STATUTORY RULES OF NORTHERN IRELAND

2005 No. 176

HEALTH AND PERSONAL SOCIAL SERVICES

The Children's Homes Regulations (Northern Ireland) 2005

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

The Department of Health, Social Services and Public Safety, in exercise of the powers conferred on it by Articles 9(4), 23(1), (2)(a) to (d), (f) to (j), (3), (4), (5)(a) and (c), (7)(a) to (h), (j), 25(1), 30, 31(1), 32(1), 48(1) to (3) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003(**1**), and of all other powers enabling it in that behalf, having consulted such persons as it considers appropriate as required by Article 23(8) of the Order, hereby makes the following Regulations:

PART I

GENERAL

Citation and commencement

1. These Regulations may be cited as the Children's Homes Regulations (Northern Ireland) 2005 and shall come into operation on 1st April 2005.

Interpretation

2.—(1) In these Regulations –

"the 2001 Act" means the Health and Personal Social Services Act, (Northern Ireland) 2001(**2**);

"the Order" means the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;

"the Children Order" means the Children (Northern Ireland) Order 1995(**3**);

"child protection enquiry" means any enquiries carried out by an HSS trust in the exercise of any of its functions conferred by the Children Order relating to the protection of children;

"children's guide" means the guide produced in accordance with regulation 4(3);

(**1**) S.I.2003/431 (N.I. 9)
(**2**) 2001 c. 3 (N.I.)
(**3**) S.I. 1995/755 (N.I. 2)

"children's home" has the meaning assigned to it by Article 9 of the Order;

"the Commissioner" means the Commissioner for Children and Young People for Northern Ireland appointed under Article 5 of the Commissioner for Children and Young People (Northern Ireland) Order 2003(**4**);

"general practitioner" means a medical practitioner who provides primary services;

"guardian ad litem" means a guardian ad litem appointed pursuant to Article 60 of the Children Order (representation of child and of his interests in certain proceedings) or rules made under Article 66 of the Adoption (Northern Ireland) Order 1987(**5**);

"independent visitor" means an independent person appointed to be the visitor of a child pursuant to Article 31(1) of the Children Order;

"Northern Ireland Social Care Council" means the Northern Ireland Social Care Council within the meaning of the 2001 Act;

"nurse" means a person registered in the register maintained under Article 5 of the Nursing and Midwifery Order 2001(**6**) by virtue of qualifications in nursing or midwifery, as the case may be;

"organisation", other than in regulation 16, means a body corporate or any unincorporated association other than a partnership;

"placement plan" means the written plan, setting out how on a day-to-day basis the children's home will care for the child and promote his welfare, which is prepared in accordance with regulation 12(1);

"placing authority" in relation to a child accommodated in a children's home means –

(a) in the case of a child who is looked after by an HSS trust, that HSS trust;

(b) in the case of a child who is not looked after by an HSS trust –

  (i) if he is being provided with accommodation by a voluntary organisation(**7**), that voluntary organisation;

  (ii) in any other case, the child's parent;

"registered manager", in relation to a children's home, means a person who is registered under Part III of the Order as the manager of that home;

"registered person", in relation to a children's home, means any person who is the registered provider or the registered manager of the home;

"registered provider", in relation to a children's home, means a person who is registered under Part III of the Order as the person carrying on that home;

"relevant register" has the same meaning as in section 8(6) of the 2001 Act;

"responsible individual" shall be construed in accordance with regulation 6(2)(c);

"social care worker" has the same meaning as in section 2(2) of the 2001 Act;

"social worker" shall be construed in accordance with section 2(2) of the 2001 Act;

"statement of purpose" means the written statement compiled in accordance with regulation 4(1); and

"team leader" means the registered manager or a senior professional person in the residential staff team responsible for the day to day management of a unit within the children's home.

(**4**) S.I. 2003/439 (N.I. 11)
(**5**) S.I. 1987/2203 (N.I. 22)
(**6**) S.I. 2002/253
(**7**) *See* Article 75 of the Children (Northern Ireland) Order 1995

(2) In these Regulations, references to employing a person include employing a person whether or not for payment, and whether under a contract of service or a contract for services, and allowing a person to work as a volunteer, and references to an employee or to a person being employed shall be construed accordingly.

Excepted establishments

3.—(1) For the purposes of the Order, establishments of the following descriptions are excepted from being a children's home –

(a) any establishment as defined by Article 2(2) of the Further Education (Northern Ireland) Order 1997(**8**);

(b) any establishment providing accommodation for children for less than 28 days in any twelve month period in relation to any one child, for the purposes of –

(i) a holiday; or

(ii) recreational, sporting, cultural or educational activities;

(c) any premises at which a person provides day care within the meaning of Part XI of the Children Order (child minding and day care for young children) for less than 28 days in any twelve month period in relation to any one child;

(d) any establishment providing accommodation for children aged 16 and over –

(i) to enable them to undergo training or apprenticeship;

(ii) for the purposes of a holiday; or

(iii) for recreational, sporting, cultural or educational purposes;

(e) any bail hostel or probation hostel as defined in Article 2(2) of the Probation Board (Northern Ireland) Order 1982(**9**); and

(f) any institution provided for young offenders under section 2 of the Treatment of Offenders Act (Northern Ireland) 1968(**10**).

