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STATUTORY INSTRUMENTS

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**1996 No. 3262 (S.252)**

**CHILDREN AND YOUNG PERSONS**

The Arrangements to Look After  
Children (Scotland) Regulations 1996

<i>Made</i>	- - - -	<i>20th December 1996</i>
<i>Laid before Parliament</i>		<i>31st December 1996</i>
<i>Coming into force</i>	- -	<i>1st April 1997</i>

The Secretary of State, in exercise of the powers conferred on him by sections 17, 31 and 103(2) of the Children (Scotland) Act 1995<sup>(1)</sup>, and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Arrangements to Look After Children (Scotland) Regulations 1996 and shall come into force on 1st April 1997.

**Interpretation**

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

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

“the 1980 Act” means the Education (Scotland) Act 1980<sup>(2)</sup>;

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

“foster” means arrange for a child to live as a member of the family of a person who is not a parent, does not have parental responsibilities in respect of the child and who is not a relevant person in relation to the child and who undertakes to look after the child other than in accordance with the Adoption Agencies (Scotland) Regulations 1996<sup>(3)</sup>;

“health board” means a health board constituted under section 2 of the National Health Service (Scotland) Act 1978<sup>(4)</sup>;

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(1) 1995 c. 36.

(2) 1980 c. 44.

(3) S.I.1996/3266.

(4) 1978 c. 29; section 2 was amended by the NHS and Community Care Act 1990 (c. 19), section 28, Schedule 9, paragraph 19(1) and Schedule 10.

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(5);

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

“parent” has the meaning given to that term by section 15(1) of the Act and also 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 Act;

“placement” means, subject to regulation 17, 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 Act;

“Principal Reporter” has the meaning given to that term by section 93(1) of the Act;

“relevant person” has the meaning given to that term by section 93(2)(b) of the Act;

“so far as is reasonably practicable” means in regulations 3(1), 3(2)(a), 6(2) or (4), 7(3)(a) and 13(1) (notwithstanding the use of the word “before” in those provisions) so far as is reasonably practicable before a local authority look after or, as the case may be, place a child, failing which as soon as is reasonably practicable thereafter;

(2) In these Regulations—

(a) 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; and

(b) any reference to a numbered Schedule is to the Schedule to these Regulations bearing that number.

### **Duty of local authority to make a care plan in respect of a child to be looked after or looked after by them**

3.—(1) Before a child begins to be looked after by a local authority, the authority shall, so far as is reasonably practicable, make a care plan to address the immediate and longer-term needs of the child with a view to safeguarding and promoting his welfare.

(2) In drawing up any care plan a local authority shall—

(a) in the case of any child to be placed, so far as is reasonably practicable before placing, obtain and record in writing the information relating to the child specified in Schedule 1;

(b) take into account all information available to them relevant to the performance of their duties under section 17(1) to (5) of the Act.

### **Considerations to which a local authority shall have regard in making a care plan for a child to be, or being, looked after by them**

4.—(1) This regulation applies where a local authority are making a care plan for a child to be, or being, looked after by them.

(2) Where this regulation applies, the local authority in making a care plan shall have regard to—

(a) the nature of the service to be provided in the immediate and longer-term with particular regard to any information referred to in Schedule 1;

(b) alternative courses of action;

(c) whether the local authority should seek a change in the child’s legal status;

- (d) the arrangements which need to be made for the time when the child would or will no longer be looked after by the local authority;
- (e) so far as practicable, the matters listed in section 17(4) of the Act; and
- (f) any further matters relating to the child as appear to the authority to be relevant for the making of the care plan.

**Considerations to which a local authority shall have regard in making a care plan for a child to be, or being, looked after by them, where the local authority are considering placing the child**

5.—(1) Without prejudice to regulation 4, this regulation applies where a local authority are making a care plan for a child to be, or being, looked after by the local authority and the local authority are considering placing the child.

(2) When this regulation applies, in addition to any consideration referred to in regulation 4, the local authority in making a care plan shall have regard to—

- (a) whether there is any need for changes in the contact arrangements in order to promote contact with the child’s family and others;
- (b) in the light of any information recorded which is specified in paragraph 9 of Schedule 1, the need to change existing health arrangements;
- (c) in the light of any information recorded which is specified in paragraph 10 of Schedule 1, the means of achieving any educational need and the means of achieving continuity in the child’s education;
- (d) in the case of a placement in a residential establishment, whether, having regard to the establishment’s statement of functions and objectives, that particular placement is appropriate for the child’s needs.

