
STATUTORY INSTRUMENTS

1995 No. 755

The Children (Northern Ireland) Order 1995

PART IV

SUPPORT FOR CHILDREN AND THEIR FAMILIES

Miscellaneous

Secure accommodation

44.—(1) In this Article “secure accommodation” means accommodation provided for the purpose of restricting liberty.

(2) Subject to paragraphs (3) to (10), a child who is being looked after by an authority may not be placed, and, if placed, may not be kept, in secure accommodation unless it appears—

(a) that—

(i) he has a history of absconding and is likely to abscond from any other description of accommodation; and

(ii) if he absconds, he is likely to suffer significant harm; or

(b) that if he is kept in any other description of accommodation he is likely to injure himself or other persons.

(3) The Department may by regulations—

(a) specify a maximum period—

(i) beyond which a child may not be kept in secure accommodation without the authority of the court; and

(ii) for which the court may authorise a child to be kept in secure accommodation;

(b) empower the court to authorise a child to be kept in secure accommodation for such further period as the regulations may specify; and

(c) provide that an application to the court under this Article shall be made only by an authority.

(4) A court hearing an application under this Article shall determine whether any relevant criteria for keeping a child in secure accommodation are satisfied in his case.

(5) If a court determines that any such criteria are satisfied, it shall make an order authorising the child to be kept in secure accommodation and specifying the maximum period for which he may be so kept.

(6) On any adjournment of the hearing of an application under this Article, a court may make an interim order permitting the child to be kept during the period of the adjournment in secure accommodation.

(7) No court shall exercise the powers conferred by this Article in respect of a child who is not legally represented in that court unless, having been informed of his right to apply for legal aid and having had the opportunity to do so, he refused or failed to apply.

(8) The Department may by regulations provide that—

- (a) this Article shall or shall not apply to any description of children specified in the regulations;
- (b) this Article shall have effect in relation to children of a description specified in the regulations subject to such modifications as may be so specified;
- (c) such other provisions as may be so specified shall have effect for the purpose of determining whether a child of a description specified in the regulations may be placed or kept in secure accommodation.

(9) The giving of an authorisation under this Article shall not prejudice any power of any court to give directions relating to the child to whom the authorisation relates.

(10) This Article is subject to Article 22(2) (power of person with parental responsibility to remove child from accommodation provided by or on behalf of an authority).

Reviews and representations

45.—(1) The Department may make regulations requiring the case of each child who is being looked after by an authority to be reviewed in accordance with the provisions of the regulations.

(2) The regulations may, in particular, make provision—

- (a) as to the manner in which each case is to be reviewed;
- (b) as to the considerations to which the authority is to have regard in reviewing each case;
- (c) as to the time when each case is first to be reviewed and the frequency of subsequent reviews;
- (d) requiring the authority, before conducting any review, to seek the views of—
 - (i) the child;
 - (ii) his parents;
 - (iii) any person who is not a parent of his but who has parental responsibility for him; and
 - (iv) any other person whose views the authority considers to be relevant,including, in particular, the views of those persons in relation to any particular matter which is to be considered in the course of the review;
- (e) requiring the authority to consider, in the case of a child who is in the care of the authority, whether an application should be made to discharge the care order;
- (f) requiring the authority to consider, in the case of a child in accommodation provided by the authority, whether the accommodation accords with the requirements of this Part;
- (g) requiring the authority to inform the child, so far as is reasonably practicable, of any steps he may take under this Order;
- (h) requiring the authority to make arrangements, including arrangements with such other bodies providing services as it considers appropriate, to implement any decision which it proposes to make in the course, or as a result, of the review;
- (i) requiring the authority to notify details of the result of the review and of any decision taken by the authority in consequence of the review to—
 - (i) the child;
 - (ii) his parents;

