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STATUTORY INSTRUMENTS

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**1991 No. 2032**

**CHILDREN AND YOUNG PERSONS**

**The Children (Prescribed Orders — Northern Ireland, Guernsey and Isle of Man) Regulations 1991**

<i>Made</i>	- - - -	<i>9th September 1991</i>
<i>Laid before Parliament</i>		<i>12th September 1991</i>
<i>Coming into force</i>	- -	<i>14th October 1991</i>

The Secretary of State for Health, in exercise of the powers conferred by section 101 of the Children Act 1989(1), and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

**Citation, commencement, interpretation and extent**

1.—(1) These Regulations may be cited as the Children (Prescribed Orders — Northern Ireland, Guernsey and Isle of Man) Regulations 1991 and shall come into force on 14th October 1991.

(2) In these Regulations unless the context requires otherwise—

“the Act” means the Children Act 1989;

“the authority” means the local authority(2) in whose care the child is by virtue of a care order under the Act;

“the Board” means a Health and Social Services Board in Northern Ireland established under article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972(3);

“the Children Board” means the States Children Board in Guernsey;

“the Department” means the Department of Health and Social Security of the Isle of Man;

“the Northern Ireland Act” means the Children and Young Persons Act (Northern Ireland) 1968(4);

“the Act of Tynwald” means the Children and Young Persons Act 1966 (an Act of Tynwald)(5).

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(1) 1989 c. 41. See the definition of “prescribed” in section 105(1).

(2) “local authority” is defined in section 105 (1) of the Act as the council of a county, a metropolitan district, a London Borough of the Common Council of the City of London; pursuant to section 2 of the Local Authority Social Services Act 1970 (c. 42), local authority functions under the Children Act 1989 stand referred to the social services committee of a local authority.

(3) S.I. 1972/1265 (N.I.14).

(4) 1968 c. 34.

(5) Vol. XX p.89; sections 2 and 3 are amended by the Children and Young Persons Act 1990 (c. 13) (an Act of Tynwald).

(3) In these Regulations, unless the context requires otherwise, any reference to a numbered regulation is to the regulation in these Regulations bearing that number and any reference in any regulation to a numbered paragraph is to the paragraph of that regulation bearing that number.

(4) This regulation and regulations 2, 6 and 8 shall extend to Northern Ireland.

### **Transfer of care orders from England and Wales to Northern Ireland**

2.—(1) A care order being an order made by a court in England and Wales, which appears to the Secretary of State to correspond in its effect to an order which may be made under a provision in force in Northern Ireland, shall in the circumstances prescribed in paragraph (2) have effect for all the purposes of the Northern Ireland Act as if it were an order under section 95(1)(b) of that Act committing the child to the care of the Board for the area in which it is proposed that he will live.

(2) The circumstances referred to in paragraph (1) are that the court has given its approval under paragraph 19(1) of Schedule 2 to the Act to the authority arranging or assisting in arranging for the child to live in Northern Ireland.

(3) The care order shall cease to have effect for the purposes of the law of England and Wales if the following conditions are satisfied—

- (a) the Board for the area in which the child will live in Northern Ireland has notified the court referred to in paragraph (2) in writing that it agrees to take over the care of the child; and
- (b) the authority has notified the court referred to in paragraph (2) that it agrees to the Board taking over the care of the child.

### **Transfer of care orders to England and Wales from the Isle of Man**

3.—(1) A relevant order within the meaning of section 56(6) of the Act of Tynwald (being an order made by a court in the Isle of Man which appears to the Secretary of State to correspond in its effect to an order which may be made under the Act) shall in the circumstances prescribed in paragraph (2) have effect for all the purposes of the Act in England and Wales as if it were a care order under section 31 of the Act placing the child in question in the care of the local authority in whose area he is to live.

(2) The circumstances prescribed are—

- (a) that the relevant order was made otherwise than on a finding of guilt;
- (b) that either—
  - (i) the court has given leave under sub-section (2) of section 56 of the Act of Tynwald for the Department to make arrangements for the child to be received into the care of that authority; or
  - (ii) the court has directed under sub-section (5) of that section that the said subsection (2) shall not apply in relation to the order in question; and
- (c) that the authority has agreed in writing to receive the child into its care.