(3) Where this regulation applies and a local authority are considering fostering the child or placing him in a residential establishment, they shall, so far as is consistent with their duty under section 17 of the Act and having ascertained so far as practicable the views of the child having regard to his age and maturity, ensure that—

- (a) in the case of fostering, the person with whom the child is to be fostered is of the same religious persuasion as the child or, if that is not practicable, that the person undertakes that the child will be brought up in accordance with the child’s religious persuasion; and
- (b) in the case of a placement in a residential establishment, the child will be brought up in accordance with his religious persuasion (with the local authority having consulted the person in charge of the residential establishment).

(4) Where paragraph (3) applies, and the local authority are making arrangements in relation to two or more children in the same family, the local authority shall, so far as is consistent with their duty under section 17 of the Act and having ascertained so far as practicable the views of each child having regard to his age and maturity, ensure that—

- (a) in the case of fostering, the children are fostered in the same home or, if that is not appropriate or practicable, in homes as near together as is appropriate or practicable; and
- (b) in the case of a placement in a residential establishment, the children are placed in the same residential establishment or, where that is not appropriate or practicable, that the placements facilitate as far as possible continued mutual contact and access.

**Matters to be covered in a care plan**

6.—(1) A care plan shall include, where applicable—

- (a) for each case of a child to be looked after by them, arrangements concerning the matters specified in Part I of Schedule 2; and
  - (b) in addition in each case where the authority intend placing or have placed the child, arrangements concerning the matters specified in Part II of Schedule 2.
- (2) In the case of a child described in section 25(7)(a) of the Act (child aged 16 or over agreeing to be provided with accommodation) the care plan shall so far as is reasonably practicable be agreed by the local authority with the child before a placement.
- (3) Paragraph (4) applies to any case of a child looked after by a local authority other than a case mentioned in paragraph (2), and subject to the terms of a supervision requirement, or an order made, or authorisation or warrant granted, by virtue of Chapter 2, 3 or 4 of Part II of the Act, in respect of the child.
- (4) The care plan shall, so far as is reasonably practicable, be agreed by the local authority with—
- (a) a parent of the child, or
  - (b) if there is no such person, the person ordinarily with charge of or control over the child, before the child is looked after.
- (5) All matters relating to a care plan shall be recorded in writing.

#### **Notification by local authority on placement of a child**

- 7.—(1) Subject to paragraphs (2), (3) and (4), where a local authority make a placement in accordance with these Regulations they shall as soon as is reasonably practicable give written notice of the placement and the relevant information about the placement to—
- (a) the local authority in whose area the person with whom the child is placed resides if that authority is different from the placing authority;
  - (b) the education authority in whose area the child is to reside, if the child is of compulsory school age within the meaning of section 31 of the Education (Scotland) Act 1980;
  - (c) the health board in whose area the child is to reside;
  - (d) each parent or relevant person in relation to the child whose whereabouts are known except where—
    - (i) they have already received a written copy of the care plan made under regulation 3; or
    - (ii) the local authority consider, having regard to section 17 of the Act, that in the interests of the child such particulars should not be given to a particular person; or
    - (iii) a supervision requirement, order or warrant under Part II of the Act specifies that the place at which the child is to be kept shall not be disclosed to a particular person.
- (2) Where it is not intended that the placement shall last for more than 28 days, notification in terms of paragraph (1)(b) and (c) is not required unless—
- (a) in respect of notification in terms of paragraph (1)(b), the child has significant medical or educational needs; or
  - (b) in respect of notification in terms of paragraph (1)(c), the child has a problem of medical significance or the child is below compulsory school age within the meaning of the 1980 Act; or
  - (c) any such placement does last for more than 28 days.
- (3) Written notice shall be given—
- (a) where paragraph (2)(a) or (b) applies, so far as is reasonably practicable before placement;
  - (b) where paragraph (2)(c) applies, as soon as possible after the expiry of the 28 days referred to in that sub-paragraph.

### **Review of children's cases**

8.—(1) Each local authority shall review in accordance with these Regulations the case of each child while he is being looked after by them.

- (2) In carrying out any review, a local authority shall—
- (a) consider the care plan made by virtue of regulations 3 and 6, and revise the care plan as appropriate; and
  - (b) in doing so, have regard to the considerations mentioned in regulations 4 and 5.

### **Time when case is to be reviewed**

9.—(1) A local authority shall carry out the following reviews of the case of a child looked after and placed by the authority:—

- (a) a first review within 6 weeks from the date of such placement;
- (b) a second review within 3 months from the date of the first review; and
- (c) thereafter subsequent reviews within 6 months from the date of the previous review.

