

CAYMAN ISLANDS



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THE CHILDREN LAW, 2003

**THE ARRANGEMENT FOR PLACEMENT OF CHILDREN (GENERAL)
REGULATIONS, 2012**

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THE CHILDREN LAW, 2003

**THE ARRANGEMENT FOR PLACEMENT OF CHILDREN (GENERAL)
REGULATIONS, 2012**

The Governor in Cabinet, in exercise of the powers conferred by section 25(6) of the Children Law, 2003, hereby makes the following Regulations-

1. These Regulations may be cited as the Arrangement for Placement of Children (General) Regulations, 2012. Citation

2. In these Regulations- Definitions

“care case” means a case in which a child is in the care of the Department;

“Law” means the Children Law, 2003; and

“placement”, subject to regulation 11, means-

- (a) the provision of accommodation and maintenance by the Department for any child whom it is looking after by any of the means specified in section 25(2) of the Law;
- (b) the provision of accommodation for a child by a voluntary organisation by any of the means specified by section 25(2) of the Law; or
- (c) the provision of accommodation for a child in a registered children’s home,

and the expression “place” and “placed” shall be construed accordingly.

3. (1) Before the Department places a child, it shall so far as is practicable, make immediate and long-term arrangements for that placement and for promoting the welfare of the child who is to be placed. Making of arrangements

(2) Where it is not practicable to make those arrangements before the placement, the Department shall make them as soon as practicable thereafter.

(3) In the case of a child to whom section 22(10) of the Law applies, the arrangements shall, so far as is practicable, be agreed by the Department with the

child before a placement is made and, if that is not practicable, as soon as practicable thereafter.

(4) In any other case in which a child is looked after or accommodated but is not in care, the arrangements shall so far as practicable be agreed by the Department with-

- (a) a person with parental responsibility for the child; or
- (b) if there is no such person, the person who is caring for the child,

before a placement is made and if that is not practicable, as soon as is practicable thereafter.

(5) Any arrangements made by the Department under this regulation shall be recorded in writing.

Considerations on making and contents of arrangements

4. (1) The considerations to which the Department shall have regard so far as is practicable in making the arrangements referred to in regulation 3 in each case are the general considerations specified in Schedule 1, the considerations concerning the health of a child specified in Schedule 2 and the considerations concerning the education of a child specified in Schedule 3.

(2) Except in a care case the arrangements referred to in regulation 3 shall include, where practicable, arrangements concerning the matters specified in Schedule 4.

Notification of arrangements

5. (1) The Department shall, so far as is practicable, notify the following persons in writing of the arrangements to place a child before the placement is made-

- (a) any person whose wishes and feelings have been sought under section 24(4) and section 65(2) of the Law;
- (b) the child's registered medical practitioner;
- (c) any person who is caring for the child immediately before the arrangements are made;
- (d) except in a care case, any person in whose favour a contact order is in force in respect of a child;
- (e) a judge, where the child is a ward of the court; and
- (f) in a care case, any person who has contact with the child pursuant to section 36 of the Law or to an order under that section.

(2) Where it is not practicable to give the notification before the placement, it shall be given as soon as is practicable thereafter.

(3) The Department shall send to such persons identified in paragraph 6 of Schedule 4 a copy of the arrangements referred to in regulation 3 or such part of the arrangements as it considers will not prejudice the welfare of the child with the notification referred to in paragraph (1) but in the case of a notification referred to in paragraphs (1)(b) to (e), it shall send details of only such part of the arrangements as it considers those persons need to know.

6. In carrying out the arrangements referred to in paragraph 6 of Schedule 4, the Department shall, unless it is not practicable or consistent with the child's welfare, endeavour to promote contact between the child and the persons mentioned in that paragraph.

Arrangements for contact

7. (1) Subject to paragraphs (3) and (4), the Department shall-

Health requirements

- (a) before making a placement, or if that is not practicable, as soon as is practicable after a placement is made, make arrangements for a registered medical practitioner to conduct an assessment, which may include a physical examination of the child's state of health;
- (b) require the registered medical practitioner who conducts the assessment to prepare a written report of the assessment which addresses the matters listed in Schedule 2; and
- (c) having regard to the matters listed in Schedule 2 and, unless paragraph (4) applies to the assessment report, prepare a plan for the future health care of the child if one is not already in existence.

(2) The Department shall ensure that during the placement, each child is provided with-

- (a) health care services, including medical and dental treatment; and
- (b) advice and guidance on health, personal care and health promotion issues appropriate to his needs.

(3) Paragraph (1) does not apply if within a period of three months immediately preceding the placement, the child's health has been assessed and a report of the assessment is prepared in accordance with that paragraph.

(4) Paragraphs (1)(a) or (b) do not apply if the child, being of sufficient understanding to do so, refuses to consent to the assessment.

8. (1) The Department shall establish, if one is not already in existence, a written case record in respect of each child whom it places.

Establishment of records

(2) A record shall include-

- (a) a copy of the arrangements referred to in regulation 3;
- (b) a copy of any written report in the possession of the Department concerning the welfare of the child;
- (c) 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; and
- (d) details of arrangements for contact, of contact orders and of other court orders relating to the child.

Retention and confidentiality of records

9. (1) A case record relating to a child who is placed shall be retained by the Department 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 eighteen, for a period of fifteen years after 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 electronic means.

(3) Any case record on a child shall be dealt with in accordance with paragraph (4).

(4) The Department shall safely keep case records and shall take all necessary steps to ensure that information contained in them is dealt with confidentially, subject only to-

- (a) any provision of or made under or by virtue of, a Law under which access to such records or information may be obtained or given; and
- (b) any court order under which access to such records or information may be obtained or given.

