

CAYMAN ISLANDS



Supplement No. 2 published with Extraordinary  
Gazette No. 125 dated 13<sup>th</sup> December, 2012.

**THE CHILDREN LAW, 2003**

**THE CHILDREN (PRIVATE FOSTER CARE) REGULATIONS, 2012**

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**THE CHILDREN LAW, 2003**

**THE CHILDREN (PRIVATE FOSTER CARE) REGULATIONS, 2012**

The Governor in Cabinet, in exercise of the powers conferred by section 68(2) of, and paragraph 6 of Schedule 8 to, the Children Law, 2003, hereby makes the following Regulations-

1. These Regulations may be cited as the Children (Private Foster Care) Regulations, 2012. Citation

2. In these Regulations- Definitions

“Law” means the Children Law, 2003;

“private foster carer” means a person who provides private foster care to a child; and

“working day” means any day other than a Saturday, Sunday or a day which is a Public General Holiday under the Public Holidays Law (2007 Revision). (2007 Revision)

3. (1) A person who proposes to provide private foster care shall notify the Department of the proposal at least six weeks before the private foster care arrangement is due to commence. Notification of proposal to provide private foster care

(2) A person who is involved in arranging for a child to receive private foster care shall notify the Department of the arrangement as soon as possible after the arrangement has been made.

(3) A parent of a child or a person who has parental responsibility for a child, who is aware of arrangements for that child to receive private foster care, shall notify the Department of those arrangements as soon as possible after becoming aware.

(4) Notification given under paragraphs (1) to (3) shall contain such of the information specified in Schedule 1 as the person giving the notification is able to provide.

Action by the  
Department on receipt of  
notification of proposal

4. (1) Where the Department has received notification under regulation 3, it shall, for the purposes of discharging its duty under section 68(1) of the Law arrange for an officer of the Department within seven working days to-

- (a) visit the premises where it is proposed that the child will be cared for and accommodated;
- (b) visit and speak to the proposed private foster carer and to all members of his household;
- (c) visit and speak to the child alone, unless the officer considers it inappropriate;
- (d) speak to and, if it is practicable to do so, visit every parent of or person with parental responsibility for the child; and
- (e) establish such matters listed in Schedule 2 as appear to the officer to be relevant.

(2) The officer, after he has completed his functions under paragraph (1), shall submit a written report of his findings to the Department.

Notification by person  
providing private foster  
care

5. (1) A private foster carer who has been existence prior to the coming into force of these Regulations and who has not given notification to the Department in accordance with regulation 3 shall notify the Department immediately.

(2) Notification given under paragraph (1) shall contain such of the information specified in Schedule 1 as the person giving the notification is able to provide.

Notification of a child  
going to live with a  
private foster carer

6. (1) A person who has given notification under regulation 3(1) shall notify the Department of the foster care arrangements within forty-eight hours of providing the foster care.

(2) A parent of a child or any other person who has parental responsibility for that child, who has given notification under regulation 3(2) or 3(3) shall notify the Department within forty-eight hours of the child going to live with a private foster carer.

Action by the  
Department on receipt of  
notification

7. (1) Where the Department has received a notification under regulation 5 or 6 it shall, for the purposes of discharging its functions under section 68(1) of the Law, arrange for an officer of the Department to, within seven working days-

- (a) visit the premises where the child is being cared for and accommodated;

- (b) visit and speak to the private foster carer and to all members of his household;
- (c) visit and speak to the child alone unless the officer considers it inappropriate;
- (d) speak to and if it is practicable to do so, visit every parent of or person with parental responsibility for the child; and
- (e) establish such matters listed in Schedule 3 as appear to the officer to be relevant.

(2) The officer, after he has completed his functions under paragraph (1), shall submit a written report of his findings to the Department.

8. (1) The Department shall arrange for one of its officers to visit every child who is receiving private foster care-

Subsequent visits to children receiving private foster care

- (a) at intervals of not more than six weeks in the first year of the private foster care arrangement; and
- (b) at intervals of not more than twelve weeks in any second or subsequent year.

(2) In addition to visits carried out in accordance with paragraph (1), the Department shall arrange for every child who is fostered privately to be visited by an officer when reasonably requested to do so by the child, a private foster carer, a parent of the child or any other person with parental responsibility for the child.

(3) When carrying out a visit under this regulation the officer shall-

- (a) speak to the child alone unless he considers it inappropriate;
- (b) establish such matters listed in Schedule 3 as appear to him to be relevant; and
- (c) submit a written report on his findings to the Department after each visit carried out in accordance with this regulation.

(4) For the purposes of this regulation, a private foster care arrangement is deemed to begin when the Department becomes aware of it.

9. (1) A private foster carer shall notify the Department of-

Notification of change of circumstances

- (a) any change of his address;
- (b) any offence of which he or a person who is part of or employed at his household has been convicted;
- (c) any disqualification under section 69 of the Law imposed on him or a person who is part of, or employed at, his household;
- (d) any person who begins to be part of or begins to be employed at, his household, and any offence of which that person has been

convicted, and any disqualification or prohibition imposed on him under section 69 or 70 of the Law; and

(e) any person who ceases to be part of or employed at his household.

(2) A notification under paragraph (1) shall be given-

(a) in advance, if practicable; or

(b) in any other case, not more than forty-eight hours after the change of circumstances.

(3) The parent of a privately fostered child or any other person who has parental responsibility for the child, who knows that the child is being fostered privately, shall notify the Department of any change of his own address.