(2) A local authority shall carry out the following reviews of the case of a child looked after but not placed by the authority:—

- (a) a first review within 3 months from the date on which the authority began to look after the child; and
- (b) thereafter subsequent reviews within 6 months from the date of the previous review.

(3) Notwithstanding paragraphs (1) and (2), a review shall be carried out prior to—

- (a) a decision by the local authority to refer the case of the child to the Principal Reporter under section 73(4) or (5) of the Act; and
- (b) where practicable under any other circumstances when a children's hearing is convened under section 73 or 65(3) of the Act to consider the case of the child except in the case of a referral made to the Principal Reporter as mentioned in paragraph (a).

### **Recording review information**

10. Each local authority shall record in writing—

- (a) information obtained in respect of the review of a child's case,
- (b) details of the proceedings at any meeting arranged by the authority at which the child's case is considered in connection with any aspect of the review of that case, and
- (c) details of any decisions or arrangements made in the course of or as a result of the review.

### **Establishment of records**

11.—(1) A local authority shall establish a written case record, if one is not already in existence, in respect of each child looked after by the authority.

(2) The record shall include—

- (a) a copy of the care plan referred to in regulation 3 and any revised care plan referred to in regulation 8(2)(a);
- (b) a copy of the information obtained under regulation 3(2)(a);
- (c) a copy of any written report in their possession concerning the welfare of the child;
- (d) a copy of any document considered or record established in the course of or as a result of a review of the child's case;

- (e) details of any arrangements whereby another person acts on behalf of the local authority which placed the child.

### **Retention and confidentiality of records**

**12.—**(1) A case record relating to a child who is placed by the local authority shall be retained by the authority until the seventy-fifth anniversary of the date of birth of the child to whom it relates or, if the child dies before attaining the age of 18 years, for a period of 25 years beginning with the date of his death.

(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 of the information from such record in some other accessible form (such as by means of a computer).

(3) A local authority shall secure the safe-keeping of such case records and shall take all necessary steps to ensure that information contained in them is treated as confidential, subject only to—

- (a) any provision of, or made under or by virtue of, a statute 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 obtained or given.

### **Health requirements**

**13.—**(1) Subject to regulation 17(3), a local authority shall, so far as is reasonably practicable before placing a child looked after by them—

- (a) ensure that arrangements are made for the child to be examined by a registered medical practitioner; and
- (b) obtain from the practitioner who has carried out the examination a written assessment of the state of health of the child and his need for health care,

unless the child has been so examined and such assessment has been made within a period of 3 months immediately preceding the date the child began to be looked after by them.

(2) During the placement of the child the local authority shall ensure that arrangements are made for a child to be provided with health care services, including medical and dental care and treatment.

(3) Nothing in this regulation shall prejudice any capacity of a child enjoyed by virtue of section 2(4) of the Age of Legal Capacity (Scotland) Act 1991<sup>(6)</sup> (capacity of child with sufficient understanding to consent to surgical, medical or dental procedure or treatment); and, without prejudice to that generality, where this provision requires an examination or treatment of a child and the child has the capacity mentioned in the said section 2(4), the examination or treatment shall be carried out only if the child consents.

### **Notification of occurrences involving the child**

**14.—**(1) The local authority shall require the person with whom a child is placed to notify the authority forthwith if the child—

- (a) dies;
- (b) suffers an illness or injury likely to result in death or serious disability; or
- (c) without lawful authority absents himself or is taken away from the person's home.

(2) On receiving notification under paragraph (1), the local authority shall, so far as is reasonably practicable, forthwith notify every person who has parental responsibility for him.

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(6) 1991 c. 50.

### **Death of a child**

**15.**—(1) If a child who is being looked after by a local authority dies, the authority shall forthwith—

- (a) notify the Secretary of State;
- (b) subject to paragraph (2) and so far as is reasonably practicable, notify every parent of the child.

(2) The local authority shall not be required to notify under paragraph (1)(b) any parent with whom the child was residing at the time of his death.

### **Arrangements for child to be cared for by parents**

**16.**—(1) A local authority looking after a child may, subject to paragraph (2), make arrangements for the child to be cared for by his own parents or by a person who is not a parent of his but who has parental responsibility for him.

(2) A local authority may not make arrangements under paragraph (1) where the authority are providing accommodation for the child by virtue of section 25 of the Act.

(3) Any arrangements by a local authority under paragraph (1)—

- (a) shall be subject to the terms of a supervision requirement made, or an order made, or authorisation or warrant granted, by virtue of Chapter 2, 3 or 4 of Part II of the Act in respect of the child; and
- (b) shall not return the child to the care of a parent of the child, where the child was by virtue of any order, authorisation or warrant removed from the care of such parent.