Register

10. (1) The Department, in respect of every child placed by it, shall enter into the appropriate register the particulars specified in paragraph (2).

(2) The particulars to be entered into the register in accordance with paragraph (1) are-

- (a) the name, sex and date of birth of the child;
- (b) the name and address of the person with whom the child is placed and, if different, of those of the child's parent or other person not being a parent of his who has parental responsibility for him;
- (c) whether the child's name is entered on the Department's register indicating that the child is at risk of being abused;
- (d) whether the child's name is entered in the register maintained under paragraph 2 of Schedule 2 to the Law;

- (e) the date on which each placement of the child began and terminated and the reason for each termination; and
- (f) the legal provisions under which the child is being looked after or cared for.

(3) Entries in registers kept in accordance with this regulation shall be retained until the child to whom the entry relates attains the age of twenty-three or, if the child has died before attaining twenty-three, up to five years after the date of his death.

(4) Any entry made in the register shall be dealt with in accordance with paragraph (6).

(5) The requirements of paragraph (1) may be complied with either by retaining the original register, or a copy of it, or by keeping all of the information from such a register in some other accessible form such as by electronic means.

(6) The Department shall safely keep or make arrangements to be kept, register entries and shall take all necessary steps to ensure that information contained in them is treated confidentially, subject only to-

- (a) any provision of or made under or by virtue of a Law under which access to such records or information may be obtained or given; and
- (b) any court order under which access to such records or information may be obtained or given.

11. (1) These Regulations apply where the Department has arranged to place a child in a series of short-term placements at the same place and the arrangement is such that no single placement is to last for more than four weeks and the total duration of the placements is not to exceed one hundred and twenty days in any period of twelve months.

Application of
Regulations to short-
term placements

(2) Any series of short-term placements to which this regulation applies may be treated as a single placement for the purposes of these Regulations.

SCHEDULE 1

(Regulation 4(1))

CONSIDERATIONS TO WHICH THE DEPARTMENT IS TO HAVE REGARD

1. In the case of a child who is in care, whether an application should be made to discharge the care order.

2. Whether the Department should seek a change in the child's legal status.
3. Arrangements for contact and whether there is any need for changes in the arrangements in order to promote contact with the child's family and others so far as is consistent with his welfare.
4. The Department's immediate and long term arrangements for the child, previous arrangements in respect of the child, whether a change in those arrangements is needed and consideration of other courses of action.
5. Whether arrangements need to be made for the time when the child will no longer be looked after by the Department.
6. Whether plans need to be made to find a suitable person to adopt the child.

SCHEDULE 2

(Regulations 4(1), 7(1)(b) and (c))

HEALTH CONSIDERATIONS TO WHICH THE DEPARTMENT IS TO HAVE REGARD

1. The child's state of health including his physical, emotional and mental health.
2. The child's health history including, as far as practicable, his family's health history.
3. The effect of the child's health and health history on his development.
4. Existing arrangements for the child's medical and dental care and treatment and health and dental surveillance.
5. The possible need for an appropriate course of action which should be identified to assist necessary change of such care, treatment or surveillance.
6. The possible need for preventive measures, such as vaccination, immunisation, screening for vision and hearing and for advice and guidance on health, personal care and health promotion issues appropriate to the child's needs.

SCHEDULE 3

(Regulation 4(1))

**EDUCATIONAL CONSIDERATIONS TO WHICH THE DEPARTMENT
IS TO HAVE REGARD**

1. The child's educational history.
2. The need to achieve continuity in the child's education.
3. The need to identify any educational need which the child may have and to take action to meet that need.
4. The need to carry out any assessment in respect of any special educational need and meet any such needs identified.

SCHEDULE 4

(Regulation 4(2))

**MATTERS TO BE INCLUDED IN ARRANGEMENTS TO
ACCOMMODATE CHILDREN WHO ARE NOT IN CARE**

1. 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 Department.
2. The details of any services to be provided for the child.
3. The respective responsibilities of the Department and-
 - (a) the child;
 - (b) any parent of his; and
 - (c) any person who is not a parent of his but who has parental responsibility for him.
4. What delegation there has been by the persons referred to in paragraphs 3(b) and (c) of this Schedule to the Department of parental responsibility for the child's day-to-day care.
5. The arrangements for involving those persons and the child in decision making with respect to the child having regard to the Department's duty under section 22 of the Law in relation to children looked after by it.

6. The arrangements for contact between the child and-
 - (a) his parents;
 - (b) any person who is not a parent of his but who has parental responsibility for him; and
 - (c) any relative, friend or other person connected with him,and if appropriate, the reasons why contact with any such person would not be reasonably practicable or would be inconsistent with the child's welfare.
7. The arrangements for notifying changes in arrangements for contact to any of the persons referred to in paragraph 6.
8. In the case of a child aged 16 or over whether section 22(10) applies.
9. The expected duration of arrangements and the steps which should apply to bring the arrangements to an end, including arrangements for rehabilitation of the child with the person with whom he was living before the voluntary arrangements were made or some other suitable person, having regard in particular in the case of the Department looking after a child, to section 25(6) of the Law and paragraph 13 of Schedule 2 to the Law.

Made in Cabinet on the 28th day of August, 2012.

Kim Bullings

Clerk of the Cabinet.

Laid in the Legislative Assembly on the 5th day of November, 2012, in accordance with section 95(2) of the Children Law, 2003.

Zena Merren-Chin

Clerk of the Legislative Assembly.