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S.I. No. 259/1995 - Child Care (Placement of Children in Residential Care) Regulations, 1995.

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S.I. No. 259 of 1995.

CHILD CARE (PLACEMENT OF CHILDREN IN RESIDENTIAL CARE)  
REGULATIONS, 1995.

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S.I. No. 259 of 1995.

### CHILD CARE (PLACEMENT OF CHILDREN IN RESIDENTIAL CARE) REGULATIONS, 1995.

In exercise of the powers conferred on the Minister for Health by sections 38 ,  
40 , 42 , 43 and 68 of the Child Care Act, 1991 (No. 17 of 1991), which said  
powers are delegated to me by the Health (Delegation of Ministerial  
Functions) Order, 1995 ( S.I. No. 130 of 1995 ), I, AUSTIN CURRIE, Minister  
of State at the Department of Health, hereby make the following Regulations:

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#### PART I PRELIMINARY PROVISIONS

1 Citation.

1. These Regulations may be cited as the Child Care (Placement of Children  
in Residential Care) Regulations, 1995.

2 Commencement. 2. These Regulations shall come into operation on the 31st day of October, 1995.

3 Definitions. 3. In these Regulations—

"the Act" means the Child Care Act, 1991 ;

"the Minister" means the Minister for Health;

"authorised person" means a person authorised by a health board to carry out functions on behalf of the board under these Regulations;

"manager", in relation to a residential centre, means the person in charge of or having control over that centre;

"residential centre" means any home or other institution whether operated by a health board, a voluntary body or other person which provides residential care for children in the care of a health board but does not include—

( a ) an institution managed by or on behalf of a Minister of the Government,

( b ) an institution in which a majority of the children being maintained are being treated for acute illnesses,

( c ) an institution for the care and maintenance of physically or mentally handicapped children,

( d ) a mental institution within the meaning of the Mental Treatment Acts, 1945 to 1966,

( e ) an institution which is a "certified school" within the meaning of Part IV of the Children Act, 1908, functions in relation to which stand vested in the Minister for Education,

and "residential care" shall be construed accordingly;

"relevant residential centre", in relation to a health board, means a residential centre in which that board has placed or proposes to place a child, whether such centre is situated within or outside its functional area.

## PART II PROMOTION OF WELFARE OF CHILD

4 Welfare of child. **4.** In any matter relating to—

( a ) the placing of a child in residential care,

( b ) the review of the case of a child in residential care,

or

( c ) the removal of a child from residential care in accordance with these Regulations,

a health board shall, having regard to the rights and duties of parents, whether under the Constitution or otherwise—

(i) regard the welfare of the child as the first and paramount consideration, and

(ii) in so far as is practicable, give due consideration, having regard to his or her age and understanding, to the wishes of the child.

## PART III STANDARDS IN RESIDENTIAL CENTRES

5 Care practices and **5.** A health board shall satisfy itself in respect of each relevant residential operational policies. centre that appropriate and suitable care practices and operational policies are in place, having regard to the number of children residing in the centre and the nature of their needs.

6 Staffing. **6.** A health board shall satisfy itself in respect of each relevant residential centre as to the adequacy of the number, qualifications, experience and availability of members of the staff, having regard to the number of children residing in the centre and the nature of their needs.

7 Accommodation. **7.** A health board shall satisfy itself in respect of each relevant residential centre that adequate and suitable accommodation is provided, having regard to the number of children residing in the centre and the nature of their needs, and, in particular, that—

( a ) adequate and suitable furniture, bedding and furnishings are provided,

( b ) a sufficient number of lavatories, wash basins, baths and showers, supplied with hot and cold running water, and which ensure privacy as far as is practicable, are provided,

( c ) adequate laundry facilities are provided,

( d ) the premises are adequately lit, heated and ventilated,

( e ) the premises are clean, appropriately decorated and maintained in good structural condition, and

( f ) adequate recreational facilities are provided.

8 Access arrangements.

**8.** A health board shall satisfy itself in respect of each relevant residential centre that appropriate arrangements are in place to facilitate reasonable access and contact between children residing in the centre and their parents, relatives, friends, or any other persons who, in the opinion of the board, have a *bona fide* interest in the children.

9 Health care.

**9.** A health board shall satisfy itself in respect of each relevant residential centre that adequate arrangements are in place for access by children residing in the centre to general practitioner services and for their referral to medical, psychological, dental, ophthalmic or other specialist services as required.

10 Religion.

**10.** A health board shall satisfy itself that children placed in a relevant residential centre are facilitated, in so far as is reasonably practicable, in the practice of their religion.

