STATUTORY RULES OF NORTHERN IRELAND

2005 No. 221

CHILDREN

The Children (Leaving Care) Regulations (Northern Ireland) 2005

Made - - - -	*25th April 2005*
Coming into operation	*1st September 2005*

The Department of Health, Social Services and Public Safety(**1**) in exercise of the powers conferred on it by Articles 34A(3), (4), (8) and (9), 34B(3), 34C(5), (6), (8)(c), and (10), 34E(2), 34F, 35B(6) and 35D(2) of the Children (Northern Ireland) Order 1995(**2**) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Children (Leaving Care) Regulations (Northern Ireland) 2005 and shall come into operation on 1st September 2005.

(2) In these Regulations –

"the Order" means the Children (Northern Ireland) Order 1995;

"placement" means the provision of accommodation and maintenance by an authority for a child it is looking after by any of the means specified in Article 27(2)(a) to (d) or (f) of the Order;

"primary medical services" has the same meaning as in Article 2 of the Health and Personal Social Services (Northern Ireland) Order 1972(**3**);

"responsible authority" –

(a) in relation to an eligible child(**4**), means the authority looking after him; and

(b) in relation to a relevant child(**5**) or a former relevant child(**6**), has the meaning given to it by Article 34B(4) of the Order.

(**1**) *See*S.I. 1999/283 (N.I. 1) – Article 3(6)
(**2**) S.I. 1995/755 (N.I. 2) – Article 34A is inserted by section 1 of the Children (Leaving Care) Act (Northern Ireland) 2002 (c. 11 (N.I.)) ("the 2002 Act"); Articles 34B and 34C are inserted by section 2 of the 2002 Act; Articles 34E and 34F are inserted by section 3 of the 2002 Act, Article 35B is inserted by section 4 of the 2002 Act and Article 35D is inserted by section 5 of the 2002 Act
(**3**) S.I. 1972/1265 (N.I. 14) – definition inserted by paragraph 2 of Schedule 1 to S.I. 2004/311 (N.I. 2)
(**4**) *See* Article 34A of the Order for the meaning of "eligible child"
(**5**) *See* Article 34B of the Order for the meaning of "relevant child"
(**6**) *See* Article 34D of the Order for the meaning of "former relevant child"

Eligible children

2.—(1) For the purposes of Article 34A(3)(b) of the Order, the prescribed period is 13 weeks and the prescribed age is 14.

(2) A child falling within paragraph (3) is not an eligible child despite falling within Article 34A of the Order.

(3) A child falls within this paragraph if he has been looked after by an authority in circumstances where –

(a) the authority has arranged to place him in a pre-planned series of short-term placements, none of which individually exceeds four weeks (even though they may amount in all to the prescribed period); and

(b) at the end of each such placement the child returns to the care of his parent, or a person who is not a parent but who has parental responsibility for him.

Relevant children

3.—(1) For the purposes of Article 34B(3) of the Order, children falling within paragraph (2) are an additional category of relevant children.

(2) Subject to paragraph (3), a child falls within this paragraph if –

(a) he is aged 16 or 17;

(b) he is not subject to a care order(**7**), and

(c) at the time when he attained the age of 16 he was detained or in hospital and immediately before he was detained or admitted to hospital he had been looked after by an authority for a period or periods amounting in all to at least 13 weeks, which began after he reached the age of 14.

(3) In calculating the period of 13 weeks referred to in paragraph (2)(c), no account is to be taken of any period in which the child was looked after by an authority in any of a pre-planned series of short-term placements, none of which individually exceeded four weeks, where at the end of each such placement the child returned to the care of his parent, or a person who is not a parent but who has parental responsibility for him.

(4) For the purposes of this regulation –

(a) "detained" means detained in a juvenile justice centre(**8**) or a young offenders centre(**9**); and

(b) "hospital" means –

(i) any hospital within the meaning of Article 2(2) of the Health and Personal Social Services (Northern Ireland) Order 1972(**10**);

(ii) any private hospital as defined in Article 90(2) of the Mental Health (Northern Ireland) Order 1986(**11**).

(5) Subject to paragraph (7), any child who has lived with a person falling within Article 27(4) of the Order (in this regulation referred to as "a family placement") for a continuous period of six months or more is not to be a relevant child despite falling within Article 34B(2) of the Order.