(2) For the purposes of calculating the period of 28 days mentioned in paragraph (1)(c), no account is to be taken of any period of 24 hours during which at least 9 hours are spent by a child in the care of his parent or relative, and day care is not provided for him during that time.

Statement of purpose and children's guide

4.—(1) The registered person shall compile in relation to the children's home a written statement which shall consist of a statement as to the matters listed in Schedule 1.

(2) The registered person shall provide a copy of the statement of purpose to the Regulation and Improvement Authority and shall make a copy of it available upon request for inspection by –

(a) any person who works at the children's home;

(b) any child accommodated in the children's home;

(c) the parent of any child accommodated in the children's home;

(d) the placing authority of any child accommodated in the home;

(e) the independent visitor (if one has been appointed), of any child accommodated in the children's home;

(**8**) S.I. 1997/1772 (N.I. 15)
(**9**) S.I. 1982/713 (N.I. 10)
(**10**) 1968 c. 29; section 2 was amended by Article 13 of the Treatment of Offenders (Northern Ireland) Order 1989 (S.I. 1989/1344 (N.I. 9)), and paragraph 2 of Schedule 5 to the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9))

(f) the guardian ad litem (if one has been appointed), of any child accommodated in the children's home; and

(g) the Commissioner,

and in this paragraph references to a child who is accommodated in the children's home include a child in respect of whom accommodation in the children's home is being considered.

(3) The registered person shall produce a guide to the children's home which shall include –

(a) a summary of the home's statement of purpose;

(b) a summary of the complaints procedure required under regulation 23; and

(c) the address and telephone number of the Regulation and Improvement Authority and the Commissioner.

(4) The children's guide shall be produced in a form appropriate to the age, understanding and communication needs of the children to be accommodated in the home.

(5) The registered person shall supply a copy of the children's guide to the Regulation and Improvement Authority and, on admission, to each child accommodated in the home.

(6) Subject to paragraph (7), the registered person shall ensure that the children's home is at all times conducted in a manner which is consistent with its statement of purpose.

(7) Nothing in paragraph (6) or in regulation 30 shall require or authorise the registered person to contravene –

(a) any other provision of these Regulations; or

(b) the conditions for the time being in force in relation to the registration of the registered person under Part III of the Order.

Review of the statement of purpose and children's guide

5. The registered person shall –

(a) keep under review and, where appropriate, revise the statement of purpose and the children's guide;

(b) notify the Regulation and Improvement Authority of any such proposed revision within 28 days; and

(c) if the children's guide is revised, supply a copy to each child accommodated in the home.

PART II

REGISTERED PERSONS

Fitness of registered provider

6.—(1) A person shall not carry on a children's home unless he is fit to do so.

(2) A person is not fit to carry on a children's home unless the person –

(a) is an individual who carries on the children's home –

(i) otherwise than in partnership with others, and he satisfies the requirements set out in paragraph (3); or

(ii) in partnership with others, and he and each of his partners satisfies the requirements set out in paragraph (3);

(b) is a partnership, and each of the partners satisfies the requirements set out in paragraph (3);

(c) is an organisation and –

(i) the organisation has given notice to the Regulation and Improvement Authority of the name, address and position in the organisation of an individual who is a director, manager, secretary or other officer of the organisation and is responsible for supervising the management of the children's home; and

(ii) that individual satisfies the requirements set out in paragraph (3).

(3) The requirements are that –

(a) he is of integrity and good character;

(b) he will adhere to the Northern Ireland Social Care Council Code of Practice for Employers of Social Care Workers(**11**);

(c) he is physically and mentally fit to carry on the children's home; and

(d) full and satisfactory information is available in relation to him in respect of each of the matters specified in Schedule 2.

(4) A person shall not carry on a children's home if –

(a) he has been adjudged bankrupt or sequestration of his estate has been awarded and (in either case) he has not been discharged and the bankruptcy order has not been annulled or rescinded;

(b) he has made a composition or arrangement with his creditors and has not been discharged in respect of it; or

(c) he is a person disqualified for the purposes of the Disqualification of Caring for Children Regulations (Northern Ireland) 1996(**12**).

Appointment of manager

7.—(1) The registered provider shall appoint an individual to manage the children's home if –

(a) there is no registered manager in respect of the children's home; and

(b) the registered provider –

(i) is an organisation or a partnership;

(ii) is not a fit person to manage a children's home; or

(iii) is not, or does not intend to be, in full-time day to day charge of the children's home.

(2) Where the registered provider appoints a person to manage the children's home, he shall forthwith give notice to the Regulation and Improvement Authority of –

(a) the name of the person so appointed; and

(b) the date on which the appointment is to take effect.

Fitness of manager

8.—(1) A person shall not manage a children's home unless he is fit to do so.

(2) A person is not fit to manage a children's home unless –

(a) he is of integrity and good character;

(b) having regard to the size of the children's home, its statement of purpose, and the number and needs (including any needs arising from any disability) of the children accommodated there –

(**11**) *See* section 9 of the 2001 Act
(**12**) S.R. 1996 No. 478