

CAYMAN ISLANDS



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THE CHILDREN LAW, 2003

THE COMMUNITY HOMES REGULATIONS, 2012

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THE CHILDREN LAW, 2003

THE COMMUNITY HOMES REGULATIONS, 2012

The Governor in Cabinet, in exercise of the powers conferred by paragraph 4 of Schedule 4 to the Children Law, 2003, hereby makes the following Regulations-

PART I

PRELIMINARY

1. These Regulations may be cited as the Community Homes Regulations, 2012. Citation

2. In these Regulations- Definitions

“assisted community home” means a community home designated as an assisted community home in accordance with section 55(5) of the Law;

“community home” has the meaning given by section 55(3) of the Law and includes a community home maintained by the Department, a controlled community home or an assisted community home and the expression “home” shall be construed accordingly;

“controlled community home” means a community home designated as a controlled community home in accordance with section 55(4) of the Law;

“Law” means the Children Law, 2003;

“medicinal product” means any substance, article or device (including any instrument, apparatus or appliance) which is manufactured, sold, supplied or imported for use wholly or mainly in either or both of the following ways-

- (a) use by being administered to one or more human beings for a medicinal purpose;
- (b) use as an ingredient in the preparation of a substance, article or device which is being administered to one or more human beings for a medicinal purpose;

“person in charge” means the person appointed by the responsible authority as the person in charge of the management of the community home;

(2005 Revision)

“registered medical practitioner” means a person registered under the Health Practice Law (2005 Revision);

(2005 Revision)

“registered nurse” means a person registered under the Health Practice Law (2005 Revision); and

“responsible authority” means-

- (a) the Department, in the case of a maintained community home; or
- (b) in the case of a controlled or assisted community home-
 - (i) the body of managers; or
 - (ii) where a matter is reserved by Law or an instrument of management, the Department or voluntary organisation.

Application of Regulations

3. (1) These Regulations shall not apply to premises used only to accommodate children for the purpose of a holiday for periods of less than twenty-eight days at a time in the case of any one child.

(2) Subject to section 64(11) of and Schedule 7 to the Law, any home in which a child is cared for and accommodated by a person who-

- (a) is an approved department foster parent in relation to the child; or
- (b) fosters the child privately,

is, so far as the provision of care and accommodation for that child is concerned, exempt from the definition of a “community home” in section 55(3) of the Law.

PART II

CONDUCT OF COMMUNITY HOMES

Statement of purpose and function of community homes

4. (1) The responsible authority shall, within three months of the coming into force of these Regulations, compile, maintain and keep up to date, a written statement of the particulars mentioned in Part I of Schedule 1 relating to a community home.

(2) The statement referred to in paragraph (1) shall be made available for inspection by the persons referred to in Part II of Schedule 1, in addition to any other person who has a right under the Law to inspect this statement.

Staffing of community homes

5. (1) The responsible authority shall ensure that the number of staff in a community home and their experience and qualifications are adequate to ensure

that the welfare of the children in the community home is safeguarded and promoted at all times.

(2) The responsible authority shall ensure that the particulars specified in Part I of Schedule 1 are brought to the notice of all staff in the home.

6. (1) The responsible authority shall ensure that, insofar as it is practicable, each child in a community home is provided with an area within the home which is suitable for his needs.

Accommodation for individual children's needs

(2) The area referred to in paragraph (1) shall be equipped with-

- (a) all the appropriate furnishings that would make the home habitable; and
- (b) facilities that meet the needs of a child who is suffering from a physical or mental disability.

7. (1) The responsible authority shall ensure that the home is provided with wash basins, hot and cold water, showers and toilets.

Provision of adequate conveniences

(2) The responsible authority shall ensure that all parts of the home are-

- (a) adequately lit and ventilated;
- (b) kept in good structural repair;
- (c) kept sanitary; and
- (d) reasonably decorated and maintained.