11 Provision of food and cooking facilities. **11.** (1) A health board shall satisfy itself in respect of each relevant residential centre that children residing in the centre are provided with food in quantities adequate for their needs which is properly prepared, wholesome and nutritious, involves an element of choice and takes account of any special dietary requirements.

(2) For the purposes of this article a health board shall satisfy itself that—

( a ) suitable and sufficient catering equipment, crockery and cutlery are provided,

( b ) there are proper facilities for the refrigeration and storage of food, and

( c ) a high standard of hygiene is maintained in relation to the storage and preparation of food and the disposal of domestic refuse.

12 Fire precautions. **12.** (1) A health board shall obtain in respect of each relevant residential centre written confirmation from a chartered engineer or a properly and suitably qualified architect with experience in fire safety design and management that the relevant statutory requirements relating to fire safety and building control have been complied with and that—

( a ) adequate precautions have been taken against the risk of fire, including the provision of adequate means of escape in the event of fire,

( b ) adequate arrangements are in place for detecting, containing and extinguishing fires, and for the maintenance of fire fighting equipment, and

( c ) all reasonable measures have been taken to ensure that materials contained in bedding and the internal furnishings of the residential centre have adequate fire retardancy properties and have low levels of toxicity in the event of a fire.

(2) Where structural alterations to a relevant residential centre are carried out, a health board may, if it sees fit, seek a new written confirmation and the provisions of sub-article (1) of this article shall apply with any necessary modifications.

(3) A health board shall satisfy itself in respect of each relevant residential centre that adequate arrangements are in place, by means of fire drills and practices, to ensure that the staff of the centre and, in so far as is practicable, the children residing in the centre know the evacuation and other procedures to be followed in the event of a fire.

(4) The provisions of this article are without prejudice to the provisions of the Fire Services Act, 1981 .

13 Safety precautions.

**13.** (1) A health board shall satisfy itself in respect of each relevant residential centre that adequate arrangements exist to guard against the risk of injury occurring on the premises, particularly with regard to stairways, electrical and gas appliances and fittings, windows and doors, glazing and the storage of medicines, cleaning and other materials.

(2) A health board shall satisfy itself in respect of each relevant residential centre that adequate arrangements are in place for the reporting and recording of accidents and injuries affecting children residing in the centre.

(3) The provisions of this article are without prejudice to the provisions of the Health, Safety and Welfare at Work Act, 1989.

14 Insurance.

**14.** A health board shall satisfy itself in respect of each relevant residential centre that the centre is adequately insured against accidents or injury to children placed in the centre by the board.

15 Notification of significant events.

**15.** A health board shall satisfy itself in respect of each relevant residential centre that procedures are in place for the prompt notification by the centre to the board of any significant event affecting a child who has been placed in the centre by the board.

16 Records.

**16.** A health board shall satisfy itself in respect of each relevant residential centre that appropriate records are maintained by the centre and that such records are open to inspection by an authorised person.

17 Monitoring of standards. **17.** (1) A health board, for the purpose of satisfying itself that the requirements of articles 5 to 16 of these Regulations are being complied with in respect of a relevant residential centre, shall ensure that—

( a ) adequate arrangements are in place to enable an authorised person to enter and inspect the centre at all reasonable times, and

( b ) the centre is visited from time to time by an authorised person.

(2) Where, following a visit to a residential centre in accordance with sub-article (1) of this article, a health board is of opinion that any of the requirements of articles 5 to 16 of these Regulations are not being complied with in respect of the centre, the board shall, if it proposes to continue to have children maintained in that centre, request the manager to take the necessary steps to ensure compliance with these Regulations.

18 Arrangements with other health boards. **18.** A health board may, with respect to a relevant residential centre, arrange for the functions assigned to it under articles 5 to 16 of these Regulations in relation to the centre to be performed by another health board on its behalf.

19 Transitional provision. **19.** Where, on the commencement of these Regulations, a child in the care of a health board is being maintained in a residential centre, the board shall, if it proposes to continue to have that child maintained in that centre or to place other children there, satisfy itself that the provisions of articles 5 and 16 of these Regulations are complied with as soon as reasonably practicable, but in any event within a period not exceeding one year from the date of commencement of these Regulations.

#### PART IV MONITORING OF PLACEMENTS

20 Medical examination. **20.** Whenever a health board places a child in a residential centre, the board shall arrange for the examination of the child by a registered medical practitioner unless the board is satisfied, having regard to available information and reports on the child, that such examination is unnecessary.

21 Maintenance of register. **21.** (1) A health board shall establish and keep one or more registers in which shall be entered particulars in relation to children placed in residential care by the board.

