 or 16 of the Act;
- (b) section 10 of the Matrimonial Proceedings (Children) Act 1958⁽¹⁾, section 11 of the Guardianship Act 1973⁽²⁾ or section 26 of the Adoption (Scotland) Act 1978⁽³⁾;
- (c) the granting of authorisation under section 37(2) of the Act⁽⁴⁾ or a warrant under sections 37, 40 or 42 of the Act;
- (d) respite care arrangements made at the request of the child’s parent or guardian.

(4) Where paragraph (3)(b) applies this Part of the Regulations shall apply subject to any directions made by the court as to the care of a child.

(5) For the purposes of paragraph (3)(d), “respite care arrangements” means arrangements whereby a child with particular handicaps or needs who is normally cared for by his parents, guardian or relatives is cared for in a residential placement for a short period; and paragraph (3)(d) shall apply only where the care authority is responsible for the choice of the residential placement to provide such respite care.

(1) 1958 c. 40.

(2) 1973 c. 29.

(3) 1978 c. 28.

(4) Section 37(2) was substituted by the Children Act 1975 (c. 72), section 83(b).

Decision to place a child in residential care

18. Where a care authority has had responsibility for a child by virtue of any of the statutory provisions or arrangements referred to in regulation 17 for 6 weeks or more immediately before the placement, it may place the child in any of the residential placements referred to in regulation 17(1) only if—

- (a) it has, as far as reasonably practicable, ascertained the particulars set out in Schedule 2;
- (b) it is satisfied that the placement in residential care is appropriate to the child's needs, having considered the information referred to in paragraph (a) and any other relevant information and having regard to its duty under section 20 of the Act⁽⁵⁾; and
- (c) it is satisfied that the particular residential placement proposed for the child is appropriate to the child's needs having regard, where a residential establishment is involved, to the statement of functions and objectives prepared by the managers.

19.—(1) Where a care authority has not had responsibility for a child by virtue of any of the statutory provisions or arrangements referred to in regulation 17 for more than 6 weeks immediately before placement, it may make arrangements for placing a child in any of the residential placements referred to in regulation 17(1) only if it has complied with the procedure provided for in regulation 18, or it is satisfied that—

- (a) the placement would not be detrimental to the welfare of the child; and
- (b) having considered all the information available to it, placement in residential care would be in the child's best interests.

(2) Where a care authority has complied with the requirements of paragraph (1)(a) and (b), it shall within 6 weeks of the date on which it assumed responsibility for the child carry out the procedure provided for in regulation 18 and a placement may continue beyond that period only if the requirements of regulation 18 are met.

(3) Paragraph (2) shall not apply where a care authority has had responsibility for a child by virtue of an arrangement referred to in regulation 17(3)(c).

20. When making arrangements to place a child under this Part of the Regulations a care authority shall ensure, so far as is consistent with its duty under section 20 of the Act, that the child will be brought up in accordance with his religious persuasion having ascertained so far as is practicable the wishes and feelings of the child, having regard to his age and understanding, and consulted with the person in charge.

21. When making arrangements under this Part of the Regulations in relation to two or more children of the same family a care authority shall ensure, so far as is consistent with its duty under section 20 of the Act, with regard to each child of the family and having ascertained so far as is practicable the wishes and feelings of each child, having regard to his age and understanding, that the children are placed in the same residential placement or, where that is not appropriate or practicable, that the placements facilitate as far as possible continued mutual contact and access.

Notifications by care authority on placement of a child

22.—(1) Subject to paragraphs (2), (3) and (4), where a care authority places a child in accordance with this Part of the Regulations it shall make arrangements forthwith for written notice of the placement and the particulars of the placement to be given to—

- (a) the local authority in whose area the residential placement occurs if that is different from that of the care authority;

(5) Section 20 was amended by the Children Act 1975, section 79 and by the Health and Social Services and Social Security Adjudications Act 1983, Schedule 2, paragraph 5.

- (b) the education authority in whose area the residential placement occurs if the child is of compulsory school age within the meaning of section 31 of the Education (Scotland) Act 1980, and such notice shall be given before the placement if the care authority has received advice that the child has significant medical or educational needs;
 - (c) the local health authority in whose area the residential placement occurs, and such notice shall be given before the placement is made if the care authority has received medical advice that the child has a medical problem of significance to his future care;
 - (d) each parent or guardian of the child whose whereabouts are known, but no particulars of the placement shall be given to a parent or guardian of the child where the care authority considers, having regard to section 20 of the Act and the code of practice issued by the Secretary of State under section 17E of the Act((6)), that in the interests of the child such particulars should not be given.
- (2) Paragraph (1)(b) shall not apply in any case where the care authority does not intend the placement to last for more than 28 days unless—
- (a) the care authority has received advice that the child has significant medical or educational needs; or
 - (b) any such placement does actually last for more than 28 days, in which case the education authority referred to in paragraph (1)(b) shall be given notice as required by paragraph (1) as soon as possible after the expiry of the said 28 days.
- (3) Paragraph (1)(c) shall not apply in any case where the care authority does not intend the placement to last for more than 28 days unless—
- (a) the care authority has received medical advice that a child has a medical problem of significance to his future care; or
 - (b) the child is below compulsory school age within the meaning of section 31 of the Education (Scotland) Act 1980; or
 - (c) any such placement does actually last for more than 28 days,
- in which case the local health authority referred to in paragraph (1)(c) shall be given notice as required by paragraph (1) as soon as possible after the expiry of the said 28 days.

Monitoring of placements

23. The care authority shall take such steps as are necessary to satisfy itself that any placement made under this Part of the Regulations continues to be in the interests of the child and in particular—

- (a) shall ensure that the child is visited on their behalf—
 - (i) within one week of the placement being made;
 - (ii) thereafter at intervals of not more than 3 months from the date of the last visit;
 - (iii) on such other occasions as the care authority considers necessary in order to supervise the child's welfare;
- (b) shall ensure that written reports are produced reporting on visits made in accordance with paragraph (a) and that these are considered by the care authority.

Termination of placement

24.—(1) Subject to section 20 of the Act, where for any reason it appears to the care authority that it is no longer in a child's best interests to remain in a residential placement in which he was

(6) Section 17E was inserted by the Health and Social Services and Social Security Adjudications Act 1983, section 7(2).

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placed under this Part of the Regulations the care authority shall make arrangements to terminate the placement as soon as practicable in the interests of the child.

(2) Where a residential placement is terminated in accordance with paragraph (1), the care authority shall forthwith give written notice of their decision and of the date on which the placement was terminated to any authority or person who received notice of the placement in accordance with regulation 22.