(3) The responsible authority shall provide adequate facilities in the home for a child to meet privately with-

- (a) his parents;
- (b) any person who has parental responsibility for him;
- (c) his relatives or friends;
- (d) his attorney-at-law;
- (e) his guardian ad litem;
- (f) any independent person appointed for the child pursuant to the Representation Procedure (Children) Regulations, 2012;
- (g) any visitor appointed for the child in accordance with paragraph 14(7) of Schedule 2 to the Law; and
- (h) any person authorised in accordance with section 80(2) of the Law to conduct an inspection of the community home.

(4) The responsible authority shall provide the children with adequate laundry facilities and other grooming conveniences.

(5) The responsible authority shall provide adequate private telephone facilities for the use of the children in the home in accordance with the policies of the home.

Control and discipline

8. (1) The responsible authority of a community home shall only apply those disciplinary measures within the home as are approved by the Department.

(2) The following acts shall not be practised in a community home-

- (a) corporal punishment;
- (b) any deprivation of food or drink;
- (c) any restriction on visits to or by any child unless it is in the best interest of the child;
- (d) any restriction on or delay in communications by telephone or post with-
 - (i) his parents, unless it is in the best interest of the child;
 - (ii) any person who has parental responsibility for him, unless it is in the best interest of the child;
 - (iii) his relatives or friends, unless it is in the best interest of the child;
 - (iv) his attorney-at-law;
 - (v) his guardian ad litem;
 - (vi) any independent person appointed for the child pursuant to Representation Procedure (Children) Regulations, 2012;
 - (vii) any visitor appointed for the child in accordance with paragraph 14(7) of Schedule 2 to the Law;
 - (viii) any social worker assigned to the child by the Department;
- (e) any requirement that a child wear inappropriate clothes;
- (f) the deprivation of any form of health care or medication;
- (g) the intentional deprivation of sleep; and
- (h) any intimate physical examination of a child by any person other than a registered medical practitioner.

(3) Where disciplinary action has been taken against a child in a community home, the responsible authority shall, within twenty-four hours of the action, record or cause to be recorded in writing full particulars of the disciplinary action taken.

(4) The particulars referred to in paragraph (3) shall include-

- (a) the date on which the action was taken;
- (b) the reasons for the action;
- (c) the name of the child against whom the action was taken; and
- (d) the name of the person who enforced the action.

9. (1) Subject to paragraph (3), the responsible authority shall store or cause to be stored in a secure place any medicinal product which is kept in the home so as to prevent any child accommodated in the home from having access to it otherwise than under the supervision of a member of staff of the home.

Storage of medicinal products

(2) Subject to paragraph (3), all medicinal products shall be administered by a member of staff of the community home acting on instructions received from a registered nurse or registered medical practitioner or by the registered nurse or registered medical practitioner.

(3) Paragraphs (1) and (2) shall not apply to a medicinal product which-

- (a) is stored by the child for whom it is provided in such a way that others are denied access to it; and
- (b) may safely be self-administered by that child.

10. The responsible authority shall assist with the making of arrangements for a child to pursue tertiary education, advanced training or gainful employment, where that child has attained the age where it is no longer required to provide compulsory full-time education.

Employment and education of older children

11. The responsible authority shall enable each child accommodated in a community home, insofar as it is practicable, to attend the services of, to receive instruction in, and to observe any requirement of the religious persuasion to which he belongs.

Religious observance

12. (1) The responsible authority shall ensure that a child accommodated in a community home is provided with food which is properly prepared, nutritious and provided in adequate quantities to meet the needs of the child.

Food provided for child and cooking facilities

(2) The responsible authority shall, insofar as it is practicable, ensure that any special dietary need of a child accommodated in the home is satisfied.

(3) The responsible authority shall provide within a home-

- (a) suitable and sufficient catering equipment, crockery and cutlery;
- (b) proper facilities for the refrigeration and storage of food; and
- (c) insofar as it is practicable, adequate facilities to allow children the option to prepare their own food.