(2) An entry in the register with respect to a child in residential care shall include such of the following particulars as are available to the health board—

( a ) the name, sex and date of birth of the child,

( b ) the names and address of the parents of the child,

( c ) the name and address of the residential centre in which the child has been placed,

( d ) the date of placement in that centre, and

( e ) the date on which the child ceases to reside in that centre.

(3) Every change in the particulars entered in the register with respect to a child shall be recorded in the register.

(4) A register under this article may be kept by means of a record that is not in a legible form but which is capable of being reproduced in a legible form.

(5) Every register kept by a health board under this article shall be preserved in perpetuity.

22 Case records.

**22.** (1) A health board shall compile a case record of every child placed in residential care by it and the said record shall be kept up to date.

(2) A case record of a child kept by a health board in accordance with this article shall include such of the following documents as are available to the board—

( a ) medical and social reports on the child, including background information on the child's family,

( b ) a copy of any court order relating to the child or of parental consent to the child's admission to the care of the board, as appropriate,

( c ) the birth certificate of the child,

( d ) reports on the child's progress at school, where applicable,

( e ) a copy of the plan for the care of the child prepared by the health board under article 23 of these Regulations,

( f ) a note of every visit to the child in accordance with article 24 of these Regulations,

( g ) a note of every review of the child's case pursuant to article 25, 26 or 27 of these Regulations, together with particulars of any action taken as a result of such review,

( h ) a note of every significant event affecting the child.

(3) Every case record compiled by a health board under this article shall be preserved in perpetuity.

23 Care plan.

**23.** (1) Subject to sub-article (2) of this article, a health board shall, before placing a child in a residential centre, prepare a plan for the care of the child and the said plan shall, among other matters, deal with—

( a ) the aims and objectives of the placement,

( b ) the support to be provided to the child, the residential centre concerned and, where appropriate, the parents of the child by the health board,

( c ) the arrangements for access to the child by a parent, relative or other named person, subject to any order as to access by a court, and

( d ) the arrangements for the review of the plan.

(2) Where it is not practicable for a health board to prepare a plan before a child is placed in a residential centre, such plan shall be prepared as soon as practicable.

(3) In preparing a plan under this article, a health board shall consult the manager and, in so far as is practicable, the child and every person who in law is a guardian of the child.

(4) Particulars of a plan prepared by a health board under this article shall be made known by the board to the manager and, in so far as is practicable, to the child and every person who in law is a guardian of the child.

24 Supervision and visiting of children. **24.** (1) A child who has been placed in a residential centre by a health board shall be visited by an authorised person as often as the board considers necessary, having regard to the plan for the care of the child prepared under article 23 of these Regulations and any review of such plan carried out in accordance with article 25, 26 or 27 of these Regulations, but in any event—

( a ) at intervals not exceeding three months during the period of two years commencing on the date on which the child was placed in the residential centre, the first visit being within one month of that date, and

( b ) thereafter at intervals not exceeding six months.

(2) A child who was placed in a residential centre by a health board not earlier than two years before the commencement of these Regulations shall be visited at intervals not exceeding three months until the second anniversary of the date of the placement and thereafter at intervals not exceeding six months.

(3) A child who was placed in a residential centre by a health board earlier than two years before the commencement of these Regulations shall be visited at intervals not exceeding six months.

(4) Where, following a visit to a child in a residential centre, a health board is of opinion that any matter relating to the child's placement is not in compliance with these Regulations, the board shall take appropriate action to ensure compliance with these Regulations.

(5) A note of every visit to a child in accordance with this article shall be entered in the case record relating to the child, together with particulars of any action taken as a result of such visit.

#### PART V REVIEWS

25 Review of cases. **25.** (1) A health board shall arrange for the case of each child who has been placed in a residential centre by the board and, in particular, the plan for the care of the child prepared under article 23 of these Regulations to be reviewed by an authorised person as often as may be necessary in the particular circumstances of the case, but in any event—

( a ) at intervals not exceeding six months during the period of two years commencing on the date on which the child was placed in the residential centre, the first review to be carried out within two months of that date, and

( b ) thereafter not less than once in each calendar year.

(2) The case of a child who was placed in a residential centre by a health board not earlier than two years before the commencement of these Regulations shall be reviewed at intervals not exceeding six months until the second anniversary of the date of the placement and thereafter not less than once in each calendar year.

(3) The case of a child who was placed in a residential centre by a health board earlier than two years before the commencement of these Regulations shall be reviewed not less than once in each calendar year.

(4) Where a health board initiates a review of the case of a child in a residential centre, the board shall inform the manager and, in so far as is practicable, the child and every person who in law is a guardian of the child and afford them an opportunity to be heard in person on the review or otherwise to be consulted in relation to the review.