### **Transfer of care orders from England and Wales to the Isle of Man**

4. The conditions prescribed for the purposes of section 101(4) of the Act (child in care taken to live in the Isle of Man) in the case of a child who is taken to live in the Isle of Man are that—

- (a) the court has given its approval under paragraph 19(1) of Schedule 2 to the Act to the authority arranging or assisting in arranging for the child to live in the Isle of Man;
- (b) the Department has notified the court referred to in paragraph (a) in writing that it agrees to receive the child into its care; and

- (c) the authority has notified the court referred to in paragraph (a) that it agrees to the Department receiving the child into care.

### **Transfer of care orders from England and Wales to Guernsey**

5. The conditions prescribed for the purposes of section 101(4) of the Act in the case of a child who is taken to live in Guernsey are that—

- (a) the court has given its approval under paragraph 19(1) of the Schedule 2 to the Act to the authority arranging or assisting in arranging for the child to live in care in Guernsey;
- (b) the Children Board has notified the Guernsey Juvenile Court in writing that it agrees to receive the child into its care; and
- (c) the authority has notified the Guernsey Juvenile Court that it agrees to the Children Board receiving the child into care; and
- (d) the Guernsey Juvenile Court has made a fit person order in respect of the child.

### **Transfer of recovery orders from England and Wales to Northern Ireland**

6.—(1) Where an authority has reason to believe that a child has been unlawfully taken to, or is being unlawfully kept in, Northern Ireland, or has run away to Northern Ireland, or is missing and believed to be in Northern Ireland, a recovery order made by a court in England and Wales under section 50 of the Act (being an order which appears to the Secretary of State to correspond in its effect to an order which may be made under any provision in force in Northern Ireland) shall have effect for all purposes of the law of Northern Ireland as if it were an order made under section 50 of the Act by a magistrate's court within the meaning of the Magistrates' Courts (Northern Ireland) Order 1981(6).

(2) Where a child is subject to a recovery order which is to have effect in Northern Ireland as mentioned in paragraph (1), any reasonable expenses incurred by an authorised person within the meaning of section 50(7) of the Act shall be recoverable from the authority in whose care the child was.

### **Transfer of recovery orders to England and Wales from the Isle of Man**

7.—(1) For all purposes of the Act in England and Wales a recovery order under section 98B of the Act of Tynwald (being an order made by a court in the Isle of Man which appears to the Secretary of State to correspond in its effect to an order which may be made under the Act) shall in the circumstances prescribed in paragraph (2) have effect as if it were a recovery order made under section 50 of the Act.

(2) The circumstances referred to in paragraph (1) are that section 98A of the Act of Tynwald applies to the child in question otherwise than by virtue of an order committing him to the care of the Department on a finding of guilt.

### **Amendments to Children and Young Persons Act 1969**

8.—(1) The following consequential amendments shall be made to section 25 of the Children and Young Persons Act 1969(7) (transfers between England or Wales and Northern Ireland)—

- (a) in subsection (1)—

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(6) S.I. 1981/1674 (N.I.26).

(7) 1969 c. 54. Section 25 is amended by paragraph 15 of Schedule 2 to the Health and Social Services and Social Security Adjudications Act 1983 (c. 41.) and for Northern Ireland by article 3 of and Schedule 2 to S.R. & O. (N.I.) 1973/256, and articles 2(1) and 11(5) of and Schedule 1 to S.I. 1973/2163.