13. (1) The responsible authority shall, insofar as it is practicable, enable each child accommodated in the home to purchase clothes according to his needs.

Purchase of clothes

(2) The responsible authority shall, insofar as it is practicable, purchase clothes to meet the needs of a child, where that child, his parent or guardian is unable to purchase the clothes.

Fire precautions

14. (1) The responsible authority shall ensure, before any child is accommodated in a community home and whenever there is a change in particulars during the period that child is accommodated, that the Chief Fire Officer is notified in writing of the following particulars-

- (a) the location of the home;
- (b) the number of children accommodated or to be accommodated in the home;
- (c) the age range of the children accommodated or to be accommodated in the home; and
- (d) whether any child accommodated or to be accommodated in the home suffers from a physical or mental disability.

(2) The responsible authority shall ensure that in respect of the home, adequate-

- (a) precautions are taken against the risk of fire;
- (b) means of escape in the event of fire are provided;
- (c) arrangements are made for detecting, containing and extinguishing a fire;
- (d) arrangements are made for warning of an outbreak of a fire and for evacuation in the event of a fire; and
- (e) fire fighting equipment is available.

(3) The responsible authority shall ensure that arrangements are made to familiarise the staff working and children accommodated in the home with the procedure to be followed in the event of a fire.

(4) The arrangements referred to in paragraph (3) shall include the evacuation procedure from the home, techniques of resuscitation and life saving methods.

(5) The responsible authority shall establish a reporting system to ensure that reports on any outbreak of fire requiring an evacuation of children accommodated in the home is forwarded to it immediately.

PART III

ADMINISTRATION OF COMMUNITY HOMES

15. (1) The responsible authority shall arrange for the keeping in each community home, of a record in permanent form on each child accommodated and which, insofar as it is practicable, shall include the information specified in Schedule 2. Confidential records in relation to children in community homes

(2) The responsible authority shall keep the record mentioned in paragraph (1) securely and shall treat it as confidential subject only to-

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

(3) The responsible authority shall retain the records mentioned in paragraph (1) for at least seventy-five years from the date of birth of the child to whom they relate or, if the child dies before attaining the age of eighteen, for a period of fifteen years from the date of his death.

16. The responsible authority shall, if requested, provide a guardian ad litem of a child with- Access by guardians ad litem to records

- (a) access to all the records relating to the child in accordance with these Regulations; and
- (b) copies of the records.

17. (1) The responsible authority shall keep in each community home the records specified in Schedule 3 and shall ensure that the details are kept current. Other records with respect to children in community homes

(2) The records referred to in paragraph (1) shall be retained for at least fifteen years, except for records of menus which shall be kept only for one year.

18. The responsible authority shall keep a copy of these Regulations in the community home and make it available to- Availability of Regulations

- (a) all staff;
- (b) every child accommodated in the home;
- (c) the parents or guardians of any child accommodated in the home; and
- (d) any person with parental responsibility for a child accommodated in the home.

Notification of significant events

19. (1) The responsible authority shall, insofar as it is practicable, immediately give notification of any of the events mentioned in paragraph (2) to-

- (a) the parents of any child concerned;
- (b) any person who has parental responsibility for a child in the home;
- (c) any other person who has undertaken to meet any fees or expenses incurred in accommodating any child concerned at the home; and
- (d) in respect of the event mentioned in paragraph (2)(c), a police officer.

(2) The events referred to in paragraph (1) are-

- (a) the death of a child accommodated at the home;
- (b) any conduct on the part of a member of staff of the home which, in the opinion of the Department is not, or as the case may be, would not be appropriate for a person employed in work involving children;
- (c) the suffering of serious harm by a child accommodated at the home;
- (d) any serious accident involving a child accommodated at the home;
- (e) any serious illness of a child accommodated at the home; and
- (f) the outbreak in the home of any notifiable infectious disease to which the Public Health Law (2002 Revision), or Regulations made under that Law, applies.