(**7**) A "care order" is defined in Article 2(2) of the Order by reference to Article 49(1) of the Order
(**8**) *See* Article 51(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9))
(**9**) *See* section 2(a) of the Treatment of Offenders Act (Northern Ireland) 1968 (c. 29) as amended by Article 13(5) of the Treatment of Offenders (Northern Ireland) Order 1989 (S.I. 1989/1344 (N.I. 15)) and paragraph 3(a) of Schedule 5 to the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 19))
(**10**) S.I. 1972/1265 (N.I. 14)
(**11**) S.I. 1986/595 (N.I. 4)

(6) Paragraph (5) applies whether the period of six months commences before or after a child ceases to be looked after by an authority.

(7) Where a family placement breaks down and the child ceases to live with the person concerned, the child is to be treated as a relevant child.

Assessments and pathway plans – general

4.—(1) The responsible authority must prepare a written statement describing the manner in which the needs of each eligible child and relevant child will be assessed.

(2) The written statement must include, in relation to each eligible child and relevant child whose needs are to be assessed, information about, in particular –

(a) the person responsible for the conduct and co-ordination of the assessment;

(b) the timetable for the assessment;

(c) who is to be consulted for the purposes of the assessment;

(d) arrangements for recording the outcome of the assessment;

(e) the procedure for making representations in the event of a disagreement.

(3) The responsible authority must make a copy of the written statement available to the eligible child or relevant child and the persons specified in regulation 6(5).

(4) Nothing in these Regulations shall prevent the carrying out of any assessment or review under these Regulations at the same time as any assessment, review or consideration under any other statutory provision.

Involvement of the child or young person

5.—(1) The responsible authority in carrying out an assessment and in preparing or reviewing a pathway plan shall, unless it is not reasonably practicable –

(a) seek and have regard to the views of the child or young person to whom it relates; and

(b) take all reasonable steps to enable him to attend and participate in any meetings at which his case is to be considered.

(2) The responsible authority shall without delay provide the child or young person with copies of –

(a) the results of his assessment;

(b) his pathway plan; and

(c) each review and his pathway plan;

and shall ensure that the contents of each document are explained to him in accordance with his level of understanding unless it is not reasonably practicable to do so.

Assessment of needs

6.—(1) The responsible authority shall assess the needs of each eligible child and each relevant child who does not already have a pathway plan, in accordance with these Regulations.

(2) The assessment under paragraph (1) is to be completed –

(a) in the case of an eligible child, not more than three months after the date on which he reaches the age of 16 or becomes an eligible child after that age; and

(b) in the case of a relevant child who does not already have a pathway plan, not more than three months after the date on which he becomes a relevant child.

(3) Each responsible authority shall ensure that a written record is kept of –

(a) the information obtained in the course of an assessment;

(b) the deliberations at any meeting held in connection with any aspect of an assessment; and

(c) the results of the assessment.

(4) In carrying out an assessment the responsible authority shall take account of the following considerations –

(a) the child's health and development(**12**);

(b) the child's need for education, training or employment;

(c) the support available to the child from members of his family and other persons;

(d) the child's financial needs;

(e) the extent to which the child possesses the practical and other skills necessary for independent living; and

(f) the child's need for care, support, and accommodation.

(5) The responsible authority shall, unless it is not reasonably practicable to do so, seek and take into account the views of –

(a) the child's parents;

(b) any person who is not a parent but has parental responsibility for the child;

(c) any person who on a day to day basis cares for, or provides accommodation for the child;

(d) any school or college attended by the child, or the education and library board for the area in which he lives;

(e) any independent visitor appointed for the child(**13**);

(f) any person providing primary medical services to the child;

(g) the personal adviser(**14**) appointed for the child; and

(h) any other person whose views the responsible authority, or the child consider may be relevant.

Pathway plans

7.—(1) A pathway plan prepared under Article 34A or Article 34C of the Order, must be prepared as soon as possible after the assessment and must include, in particular, the matters referred to in the Schedule.

(2) The pathway plan must, in relation to each of the matters referred to in the Schedule, set out –

(a) the manner in which the responsible authority proposes to meet the needs of the child; and

(b) the date by which, and by whom, any action required to implement any aspect of the pathway plan will be carried out.

(3) The pathway plan must be recorded in writing.

Review of pathway plans

8.—(1) The responsible authority shall review the pathway plan of each eligible child, relevant child and former relevant child in accordance with this regulation.

(2) The responsible authority shall arrange a review under paragraph (1) –

(a) if requested to do so by the child or young person;

(**12**) "health" and "development" are defined in Article 2(2) of S.I. 1995/755 (N.I. 2)
(**13**) An independent visitor is a person appointed as a visitor for a child in accordance with Article 31 of S.I. 1995/755 (N.I. 2)
(**14**) Personal advisers are provided for in Articles 34A(10), 34C(2), 34D(3)(a) and 34E of S.I. 1995/755 (N.I. 2)