
STATUTORY INSTRUMENTS

1995 No. 755

The Children (Northern Ireland) Order 1995

PART IV

SUPPORT FOR CHILDREN AND THEIR FAMILIES

Children in need and their families

Interpretation

17. For the purposes of this Part a child shall be taken to be in need if—

- (a) he is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for him of services by an authority under this Part;
- (b) his health or development is likely to be significantly impaired, or further impaired, without the provision for him of such services; or
- (c) he is disabled,

and “family”, in relation to such a child, includes any person who has parental responsibility for the child and any other person with whom he has been living.

General duty of authority to provide personal social services for children in need, their families and others

18.—(1) It shall be the general duty of every authority (in addition to the other duties imposed by this Part)—

- (a) to safeguard and promote the welfare of children within its area who are in need; and
- (b) so far as is consistent with that duty, to promote the upbringing of such children by their families,

by providing a range and level of personal social services appropriate to those children’s needs.

(2) For the purpose principally of facilitating its general duty under this Article, every authority shall have the specific powers and duties set out in Schedule 2.

(3) Any service provided by an authority in the exercise of functions conferred on it by this Article may be provided for the family of a particular child in need or for any member of his family, if the service is provided with a view to safeguarding or promoting the child’s welfare.

(4) The Department may by order amend any provision of Schedule 2 or add any further duty or power to those mentioned there.

(5) Every authority—

- (a) shall facilitate the provision by others (including in particular voluntary organisations) of services which the authority has power to provide by virtue of this Article or Article 19, 21, 27, 35 or 36; and

(b) may make such arrangements as it sees fit for any person to act on its behalf in the provision of any such service.

(6) The services provided by an authority in the exercise of functions conferred on it by this Article may include giving assistance in kind or, in exceptional circumstances, in cash.

(7) Assistance may be unconditional or subject to conditions as to the repayment of the assistance or of its value (in whole or in part).

(8) Before giving any assistance or imposing any conditions, an authority shall have regard to the means of the child concerned and of each of his parents.

(9) No person shall be liable to make any repayment of assistance or of its value at any time when he is in receipt of income support, family credit or disability working allowance.

Day care for pre-school and other children

19.—(1) In this Article—

“day care” means any form of care or supervised activity provided for children during the day (whether or not it is provided on a regular basis);

“supervised activity” means an activity supervised by a responsible person.

(2) Every authority shall provide such day care for children in need within the authority’s area who are—

- (a) aged five or under; and
- (b) not yet attending schools,

as is appropriate.

(3) An authority may provide day care for children within the authority’s area who satisfy the conditions mentioned in paragraph (2)(a) and (b) even though they are not in need.

(4) An authority may provide facilities (including training, advice, guidance and counselling) for those—

- (a) caring for children in day care; or
- (b) who at any time accompany such children while they are in day care.

(5) Every authority shall provide for children in need within the authority’s area who are attending any school such care or supervised activities as is appropriate—

- (a) outside school hours; and
- (b) during school holidays.

(6) An authority may provide such care or supervised activities for children within the authority’s area who are attending any school even though those children are not in need.

(7) Every authority shall, in carrying out its functions under this Article, have regard to any day care provided for children within the authority’s area by a district council or an education and library board or by other persons.

Review of provision for day care, child minding, etc.

20.—(1) Every authority shall review—

- (a) the provision which it makes under Article 19;
- (b) the extent to which the services of child minders are available within the authority’s area with respect to children under the age of twelve;
- (c) the provision for day care within the authority’s area made for such children by persons required to register under Article 118(1)(b).

(2) A review under paragraph (1) shall be conducted—

- (a) together with the appropriate education and library board and district councils; and
- (b) at least once in every review period.

(3) In paragraph (2)(b) “review period” means the period of one year beginning with the commencement of this Article and each subsequent period of three years beginning with an anniversary of that commencement.

(4) In conducting any such review, the authority shall have regard to any exempt provision made within the authority’s area with respect to children under the age of twelve.

(5) In paragraph (4) “exempt provision” means provision to which the exemption provided by paragraph (1) or (2) of Article 121 applies (schools, hospitals and other establishments exempt from the registration requirements which apply in relation to the provision of day care).