(5) In reviewing the case of a child in a residential centre, a health board shall, having regard to—

( a ) any views or information furnished by the child, the parents of the child, the manager and any other person whom the board has consulted in relation to the review,

( b ) a report from the residential centre in which the child is residing,

( c ) a report of a visit to the child in accordance with article 24 of these Regulations,

( d ) in the case of a child attending school, the latest available school report relating to the child, and

( e ) any other information which in the opinion of the board is relevant to the case of the child,

consider—

(i) whether all reasonable measures are being taken to promote the welfare of the child,

(ii) whether the care being provided for the child continues to be suitable to the child's needs,

(iii) whether the circumstances of the parents of the child have changed,

(iv) whether it would be in the best interests of the child to be given into the custody of his or her parents, and

(v) in the case of a child who is due to leave the care of the health board within the following two years, the child's need for assistance in accordance with the provisions of section 45 of the Act.

(6) Decisions taken by a health board as a result of a review under this article shall be made known by the board to the manager and, where practicable, to the child, every person who in law is a guardian of the child and any other person who the board considers ought to be informed.

(7) A note of every review under this article shall be entered in the case record relating to the child, together with particulars of any action taken as a result of such review.

26 Special review. **26.** (1) Any person having a *bona fide* interest in the case of a child placed in a residential centre by a health board may make a request in writing to the board to carry out a review of the case of the child and the board shall accede to such request unless it considers, having regard to the available information and reports on the child, that a review is unnecessary.

(2) Where a health board declines to accede to a request to review the case of a child in a residential centre, the board shall inform in writing the person who made the request of its decision and the reason thereof.

(3) The relevant provisions of article 25 of these Regulations shall apply to a review carried out by a health board under this article with any necessary modifications.

27 Frequent admissions to care. **27.** Where a child is placed in residential care by a health board on more than one occasion in a period of twelve consecutive months but the duration of the placements does not allow for a review of the case of the child in accordance with article 25 of these Regulations, the board shall carry out a review of the case of the child concerned and the relevant provisions of the said article 25 shall apply to such review with any necessary modifications.

28 Removal of child from residential centre. **28.** (1) Where a health board which has placed a child in a residential centre—

( a ) proposes to reunite the child with a parent, or

( b ) considers that the continued placement of the child in that centre is no longer the most appropriate way of performing its duty to provide care for the child under section 36 of the Act,

the board shall inform the manager of its intention to remove the child from the centre and the reason thereof.

(2) In any case where the manager objects to the proposed removal of a child from the centre in accordance with sub-article (1) of this article, the health board shall afford the manager an opportunity to make representations to the board in the matter and if, having considered any such representations, the board decides to proceed with the removal, the board shall give notice in writing to the manager of its decision and the reason thereof and shall request the manager to deliver up the child on such date and at such time and place as may be specified by the board.

(3) Where a manager refuses or neglects to comply with a request of a health board to deliver up a child in accordance with sub-article (2) of this article, the board may apply to the District Court for an order under section 43 (2) of the Act.

(4) This article is without prejudice to the power of a health board to apply for an order under Part III or IV of the Act.

#### PART VI MISCELLANEOUS PROVISIONS

29 Support services. **29.** A health board shall make available to a residential centre such support services as the board considers necessary to enable the centre to take care of children placed in the centre by the board.

30 Arrangements with voluntary bodies and other persons. **30.** A health board may, in accordance with section 9 of the Act, make arrangements with voluntary bodies or other persons to assist the board in the performance of its functions under these Regulations provided the board is satisfied that those bodies or other persons are competent and qualified by their training and experience to undertake such work.

31 Inspections on behalf of Minister. **31.** A person authorised in that behalf by the Minister under section 69 of the Act may inspect the practices and procedures operated by a health board in relation to the provision of residential care services and may, in particular—

( a ) enter any residential centre maintained by the board under the Act and make such examination into the state and management of the centre and the treatment of the children therein as the authorised person thinks fit, and

( b ) examine such records (including any register and case record kept by the board under articles 21 and 22 of these Regulations) and interview such members of the staff of the board who are involved in residential care services as the authorised person thinks fit.

32 Functions of chief executive officer. **32.** The functions of a health board under these Regulations shall be functions of the chief executive officer of the board or any person acting as deputy chief executive officer in accordance with section 13 of the Health Act, 1970 .

Dated this 1st day of October, 1995.

AUSTIN CURRIE,

Minister of State at the Department of Health.

EXPLANATORY NOTE.

These regulations prescribe various requirements to be complied with by health boards in relation to the placing of children in residential care, the conduct of residential centres for children provided by boards, the supervision, visiting and review of children placed in residential centres and the removal of children from such placements, in accordance with the relevant provisions of the Child Care Act, 1991 .