

---

STATUTORY INSTRUMENTS

---

**1996 No. 3256**

**The Residential Establishments – Child  
Care (Scotland) Regulations 1996**

**PART I  
GENERAL**

**Citation and commencement**

1. These Regulations may be cited as the Residential Establishments – Child Care (Scotland) Regulations 1996 and shall come into force on 1 April 1997.

**Interpretation**

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

“the Act” means the Social Work (Scotland) Act 1968;

“the 1995 Act” means the Children (Scotland) Act 1995(1);

“children’s hearing” has the meaning given to that term by section 93(1) of the 1995 Act;

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(2);

“looked after” has in respect of a local authority the meaning given to that term by section 17(6) of the 1995 Act;

“managers” means—

(a) the case of a local authority, those officers having delegated powers under section 56 of the Local Government (Scotland) Act 1973(3) for the management of the residential establishment.

(b) in any other case, those who are responsible for management of the residential establishment;

“person in charge” means the person in charge of a residential establishment who is responsible to the managers of the residential establishment;

“parent” has the meaning given to that term by section 15(1) of the 1995 Act and includes any person who is not a parent of the child but who has parental responsibilities in respect of him;

“parental responsibilities” has the meaning given to that term by section 1(3) of the 1995 Act;

---

(1) 1995 c. 36.

(2) 1994 c. 39.

(3) 1973 c. 65; section 56 was amended by the Local Government and Planning (Scotland) Act 1982 (c. 43), section 32; the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c. 47), section 28; the Local Government Finance Act 1992 (c. 14), Schedule 13, paragraph 35; the Local Government etc. (Scotland) Act 1994 (c. 39), Schedule 13, paragraph 92; and the Children (Scotland) Act 1995 (c. 36), Schedule 4, paragraph 22.

“placement” means the provision of accommodation by a local authority for a child looked after by them by any of the means specified in section 26 of the 1995 Act;

“registering authority” means the local authority with which the person carrying on any residential establishment is registered or is required to be registered for the purposes of section 62 of the Act;

“residential establishment” has the meaning given to that term by section 93(1) of the 1995 Act;

“voluntary organisation” has the meaning given to that term by section 93(1) of the 1995 Act.

(2) In these Regulations any reference to a numbered regulation is to the regulation in these Regulations bearing that number and any reference in a regulation to a numbered paragraph is to the paragraph of that regulation bearing that number.

## PART II

### GENERAL PROVISIONS APPLYING TO CONDUCT OF RESIDENTIAL ESTABLISHMENTS

#### General

3. This Part of these Regulations shall apply to any residential establishment which provides residential accommodation for children and—

- (a) is controlled or managed by a local authority; or
- (b) is one in respect of which a person is required to be registered under section 61 of the Act(4); or
- (c) is a school which is registered voluntarily in accordance with section 61A of the Act(5).

4. The managers of any residential establishment to which these Regulations apply shall ensure that the welfare of the child placed and kept in such accommodation is safeguarded and promoted and that the child receives such provision for his development and control as is conducive to his best interests.

#### Statement of functions and objectives

5.—(1) Subject to the provisions of this Part of the Regulations the managers of a residential establishment which provides residential accommodation for children shall, in consultation with the person in charge, prepare within 6 months of these Regulations coming into force a statement of functions and objectives for that establishment which shall include the particulars specified in the Schedule to these regulations.

(2) The managers referred to in paragraph (1) shall keep under review the preparation of and implementation of the said statement of functions and objectives and for that purpose they—

- (a) shall ensure that the person in charge reports in writing to them at intervals of not more than 12 months on the implementation of the statement of functions and objectives for that establishment; and
- (b) shall make arrangements to ensure that each residential establishment they provide is visited on their behalf at intervals of not more than 6 months to furnish them with a report on the implementation of the statement of functions and objectives for each establishment.

---

(4) Section 61 was amended by section 1 of the Registered Establishments (Scotland) Act 1987 (c. 40) and by section 34 of the Children (Scotland) Act 1995.

(5) Section 61A was inserted by section 2 of the Registered Establishments (Scotland) Act 1987, and substituted by section 34(3) of the Children (Scotland) Act 1995.

(3) Without prejudice to the arrangements made under paragraph (2)(b), the managers may make arrangements for each residential establishment they provide to be visited at such other times as they consider necessary by a person authorised for that purpose.

(4) Where the managers consider it necessary or appropriate, they shall in consultation with the person in charge make such amendments to the statement of functions and objectives prepared in accordance with paragraph (1) as they consider appropriate.

(5) The managers shall arrange for the statement of functions and objectives for any residential establishment they provide to be made available, on request, to any local authority or children's hearing considering the placing of a child in such an establishment.

### **Number of children who may be accommodated**

6. Subject to section 62(5) of the Act(6) the managers shall, as they consider appropriate, determine the total number of children who may normally be resident in each residential establishment they provide.

### **Appointment of person in charge**

7.—(1) Where a residential establishment is not provided by a local authority, the managers shall appoint a person to be in charge of the establishment and shall in writing—

- (a) delegate such duties under these Regulations or otherwise to the person in charge as the managers may determine;
- (b) specify the persons who will have charge of the establishment in the absence of the person in charge.

(2) Where a residential establishment is provided by a local authority, the person in charge shall be an officer appointed by the local authority.

### **Appointment and vetting of staff in residential establishments**

8. The managers of a residential establishment shall have in place appropriate procedures to be followed in the vetting of staff in relation to their suitability to work in the establishment both prior to their appointment and regularly thereafter.