(2002 Revision)

(3) Any notification given with respect to the death of a child shall contain all available details as to the circumstances.

Absence of a child without authority

20. (1) The responsible authority shall stipulate and cause to be recorded in writing the procedure to be followed when any child accommodated in a community home leaves the facility without permission.

(2) The responsible authority shall ensure that the procedure mentioned in paragraph (1) is brought to the attention of the children accommodated in the home and all staff members in the home.

Absence of the person in charge

21. (1) Subject to paragraph (2), a person in charge of a community home who proposes to be absent from the home for a continuous period of four weeks or more shall give written notice of that intention to the responsible authority at least four weeks before commencement of his absence.

(2) The responsible authority may accept a shorter notice where the circumstances make it impracticable to provide the period of notice mentioned in paragraph (1).

(3) Where paragraph (1) applies, the person in charge of a community home shall inform the responsible authority at least seven days before the beginning of the absence of-

- (a) its occurrence and anticipated duration;
- (b) the reason for it;
- (c) the number of children accommodated in the home when the information is given;
- (d) the arrangements which have been made for the supervision of the home; and
- (e) the name, address and qualifications of the person who will be in charge of the home.

(4) Where the responsible authority is a manager, he shall notify the Department within seven days of the return of the person in charge or the appointment of some other person in his place.

22. An officer of the Department shall visit the home once a month and submit a written report to the Department on the management of the home.

Visiting of community homes

PART IV

COMMUNITY HOMES

23. The Governor in Cabinet may give directions requiring-

Directions by Governor in Cabinet

- (a) the Department in circumstances where it is providing, managing, equipping or maintaining a home; or
- (b) the voluntary organisation by which an assisted community home is provided,

to accommodate in the home, a child for whom no place is made available or to take such action in relation to a child accommodated in the home as may be specified in the directions.

SCHEDULE 1

(Regulations 4 and 5(2))

STATEMENT TO BE KEPT RELATING TO COMMUNITY HOMES

PART I

Particulars to be included in statement

1. The purpose for which the community home is established and the objectives to be attained with regard to children accommodated in the home.
2. The name and address of the person in charge of the community home.
3. The following details about the children for whom it is intended that accommodation should be provided-
 - (a) age range;
 - (b) sex; and
 - (c) the number of children.
4. Whether a child is selected by reference to criteria other than age or sex and if so, those criteria.
5. The organisational structure of the community home.
6. The number of staff employed in the community home.
7. The qualification and experience of the persons in charge of the community home, including all staff members.
8. The facilities and services to be provided within the community home.
9. The arrangements made to protect and promote the health of the children.
10. The fire precautions and associated emergency procedures.
11. The arrangements made for religious observance by any child.
12. The arrangements made for contact between a child and his parents, a person who has parental responsibility for the child, relatives or friends.

13. The disciplinary measures in place.
14. The procedure for dealing with any unauthorised absence of a child from the home.
15. The arrangements for dealing with complaints against persons in the home.
16. The arrangements for the education of any child in the home.
17. The arrangements for continuing staff training and development.
18. The organisational structure of the home.
19. The ratio of children accommodated to staff employed.
20. The arrangements for dealing with reviews under section 28 of the Law of the cases of every child.

PART II

Persons to whom statement is to be made available for inspection

1. The person in charge of the community home.
2. The staff of the community home.
3. The children accommodated in the community home.
4. The parent of any child accommodated in the community home.
5. Any person who is not a parent of a child accommodated in the community home, but who has parental responsibility for such a child.
6. The Department.

