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Ref: **CIRCULAR: CCPD1/11**

Date: 25 March 2011

CHILDREN LIVING WITH CARERS IN PRIVATE FOSTERING ARRANGEMENTS, INCLUDING CHILDREN FROM OVERSEAS

1. The Department is concerned to ensure that social workers and other front line service providers such as General Practitioners, community nurses, hospital staff and those in educational settings are fully aware of the responsibilities of Health and Social Care Trusts (Trusts) toward privately fostered children in Northern Ireland, including children from overseas who are living with people who are not their parents or close relatives. This circular sets out the responsibilities of Trusts in relation to such children. The Children (NI) Order 1995 Guidance and Regulations Volume 3 – “Family Placements and Private Fostering” (the Children Order Guidance, volume 3) provides detailed guidance on private fostering situations. The guidance is available on the Government website at www.nics.gov.uk/nidirect/dhss/child/volume3.pdf.

PRIVATE FOSTERING DEFINITION AND REQUIREMENTS

2. The Children (Northern Ireland) Order 1995 (the Children Order), makes the distinction between a private fostering and the fostering arrangements made by a Trust or voluntary organisation for a child to be cared for by approved foster carers under the Foster Placement (Children) Regulations (Northern Ireland) 1996. A private fostering situation is an arrangement whereby an adult, who is not a relative of the child, cares for a child under the age of 16 years (or in the case of a disabled child, under 18 years) for more than 28 days. Under the Children Order a relative in relation to a child is defined as “a *grandparent, brother, sister, uncle or aunt (whether of the full blood*

or half blood or by affinity), or step-parent'. The legislation governing private fostering situations is found in Part X of the Children Order (Articles 106 – 117) and the Children (Private Arrangements for Fostering) Regulations (NI) 1996 (the Regulations) (Annex A). This places duties on:

- **the Trust in whose area the child has been placed** - to satisfy itself as to a range of matters specified in the Children Order and the regulations and to visit the child at minimum required intervals and additionally as often as considered necessary by the Trust to safeguard and promote the child's welfare (*see paragraphs 8 and 9 of this circular for more details*);
- **parents of children and any other persons who are, or propose to be involved in the arrangements** – to provide notifications to the Trust in whose area the child is/will be living (*see paragraphs 10 to 12 of this circular for more details*). Failure to comply may be an offence under Article 117(1) (a) of the Children Order; and
- **the person who proposes to care for (or who is already caring for) the child** – to provide certain notifications to the Trust in whose area s/he lives and within the timescales set out in the regulations (*see paragraphs 13 and 14 of this circular for more details*). Failure to comply may be an offence under Article 117(1) (a) of the Children Order.

EXAMPLES OF PRIVATE FOSTERING SITUATIONS

3. A variety of situations will qualify under the regulations as private fostering arrangements. The following examples which refer to children living with unrelated families or carers are by no means exhaustive:
 - children living with a friend's family after separation, divorce or difficulties at home;
 - teenagers living with the family of a boyfriend or girlfriend;
 - children coming from abroad for a visit to Northern Ireland or children from here, other parts of the UK and the Republic of Ireland who visit for more than 28 days with "host" families or carers;
 - foreign children brought to live here by unrelated adults or families, some of whom may be exercising EU treaty rights of abode in the UK;
 - children sent to Northern Ireland from abroad for educational purposes who are living in the homes of families or carers who

are unrelated to them;

- children “gifted” by their parents as part of traditional practices within particular cultures to other families or carers who cannot have children;
 - children of people who are studying or working in Northern Ireland, but anti-social hours make it difficult for them to care for their own children and they place them with other families or carers; and
 - children from overseas brought to Northern Ireland for hospital treatment through charitable or voluntary organisations and who, as part of the pre-treatment or recovery need to stay more than 28 days with a host family or carer;
4. All practitioners should be alert to the need for such arrangements to be notified to the Trust. In the interests of safeguarding children where it is clear that the Trust has not been involved, or where the practitioner is unable to ascertain this with certainty, the practitioner should refer the matter to the relevant Trust’s Gateway team. This also applies to situations where the child is apparently well cared for and there are no known concerns about his or her welfare.