(6) Where an authority has conducted a review under this Article it shall publish the result of the review—

- (a) as soon as is reasonably practicable;
- (b) in such form as it considers appropriate; and
- (c) together with any proposals it may have with respect to the matters reviewed.

(7) Any review under this Article shall have regard to any representations which the authority considers to be relevant.

Provision of accommodation for children: general

21.—(1) Every authority shall provide accommodation for any child in need within its area who appears to the authority to require accommodation as a result of—

- (a) there being no person who has parental responsibility for him;
- (b) his being lost or having been abandoned; or
- (c) the person who has been caring for him being prevented (whether or not permanently, and for whatever reason) from providing him with suitable accommodation or care.

(2) Where an authority provides accommodation under paragraph (1) for a child who is ordinarily resident in the area of another authority, that other authority may take over the provision of accommodation for the child within—

- (a) three months of being notified in writing that the child is being provided with accommodation; or
- (b) such other longer period as may be prescribed.

(3) Every authority shall provide accommodation for any child in need within its area who has reached the age of 16 and whose welfare the authority considers is likely to be seriously prejudiced if it does not provide him with accommodation.

(4) An authority may provide accommodation for any child within the authority’s area (even though a person who has parental responsibility for him is able to provide him with accommodation) if the authority considers that to do so would safeguard or promote the child’s welfare.

(5) An authority may provide accommodation for any person who has reached the age of 16 but is under 21 in any home provided under Part VII which takes children who have reached the age of 16 if the authority considers that to do so would safeguard or promote his welfare.

(6) Before providing accommodation under this Article, an authority shall, so far as is reasonably practicable and consistent with the child’s welfare—

- (a) ascertain the child’s wishes regarding the provision of accommodation; and

- (b) give due consideration (having regard to his age and understanding) to such wishes of the child as the authority has been able to ascertain.

Powers of person with parental responsibility

22.—(1) An authority may not provide accommodation under Article 21 for any child if any person who—

- (a) has parental responsibility for him; and
- (b) is willing and able to—
 - (i) provide accommodation for him; or
 - (ii) arrange for accommodation to be provided for him, objects.

(2) Any person who has parental responsibility for a child may at any time remove the child from accommodation provided by or on behalf of the authority under Article 21.

(3) Paragraphs (1) and (2) do not apply while any person—

- (a) in whose favour a residence order is in force with respect to the child; or
- (b) who has care of the child by virtue of an order made in the exercise of the High Court's inherent jurisdiction with respect to children,

agrees to the child being looked after in accommodation provided by or on behalf of the authority.

(4) Where there is more than one such person as is mentioned in paragraph (3), all of them must agree.

(5) Paragraphs (1) and (2) do not apply where a child who has reached the age of 16 agrees to being provided with accommodation under Article 21.

Provision of accommodation for children in police protection

23.—(1) Every authority shall make provision for the reception and accommodation of children who are removed or kept away from home under Part VI.

(2) Every authority shall receive, and provide accommodation for, children in police protection whom the authority is requested to receive under Article 65(5)(e).

(3) Where a child has been removed under Part VI and he is not being provided with accommodation by an authority, any reasonable expenses of accommodating him shall be recoverable from the authority in whose area he is ordinarily resident.

Recoupment of cost of providing services, etc.

24.—(1) Where an authority provides any service under Article 18 or 19, other than advice, guidance or counselling, the authority may recover from a person specified in paragraph (4) such charge for the service as the authority considers reasonable.

(2) Where the authority is satisfied that that person's means are insufficient for it to be reasonably practicable for him to pay the charge, the authority shall not require him to pay more than he can reasonably be expected to pay.

(3) No person shall be liable to pay any charge under paragraph (1) at any time when he is in receipt of income support, family credit or disability working allowance.

(4) The persons are—

- (a) where the service is provided for a child under 16, each of his parents;
- (b) where it is provided for a child who has reached the age of 16, the child himself; and

(c) where it is provided for a member of the child's family, that member.

(5) Any charge under paragraph (1) may, without prejudice to any other method of recovery, be recovered summarily as a civil debt.

(6) Where an authority provides any accommodation under Article 21(1) or Article 23(1) or (2) for a child who was (before the authority began to look after him) ordinarily resident within the area of another authority, the first authority may recover any reasonable expenses incurred by it in providing the accommodation and maintaining the child from the other authority.