- (i) after the words “training school order” there shall be inserted the words “or by any order which has effect as if it were a fit person order”;
  - (ii) for the words “as if it were a care order” to the end of that subsection there shall be substituted the words “in a case in which there was a fit person order (or an order having effect as if it were a fit person order), as if it were a care order under section 31 of the Children Act 1989 and in a case in which there was a training school order as if it were a supervision order imposing a residence requirement as mentioned in section 12AA of this Act.”<sup>(8)</sup>;
- (b) in subsection (2)—
- (i) after the words “committed by a care order” there shall be inserted the words “to which paragraph 36 of Schedule 14 to the Children Act (criminal care order transitional provisions) applies”;
  - (ii) after the words “interim order” there shall be inserted the words “or who is to accommodate a person pursuant to a supervision order imposing a residence requirement as mentioned in section 12AA of this Act”;
  - (iii) the words “or to the care of the Secretary of State” shall be omitted;
  - (iv) for “83(3)(a), 88(3), 90 and 91(3)” there shall be substituted “88(3) and 90”;
  - (v) for the words “a fit person order” there shall be substituted the words “the supervision order”;
- (c) in subsection (3)—
- (i) the words “or the Ministry of Home Affairs” shall be omitted;
  - (ii) for the words “or care order” there shall be substituted the words “, care order or supervision order”;
  - (iii) in paragraph (b) after the words “care order” there shall be inserted the words “or supervision order”;
  - (iv) sub-paragraph (i) of paragraph (b) shall be omitted;
- (d) in subsection (4) the words “or the Ministry of Home Affairs” and the word “Ministry” shall be omitted.
- (2) The following consequential amendments shall be made to section 26 of the Children and Young Persons Act 1969<sup>(9)</sup> (transfers between England or Wales and the Channel Islands or the Isle of Man)—
- (a) in subsection (1) after the words “interim order” there shall be inserted “or as a supervision order imposing a residence requirement as mentioned in section 12AA of this Act” and at the end of the subsection there shall be inserted the words “and “care order” means an order made under section 31 of the Children Act 1989.”;
  - (b) for the words in subsection (2) from “, subject to the following subsection” to the end of the subsection (3) there shall be substituted “be deemed to be the subject of a care order placing the child in the care of a named local authority or, where the relevant order was made as a criminal disposal in criminal proceedings, a supervision order imposing a residence requirement as mentioned in section 12AA of this Act with a requirement that the child be accommodated by a designated local authority.”

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<sup>(8)</sup> Section 12AA of the Children and Young Persons Act 1969 was inserted by paragraph 23 of Schedule 12 to the Children Act 1989.

<sup>(9)</sup> Relevant designations of orders under section 26 of the Children and Young Persons Act 1969 (c. 54) are made by the Children and Young Persons (Designation of Isle of Man Orders) Order 1991 (S.I. 1991/2031), the Children and Young Persons (Designation of Guernsey Order) Order 1971 (S.I. 1971/348) and the Children and Young Persons (Designation of Jersey Orders) Order 1972 (S.I. 1972/1074).

Signed by authority of the Secretary of State for Health

9th September 1991

*Virginia Bottomley*  
Minister of State,  
Department of Health

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

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations provide for orders which appear to the Secretary of State to be equivalent to orders available in Northern Ireland, the Isle of Man or the Channel Islands to have effect in certain circumstances there and to cease to have effect in England and Wales. Similarly, it provides that certain orders made in the Isle of Man may, in certain circumstances, have effect in England and Wales.

Regulation 2 provides that in certain circumstances a care order under the Children Act 1989 “the 1989 Act” may have effect in Northern Ireland as if it were made in Northern Ireland.

Regulation 3 provides that in certain circumstances a care order made in the Isle of Man other than on a criminal conviction may have effect in England and Wales as if it were a care order made under section 31 of the 1989 Act.

Regulations 4 and 5 provide for the transfer of a child in care under section 31 to the care of the Department of Health and Social Security in the Isle of Man or the States Children Board in Guernsey respectively, subject to certain conditions being met, and for orders under section 31 to cease to have effect.

Regulation 6 provides for a recovery order under section 50 of the 1989 Act to have effect in Northern Ireland in certain circumstances. The local authority in England and Wales responsible for the child is responsible for the reasonable expenses incurred in Northern Ireland by persons authorised under the order so as to recover the child.

Regulation 7 provides for a recovery order made in the Isle of Man other than on a criminal conviction to have effect as if it were a recovery order under section 50 of the 1989 Act.

Regulation 8 makes consequential amendments to sections 25 and 26 of the Children and Young Persons Act 1969 (transfers between England or Wales and Northern Ireland, the Channel Islands or the Isle of Man).