### **Application of Regulations to short-term placements**

**17.**—(1) Subject to paragraph (3), this regulation applies to a series of planned short-term placements where the following conditions are satisfied:—

- (a) all the placements occur within a period which does not exceed one year;
- (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.

(2) Any series of short-term placements to which this regulation applies may be treated as a single placement for the purpose of these Regulations, except that for the purposes of regulation 9(1) the local authority shall carry out the first review of the placement within 3 months from the date on which the placement was first made and thereafter at intervals of not more than 6 months from the date of the previous review.

(3) An examination of the type referred to in regulation 13(1) shall be required only at the beginning of the period of a series of placements when the series is planned and, notwithstanding paragraph (1)(a), such a series may last for more than one year.

### **Monitoring of placement**

**18.** A local authority in relation to any placement—

- (a) shall ensure that the child and, if fostered, the person with whom he is fostered is or, as the case may be, are 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 local authority consider necessary or appropriate in order to safeguard or promote the child's welfare and, if he is fostered, to give support and assistance to the person caring for him;
  - (iv) where reasonably requested to do so by the child or any foster carer.
- (b) shall ensure that written reports are produced reporting on visits made in accordance with paragraph (a) and that these are considered by the local authority in any review of the child's case.

### **Termination of placement**

**19.**—(1) Where for any reason it appears to the local authority that it is no longer in a child's best interests to remain in a placement the local authority shall make arrangements to terminate the placement as soon as is practicable in the interests of the child.

(2) Where a placement is terminated in accordance with paragraph (1), the local 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 7.

St Andrew's House,  
Edinburgh  
20th December 1996

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



## SCHEDULE 1

Regulation 3(2)(a)

### INFORMATION RELATING TO THE CHILD

1. Name, sex, date and place of birth and present address of the child, his parents and any relevant person.
2. Nationality, race, religion and language.
3. Physical description.
4. Present legal status of the child, including any statutory responsibility the local authority have for the child.
5. Why consideration is to be given to the child being looked after by the local authority.
6. Previous history of involvement of the child with any local authority or other relevant organisation.
7. Details of any brothers and sisters, including dates of birth, addresses, including any details in respect of their being looked after by the local authority.
8. The extent of contact with members of the child's family and any other significant person who does not live in the same household as the child.
9. The child's health history, current state of health and development and existing arrangements for his medical and dental care.
10. The child's education history and current arrangements for provision of education.
11. Personality and social development.
12. Interests and recreational activities.

## SCHEDULE 2

Regulation 6(1)

### PART I

#### MATTERS TO BE ADDRESSED IN THE CARE PLAN TO BE MADE AND REVIEWED FOR A CHILD BEING LOOKED AFTER BY A LOCAL AUTHORITY

1. The local authority's immediate and longer-term plans for the child.
2. Details of any services to be provided to meet the care, education and health needs of the child.
3. The respective responsibilities of the local authority and—
  - (a) the child;
  - (b) any person with parental responsibility for the child; and
  - (c) any other relevant person.

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

## PART II

### MATTERS TO BE ADDRESSED IN THE CARE PLAN TO BE MADE AND REVIEWED FOR A CHILD PLACED BY A LOCAL AUTHORITY

4. The type of accommodation to be provided and its address together with the name of any person who will be responsible for the child at that accommodation on behalf of the local authority.
  5. The contribution the child's parents or any other person will make to the child's day- to-day-care.
  6. The arrangements for involving those persons and the child in decision-making.
  7. The arrangements for contact between the child and any of the categories of persons mentioned in section 17(3)(b) to (d) of the Act and, if appropriate, the reasons why contact with such a person would not be reasonably practicable or would be inconsistent with the child's welfare.
  8. The expected duration of arrangements and the steps which should be taken in bringing the arrangements to an end including arrangements for rehabilitation of the child with his parents or other suitable person.
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### EXPLANATORY NOTE

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

These Regulations make provision with respect to the duties of local authorities for children who are looked after.

Regulation 3 provides that a local authority will make a care plan for each child looked after by them. Regulations 4 and 5 deal with the considerations to which a local authority must have regard in making a care plan and regulation 6 concerns the matters to be covered in a care plan.

Minimum requirements are specified regarding notifications of placements and incidents, reviews, records, health assessment, and monitoring (regulations 7-15, 18 and 19).

The Regulations also make provision for a looked after child to be cared for by his own parents in certain circumstances (regulation 16). Regulation 17 sets out minimum requirements for planned short term placements.