- (iii) any person who is not a parent of his but who has parental responsibility for him; and
 - (iv) any other person who the authority considers ought to be notified;
 - (j) requiring the authority to monitor the arrangements which it has made with a view to ensuring that they comply with the regulations.
- (3) Every authority shall establish a procedure for considering any representations (including any complaint) made to it by—
- (a) any child who is being looked after by the authority or who is not being looked after by the authority but is in need;
 - (b) a parent of his;
 - (c) any person who is not a parent of his but who has parental responsibility for him;
 - (d) any authority foster parent;
 - (e) such other person as the authority considers has a sufficient interest in the child's welfare to warrant his representations being considered by the authority,
- about the discharge of any of the authority's functions under this Part in relation to the child.
- (4) The procedure shall ensure that at least one person who is not a member or officer of the authority takes part in—
- (a) the consideration of representations under this Article; and
 - (b) any discussions which are held by the authority about the action (if any) to be taken in relation to the child in the light of those representations;
- and the authority may pay him such fee and reasonable expenses as the Department considers appropriate.
- (5) In carrying out any consideration of representations under this Article an authority shall comply with any regulations made by the Department for the purpose of regulating the procedure to be followed.
- (6) The Department may make regulations requiring an authority to monitor the arrangements that it has made with a view to ensuring that they comply with any regulations made for the purposes of paragraph (5).
- (7) Where any representation has been considered under the procedure established by an authority under this Article, the authority shall—
- (a) have due regard to the findings of those considering the representation; and
 - (b) take such steps as are reasonably practicable to notify (in writing)—
 - (i) the person making the representation;
 - (ii) the child (if the authority considers that he has sufficient understanding); and
 - (iii) such other persons (if any) as appear to the authority to be likely to be affected,of the authority's decision in the matter and the authority's reasons for taking that decision and of any action which the authority has taken, or proposes to take.
- (8) Every authority shall give such publicity to its procedure for considering representations under this Article as the authority considers appropriate.

Co-operation between authorities and other bodies

46.—(1) Where it appears to an authority that any body mentioned in paragraph (3) could, by taking any specified action, help in the exercise of any of the authority's functions under this Part, the authority may request the help of that body, specifying the action.

(2) A body whose help is so requested shall comply with the request if it is compatible with that body's own statutory or other duties and obligations and does not unduly prejudice the discharge of any of its functions.

(3) The bodies are—

- (a) any Board;
- (b) any education and library board;
- (c) any Health and Social Services trust or special agency;
- (d) any district council;
- (e) the Northern Ireland Housing Executive; and
- (f) such other persons as the Department may direct for the purposes of this Article.

(4) Where an authority complies with a request under paragraph (2) in relation to a child or other person who is ordinarily resident within the area of another authority, the first authority may recover any reasonable expenses incurred by it in respect of that child or person from the other authority.

(5) Every authority shall assist any education and library board with the provision of services for any child within the authority's area who has special educational needs.

Consultation with education and library boards

47.—(1) Where—

- (a) a child is being looked after by an authority; and
- (b) the authority proposes to provide accommodation for him in an establishment at which education is provided for children who are accommodated there,

the authority shall, so far as is reasonably practicable, consult the appropriate education and library board before doing so.

(2) Where any such proposal is carried out, the authority shall, as soon as is reasonably practicable, inform the appropriate education and library board of the arrangements that have been made for the child's accommodation.

(3) Where the child ceases to be accommodated as mentioned in paragraph (1)(b), the authority shall inform the appropriate education and library board.

(4) In this Article “the appropriate education and library board” means—

- (a) the education and library board within whose area the establishment is; or
- (b) in the case of a child who has special educational needs a statement of which is maintained under the Education and Libraries (Northern Ireland) Order 1986(1), the education and library board which maintains the statement.

Miscellaneous

48.—(1) Nothing in this Part shall affect any duty imposed on an authority by or under any other statutory provision.

(2) Any question arising under Article 21(2), 23(3), 24(6) or 46(4) as to the ordinary residence of a child shall be determined by agreement between the authorities concerned or, in default of agreement, by the Department.