Notification of the end of a private foster care arrangement

10. (1) Subject to paragraphs (2) and (3), a person who has been providing private foster care but has ceased to do so, shall notify the Department within forty-eight hours and include in the notification the name and address of the person into whose care the child was received and that person's relationship with the child.

(2) Where a person has been providing private foster care to a child but has ceased to do so due to the death of the child, he shall indicate in his notification to the Department that the child's death is the reason for the end of the private foster care arrangement.

(3) Paragraph (1) shall not apply where the private foster carer intends to resume the private fostering arrangement after an interval of not more than twenty-seven days but if-

(a) he subsequently abandons his intentions; or

(b) the interval expires without his having given effect to his intention,

he shall notify the Department within forty-eight hours of abandonment of his intention or, as the case may be, the expiry of the interval.

(4) Any parent of a privately fostered child or any other person who has parental responsibility for a child, who has given notification to the Department under regulation 3(2) or (3) shall notify the Department of the ending of the private foster care arrangement and include in the notification the name and address of the person into whose care the child was received and that person's relationship with the child.

Form of notification

11. Any notification required under these Regulations shall be given directly to the Department or sent by registered post.

**SCHEDULE 1**

(Regulations 3(4) and 5(2))

**Information to be provided in notification**

1. The information referred to in regulations 3(4) and 5(2) is-
  - (a) the name, sex, date and place of birth, religious persuasion, race, cultural and linguistic background of the child;
  - (b) the name and current address of the person giving the notice and his addresses within the previous five years;
  - (c) the name and current address of the proposed or current private foster carer and his addresses within the previous five years;
  - (d) the name and current address of the parents of the child and of any other person who has parental responsibility for the child and (if different) of any person from whom the child is to be, or was, received;
  - (e) the name and current address of the minor siblings of the child, and details of the arrangements for their care;
  - (f) the name and current address of any person, other than a person specified in sub-paragraph (d), who is or was involved in arranging for the child to be fostered privately;
  - (g) the date on which it is intended that the private foster care arrangement will start, or on which it did start; and
  - (h) the intended duration of the private foster care arrangement.
2. In the case of a person giving notice under regulation 3(1) or 5(1) the information referred to in regulations 3(4) and 5(2) also includes-
  - (a) any offence of which he has been convicted;
  - (b) any disqualification or prohibition imposed on him under section 69 or 70 of the Law;
  - (c) any such conviction, disqualification or prohibition imposed on any other person living in or employed at the same household;
  - (d) any order of a kind specified in regulations under section 69 of the Law made at any time with respect to him;
  - (e) any order of a kind specified in regulations under section 69 of the Law made at any time with respect to a child who has been in his care; and
  - (f) any rights or power with respect to a child that have been at any time vested in an authority specified in regulations under section 69 of the Law or under an enactment specified in those regulations.

**SCHEDULE 2**

(Regulation 4(1)(e))

**Welfare of children who are to receive private foster care**

The matters referred to in regulation 4(1)(e) are-

- (a) that the intended duration of the arrangement is understood by and agreed between-
  - (i) the parents of the child or any other person with parental responsibility for the child; and
  - (ii) the proposed private foster carer;
- (b) the wishes and feelings of the child about the proposed arrangement (considered in the light of his age and understanding);
- (c) the suitability of the proposed accommodation;
- (d) the capacity of the proposed private foster carer to look after the child;
- (e) the suitability of other members of the proposed private foster carer's household;
- (f) the arrangements for contact between the child and his parents, any other person with parental responsibility for him, and other persons who are significant to him, have been agreed and understood and that those arrangements will be satisfactory for the child;
- (g) that the parents of the child or any other person with parental responsibility for him and the proposed private foster carer have agreed financial arrangements for the care and maintenance of the child;
- (h) that consideration has been given to, and necessary steps taken to make arrangements for the child's health care;
- (i) that consideration has been given to and necessary steps taken to make arrangements for the child's education;
- (j) how decisions about the care of the child will be taken; and
- (k) whether the proposed private foster carer, the parents of the child, any other person with parental responsibility for the child, or any other person concerned with the child are being given such advice as seems to the Department to be needed.



**SCHEDULE 3**

(Regulations 7(1)(e) and 8(3)(b))

**Welfare of children who are receiving private foster care**

The matters referred to in regulations 7(1)(e) and 8(3)(b) are-

- (a) that the intended duration of the fostering arrangement is understood and agreed between-
  - (i) the parents of the child or any other person with parental responsibility for the child; and
  - (ii) the proposed private foster carer;
- (b) the wishes and feelings of the child about the arrangement (considered in the light of his age and understanding);
- (c) that the child's physical, intellectual, emotional, social and behavioural development is appropriate and satisfactory;
- (d) that the child's needs arising from his religious persuasion, race, origin, cultural and linguistic background are being met;
- (e) that the financial arrangements for the care and maintenance of the child are working;
- (f) the capacity of the private foster carer to look after the child;
- (g) the suitability of the accommodation;
- (h) that the arrangements for care of the child's health are in place;
- (i) the arrangements for the child's education;
- (j) the standard of the care which the child is being given;
- (k) the suitability of members of the private foster carer's household;
- (l) whether the contact between the child and his parents, or any other person with whom contact has been arranged, is satisfactory for the child;
- (m) how decisions about the child's care are being taken; and
- (n) whether the private foster carer, the parents of the child, any other person with parental responsibility for the child, or any other person concerned with the child are being given such advice as appears to the Department to be necessary.

Made in Cabinet on the 28<sup>th</sup> day of August, 2012.

Kim Bullings

Clerk of the Cabinet.

*The Children (Private Foster Care) Regulations, 2012*

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

Zena Merren-Chin

Clerk of the Legislative Assembly.