

CAYMAN ISLANDS



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**THE CHILDREN LAW, 2003**

**THE PLACEMENT OF CHILDREN WITH PARENTS REGULATIONS,  
2012**

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**THE CHILDREN LAW, 2003**

**THE PLACEMENT OF CHILDREN WITH PARENTS REGULATIONS,  
2012**

The Governor in Cabinet, in exercise of the powers conferred by section 25(5) of, and paragraph 12 of Schedule 2 to, the Children Law, 2003, hereby makes the following Regulations-

1. These Regulations may be cited as the Placement of Children with Parents Regulations, 2012. Citation

2. (1) In these Regulations - Definitions

“guardian ad litem” means a guardian ad litem appointed pursuant to section 43 of the Law;

“Law” means the Children Law, 2003;

“placement” means allowing a child who is in the care of the Department to live pursuant to section 25(5) of the Law with-

- (a) a parent of the child;
- (b) a person who is not a parent of the child but who has parental responsibility for him; or
- (c) where there was a residence order in force with respect to the child immediately before the care order was made, a person in whose favour the residence order was made,

and the expressions “place” and “placed” shall be construed accordingly and “placed with” a person means being allowed to live with that person pursuant to that section; and

“placement decision” means a decision to place a child which is made in accordance with regulation 6.

(2) Any notice required under these Regulations shall be in writing and any such notice may be sent by registered post.

*The Placement of Children with Parents Regulations, 2012*

- Scope of Regulations 3. (1) These Regulations shall apply to every child who is in the care of the Department and who is or is proposed to be placed.
- (2003 Revision) (2) These Regulations shall not apply to the placement of child for adoption pursuant to the Adoption of Children Law (2003 Revision).
- (3) Nothing in these Regulations shall require the temporary removal of a child from the person with whom he is already living and with whom he may be placed, before a decision is made concerning his placement.
- (4) These Regulations shall not apply in a case to the extent that they are incompatible with any order made by a court under section 36 of the Law.
- Enquiries and assessment 4. (1) Before a placement decision is made, the Department shall make all necessary enquiries in respect of-
- (a) the health of the child;
  - (b) the suitability of the person with whom it is proposed that the child should be placed;
  - (c) the suitability of the proposed accommodation, including the proposed sleeping arrangements;
  - (d) the educational and social needs of the child; and
  - (e) the suitability of all other members of the household, aged eighteen and over, in which it is proposed a child will live.
- (2) In considering the suitability of a person as required by paragraph (1)(b) or (e), the Department shall, so far as practicable, take into account the particulars specified in paragraphs 1 and 2 respectively of Schedule 1.
- Duties of the Department in relation to placements 5. The Department shall satisfy itself that the placement of a child, having regard to all the circumstances, is the most suitable way of performing its duty under section 25(2) of the Law.
- Placement decisions by Department 6. The decision to place a child shall be made by the Department.
- Immediate placements 7. (1) Subject to paragraph (2), nothing in regulation 4 shall prevent the immediate placement of a child pursuant to a placement decision in circumstances in which the Department considers that to be necessary and in accordance with its duty under section 25(2) of the Law; and, in such a case, the Department shall take steps to ensure that the provisions of these Regulations that would otherwise have to be complied with before the placement decision is made are complied with as soon as practicable thereafter.

(2) Before an immediate placement is made pursuant to this regulation, the Department shall-

- (a) arrange for the person with whom the child is to be placed to be interviewed in order to obtain as much of the information specified in paragraph 1 of Schedule 1 as can be readily ascertained at the interview; and
- (b) arrange to obtain as much of the information specified in paragraph 2 of Schedule 1 in relation to other members of the household aged eighteen and over, in which it is proposed the child will live, as can be readily ascertained at the time of that interview.

8. Following a placement decision, the Department shall seek to reach an agreement with the person with whom the child is to be placed on all the particulars, so far as is practicable, specified in Schedule 2 and the placement shall not be put into effect unless and until such an agreement on all such particulars has been reached and recorded in writing and a copy of it has been given or sent to that person.

Provisions of agreements

9. (1) Subject to paragraph (3), the Department shall, so far as practicable, give notice to all the persons whose wishes and feelings have been sought in relation to the decision to place the child and to those persons specified in paragraph (4) of-

Notification of placements

- (a) the placement decision, and
- (b) the details of where the child is to be placed.

(2) Where the child is placed with a person other than a parent the Department's notice under paragraph (1) to the persons referred to in the paragraph shall contain-

- (a) the name and address of the person with whom the child is placed;
- (b) particulars of arrangements for contact with the child; and
- (c) any other particulars relating to the care and welfare of the child which appears to the Department ought to be supplied.

(3) The Department shall not be required to give notice under paragraph (1) in the case of a person whose whereabouts are unknown to the Department, or cannot be readily ascertained, or in any case where the Department determines that to give such notice would not be in accordance with its duty under section 25(2) of the Law.

(4) For the purposes of paragraph (1), the persons specified are-

- (a) the Chief Officer of the Ministry responsible for the Department;

- (b) the child's registered medical practitioner;
- (c) any person, not being an officer of the Department, who has been caring for the child immediately before the placement; and
- (d) where there was a residence order in force with respect to the child immediately before the care order was made, the person in whose favour the residence order was made.