### **Precautions against fire and accident**

9.—(1) The managers shall, in consultation with the fire authority for the area in which any residential establishment they provide is situated, ensure that adequate precautions are taken against fire and shall review such precautions at suitable intervals having regard to any recommendations they may receive at any time from the fire authority.

(2) The managers shall make arrangements to ensure that by means of drills and practices the staff of residential establishments provided by them and, as far as practicable, children resident there are adequately trained and instructed in procedures to be followed in the event of fire.

(3) The managers shall ensure that adequate precautions are taken against the occurrence of other forms of accident in a residential establishment and that the staff and, as far as practicable, children resident there are acquainted with such precautions.

---

(6) Section 62(5) was substituted by section 3 of the Registered Establishments (Scotland) Act 1987.

## Sanctions

**10.**—(1) Arrangements for sanctions, relevant to the control of children resident in a residential establishment, shall be determined by the managers in accordance with the statement of functions and objectives formulated under regulation 5(1).

(2) The arrangements shall not authorise the giving of corporal punishment and corporal punishment shall for this purpose have the same meaning as in section 48A of the Education (Scotland) Act 1980(7).

## Provision of education

**11.**—(1) The managers of each residential establishment shall ensure, in consultation with the appropriate education authority, that each child of school age accommodated in the establishment, and not meanwhile receiving education at a school or other place outwith the establishment, receives adequate and efficient education.

(2) In making provision for education under paragraph (1), the managers shall have regard to—

- (a) the requirements of sections 1 (duty of education authorities to secure provision of education) and 30 (duty of parents to provide education for their children) of the Education (Scotland) Act 1980;
- (b) the number of children normally resident in the establishment in respect of whom education may require to be provided, either within the establishment or, where that is not appropriate or is not provided, at a school;
- (c) the age, ability, aptitude and progress of each child.

(3) For the purposes of paragraph (2)(b) in deciding where a child might best receive education the managers, in consultation with the appropriate education authority, shall have regard to the period for which the child is normally expected to be resident within the establishment.

(4) Any arrangements made under paragraph (1) for the provision of education within the establishment shall include accommodation for teaching purposes together with other requisite facilities and the employment, or arrangement for the services, of an adequate and appropriately qualified teaching staff.

(5) In this regulation the expression “school age” has the meaning assigned to it by section 31 of the Education (Scotland) Act 1980.

## Log book or books

**12.** The managers shall ensure in consultation with the person in charge that there is maintained for each residential establishment a log book or books of day-to-day events of importance or of an official nature, including, without prejudice to this generality and to the inclusion of such information in personal records maintained under regulation 13, details of sanctions imposed.

## Personal records

**13.** The managers in consultation with the person in charge shall ensure that all necessary records, including where necessary health particulars, are maintained in respect of each child resident in a residential establishment.

---

(7) 1980 c. 44; section 48A was inserted by the Education (No.2) Act 1986 (c. 61), section 48, and subsequently amended by the Self-Governing Schools etc. (Scotland) Act 1989 (c. 39), Schedule 10, paragraph 8, and the Education Act 1993 (c. 35), section 294.

### **Religious instruction**

14. The managers of a residential establishment shall, so far as is practicable and having regard to the child's wishes and feelings, arrange that every child resident in the establishment is able to attend such religious services and to receive such religious instruction as may be appropriate to the child's religious persuasion.

### **Health and medical care**

15. The managers shall ensure that arrangements are made—
- (a) within the residential establishment for the maintenance of conditions conducive to good health among the children resident there including the maintenance of satisfactory conditions of hygiene; and
  - (b) where appropriate, in consultation with the relevant local authority responsible for the child's welfare, for such medical and dental treatment to be available as may be required for each child.

### **Monitoring of registered establishments**

16. Where the registering authority have issued a certificate of registration in accordance with section 62(3) of the Act, they shall satisfy themselves by visits—
- (a) at intervals of not more than 1 year, that the operation of the residential establishment continues to conform to the requirements for registration and in doing so shall have regard to the statement of functions and objectives prepared in accordance with regulation 5; and
  - (b) otherwise as they consider necessary or appropriate, that the safety and welfare of children resident within the establishment are being maintained.

## **PART III**

### **MISCELLANEOUS PROVISIONS APPLICABLE TO ALL PLACEMENTS IN A RESIDENTIAL ESTABLISHMENT**

#### **Information to be supplied to persons in respect of each child placed in a residential establishment**

17. Where a local authority places in a residential establishment a child who is looked after by them, the local authority—
- (a) shall provide the person in charge with the following:-
    - (i) written information about the child's background, health, and mental and emotional development; and
    - (ii) any other information which the local authority considers relevant to the placement including information about the child's wishes and feelings about the placement, so far as this is appropriate having regard to his age and maturity;
  - (b) shall agree with the person in charge arrangements for ensuring that the welfare of the child placed and kept in such accommodation is safeguarded and promoted and that the child receives such provision for his development and control as is conducive to his best interests including—
    - (i) the arrangements that are to be made for contact between the child and his family;

---

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

---

- (ii) the arrangements that are to be made for ensuring that the child receives adequate and efficient education (having regard to regulation 11) and appropriate medical and dental treatment.

St Andrew's House,  
Edinburgh  
18th December 1996

*James Douglas-Hamilton*  
Minister of State, Scottish Office