SCHEDULE 2

(Regulation 15(1))

**INFORMATION TO BE INCLUDED IN CONFIDENTIAL RECORDS
CONCERNING CHILDREN IN COMMUNITY HOMES**

1. The child's name and any name by which the child has previously been known other than a name used by the child prior to adoption.
2. The child's sex and date of birth.
3. The child's religious persuasion, if any.
4. A description of the child's racial origin, cultural and linguistic background.
5. The living arrangements of the child before being placed in the community home.
6. The person under whose authority the child is provided with care and accommodation in the home and any Law which authorises its provision.
7. The name, address, telephone number and the religious persuasion, if any, of-
 - (a) the child's parents; or
 - (b) any person who has parental responsibility for him.
8. The name, address and telephone number of any social worker assigned to the child by the Department.
9. The date and circumstances of any absence of the child from the home.
10. The date and circumstances of any visit to the child whilst in the home by any of the persons referred to in regulation 8(2)(d).
11. A copy of any statement of special educational needs maintained in relation to the child.
12. The name and address of any educational institution attended by the child and of any employer of the child.
13. Every school report received by the child while accommodated in the home.

14. The date and circumstances of any disciplinary measures imposed against the child.
15. Any special dietary or health needs of the child.
16. Arrangements for, including any restrictions on, contact between the child and-
 - (a) his parents; or
 - (b) any person who has parental responsibility for him.
17. The date and result of any review of the child's case.
18. The name and address of the medical practitioner with whom the child is registered.
19. Details of any accident involving the child.
20. Details of any immunisation, illness, allergy or medical examination of the child and of any dental need of the child.
21. Details of any health examination or development test conducted with respect to the child at or in connection with his school.
22. Details of all medicinal products taken by the child while in the home and by whom they were administered, including those which the child is permitted to administer to himself.
23. The date on which-
 - (a) any money or valuables are deposited by or on behalf of a child for safekeeping;
 - (b) such money is withdrawn; and
 - (c) any valuables are returned.
24. The arrangements for accommodation of the child when his accommodation in the community home ceases.

SCHEDULE 3

(Regulation 17(1))

INFORMATION TO BE INCLUDED IN OTHER CONFIDENTIAL RECORDS CONCERNING CHILDREN IN COMMUNITY HOMES

1. A record showing-
 - (a) the date on which each child was first accommodated in the community home;
 - (b) the date on which a child ceased to be accommodated in the community home;
 - (c) where each child came from before he commenced occupancy of the community home;
 - (d) the new accommodation of each child who has ceased to be accommodated in the community home;
 - (e) the identity of the officer in the Department responsible for the child being placed in the community home; and
 - (f) which, if any, child accommodated in the community home was being looked after, or in the care of, any other home or facility providing child care.

2. A record showing-
 - (a) the full name;
 - (b) the sex;
 - (c) the date of birth;
 - (d) the qualifications relevant to and experience of work involving children,
of every person who-
 - (i) is employed at the community home;
 - (ii) works at the home; or
 - (iii) is intended, by the responsible authority, to work at the home; and
 - (e) whether such persons work at the home full-time or part-time, whether paid or not and, if part-time, the average number of hours worked per week and whether or not they reside at the home or intend to do so.

3. A record of all persons resident at the community home, other than the persons mentioned in paragraph 2 of this Schedule and the children accommodated in the home.

4. A record of accidents occurring in the home.

5. A record of any medicinal product administered to any child in the home, including the date and circumstances of its administration and by whom it was administered, including medicinal products which the child is permitted to administer to himself.
6. A record of every fire drill or fire alarm test conducted, with details of any deficiency in either the procedure or the equipment concerned, together with details of the steps taken to remedy that deficiency.
7. A record of all money deposited by a child for safekeeping, together with the date on which that money was withdrawn or the date of its deposit.
8. A record of all valuables deposited by a child and the date of return.
9. Records of all accounts kept in the community home.
10. A record of menus.
11. A record of every disciplinary measure imposed, giving the information required by regulation 8.
12. Records of duty rosters.
13. A daily log of events occurring in the home, including the names of visitors to any child accommodated in the home.

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.