Support and supervision  
of placements

10. (1) The Department shall satisfy itself that the welfare of each child who has been placed by it continues to be appropriately provided for by his placement and for that purpose the Department shall-

- (a) give such advice and assistance to the person with whom the child is placed as appears to be necessary;
- (b) make arrangements for a person authorised by the Department to visit the child from time to time as necessary but in any event-
  - (i) within one week of the beginning of the placement;
  - (ii) at intervals of not more than six weeks during the first year of the placement; and
  - (iii) thereafter, at intervals of not more than three months and also whenever reasonably requested by the child or the person with whom the child is placed,

and for the person so authorised to make arrangements, so far as practicable, on each visit to see the child alone.

(2) On each occasion in which a child is visited pursuant to this regulation by any person authorised by the Department, the Department shall cause a written report on the child to be prepared by that person.

Termination of  
placements

11. If it appears to the Department that a placement is no longer in accordance with its duty in respect of the child under section 25(2) of the Law or would prejudice the safety of the child, it shall terminate the placement and remove the child forthwith from the person with whom he is placed.

Notification of  
termination of  
placements

12. In relation to a decision to terminate a placement, the Department shall, so far as is practicable-

- (a) give notice in writing of any decision to terminate the placement before it is terminated to-
  - (i) the child, having regard to his age and understanding;
  - (ii) the other persons whose wishes and feelings have been sought in relation to the decision to terminate the placement;
  - (iii) the person with whom the child is placed;
  - (iv) the other persons to whom regulation 9(1) refers; and

- (b) give notice in writing of the termination of the placement to all those persons, other than the child and the person with whom the child was placed.

13. (1) This regulation applies to a series of short-term placements where the following conditions are satisfied-

Application of  
Regulations to short-  
term placements

- (a) all the placements occur within a period which does not exceed one year;
- (b) no single placement is for a duration of more than four weeks; and
- (c) the total duration of the placements does not exceed ninety days.

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

(3) Regulation 10(1)(b) shall apply in relation to short-term placements to which this regulation applies as if for paragraphs (1)(b)(i) to (iii) of that regulation there were substituted-

- “(i) during the first of the series of short-term placements to which this regulation applies; and
- (ii) on one other occasion while the child is in fact placed during the series of short- term placements.”

#### **SCHEDULE 1**

(Regulations 4(2) and 7(2))

#### **MATTERS TO BE TAKEN INTO ACCOUNT IN CONSIDERING SUITABILITY OF PERSONS AND HOUSEHOLDS**

1. In respect of a person with whom it is proposed the child should be placed-
  - (a) age;
  - (b) health;
  - (c) personality;
  - (d) marital status and particulars of any previous marriage;
  - (e) previous experience of looking after and capacity to look after children and capacity to care for the child;
  - (f) the result of any application to have a child placed with him and details of any prohibition on his acting as a child-minder, providing day care, or caring for foster children privately or children in a voluntary or registered children’s home;
  - (g) details of children in his household;

(1998 Revision)

- (h) religious persuasion, racial origin and cultural and linguistic background;
- (i) past and present employment and leisure activities and interests;
- (j) details of the living standards and particulars of accommodation of his household;
- (k) subject to the provisions of the Rehabilitation of Offenders Law (1998 Revision), any criminal conviction; and
- (l) immigration status in the Cayman Islands.

2. In respect of members of the household aged eighteen and over of a person with whom a child is to be placed, so far as is practicable, all the particulars specified in paragraph 1(a), (b), (c), (d), (f), (i), and (k) of this Schedule.

## **SCHEDULE 2**

(Regulation 8)

### **MATTERS ON WHICH THERE SHOULD BE AGREEMENT WITH THE PERSON WITH WHOM A CHILD IS TO BE PLACED**

1. The Department's plans for the child and the objectives of the placement.
2. The arrangements for support of the placement.
3. Arrangements for visiting the child in connection with the supervision of the placement by the person authorised by or on behalf of the Department and frequency of visits and reviews of the child's case under regulations made under section 28 of the Law.
4. Arrangements for contact, if any, including prohibition of contact pursuant to section 36(6) of the Law.
5. Removal of the child from the placement in the circumstances specified in regulation 11.
6. The need to notify the Department of relevant changes in circumstances of the person with whom the child is placed, including any intention to change his address, changes in the household in which the child will live and any serious occurrence involving the child such as injury or death.
7. The provision of a statement concerning the health of the child, the child's need for health care and surveillance, and the child's educational needs and the Department's arrangements to provide for all such needs.

8. Any arrangements for any delegation and exercise of responsibility for consent to medical examination or treatment.
9. The need to ensure that any information relating to a child or his family or any other person given in confidence to the person with whom the child is placed in connection with the placement is kept confidential and that if such information is disclosed to any person without the consent of the Department, the child is liable to be removed from the care of that person pending an investigation.
10. The circumstances in which it is necessary to obtain in advance the approval of the Department for the child living, even temporarily, in a household other than the household of the person with whom the child has been placed.
11. The arrangements for requesting a change in the agreement.

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

Kim Bullings

Clerk of the Cabinet.

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.