CHILDREN FROM OVERSEAS, INCLUDING THOSE IN THE CARE OF ADULTS WHO ARE NOT CLOSE RELATIVES AND THOSE IN THE CARE OF UNSUITABLE ADULTS

5. In very recent years a number of unaccompanied children from overseas have been entering Northern Ireland with no details of addresses or persons with whom they plan to stay. Such children may be identified at ports of entry by the UK Border Agency (UKBA) which is responsible for immigration matters or the Police Service for Northern Ireland (PSNI). The Trust has a duty under the Children Order to safeguard unaccompanied children, regardless of their immigration status, by accommodating them in a suitable placement until their immediate and long term needs can be appropriately addressed.
6. Children from European Union (EU) countries may also be brought to live in Northern Ireland by unrelated adults or unrelated families exercising EU Treaty rights of abode in the UK. Such children are unlikely to come to the attention of the authorities at ports of entry as there are no immigration controls for EU citizens. Children from other foreign countries may also be sent by their parents to the UK for educational or other purposes. Most of the arrangements for such children will be appropriate, the children will have a legitimate immigration status and many will be well cared for within a responsible

family situation. Nevertheless, where the children are under the age of 16 years, the Trust still has a duty to ensure their welfare in accordance with the requirements under the private fostering regulations.

7. All health, social care, education and other professionals should therefore be fully mindful of the vulnerability of all children who are living here with without their own family. Whilst there are many private fostering situations where children are clearly well cared for, some are not, and one must always bear in mind the possibility that a child may be unhappy, neglected or here unwillingly or, in the very worst scenario, may be a victim of human trafficking to the UK for purposes of domestic servitude, sexual, or other forms of abuse.
8. Practitioners should also be alert to the fact that some children have been found in the company of persons who claim to be parents or other relatives, but something about the relationship has aroused concern or suspicion on the part of authorities such as UKBA or the PSNI during their entry to the UK. The same concerns may arise for practitioners encountering situations where the relationship between the child and adult gives rise to some doubt that the adult may not be the child's parent or a close relative, or indeed may be a relative but may clearly be unsuitable adult. Such situations must be reported immediately to the Trust's Gateway team for investigation.

DUTIES OF TRUSTS IN PRIVATE FOSTERING ARRANGEMENTS

9. Full details of Trusts' responsibilities in respect of privately fostered children are set out in the Children Order (Part X) and the Regulations. Chapters 13 to 20 of the Children Order Guidance, Volume 3 also provide helpful advice to Trusts in discharging their duties to privately fostered children. The legislation requires the Trust to satisfy itself in relation to the arrangements made and the suitability of the private foster carer. Whilst the Trust does not approve or register private foster carers, it has to strike a balance between the right of the parent (or other persons with parental responsibility) to make such arrangements and the discharge of its statutory duties towards privately fostered children. The Trust's duties include:
 - inspecting the premises where a privately fostered child is being, or is proposed to be, accommodated to satisfy itself about the suitability of the accommodation (Article 108(3) of the Children Order). Paragraph 14.15 of the Children Order Guidance, volume 3 outlines the factors which an HSS Trust should take into account when considering the suitability of premises;
 - satisfying itself that the private foster carers are suitable to privately foster a child (Article 108 of the Children Order). In reaching this decision Trusts must take account of the matters referred to in

Regulation 2 (2). The Trust should also have regard to the Disqualification for Caring for Children Regulations (Northern Ireland) 1996;

- imposing requirements on the person who is or intends to privately foster a child (Article 111 of the Children (Northern Ireland) Order 1995). Para 13.12 of the Children Order Guidance, volume 3 details issues which HSS Trusts may impose as requirements;
- prohibiting the arrangement if a person is deemed not suitable to privately foster a child, or if it would be prejudicial to the welfare of a child if he/she continued to be privately fostered by the person in the premises concerned (Article 110 (1)-(3) of the Children Order.
- informing parents where a Trust is not satisfied about the welfare of a privately fostered child. Recourse to the child protection procedures or to exercising any other of its powers may be required in some situations to ensure that the welfare of the privately fostered child is safeguarded and promoted;
- ensuring that private foster carers are given advice where this appears to be needed (Article 108(1) of the Children Order); and
- visiting the child to ensure that the arrangements continue to safeguard and promote the child's welfare, in the first year of the arrangement, within 1 week of its beginning and then at intervals of not more than 6 weeks. In the second and subsequent years at intervals of not more than 3 months where the Trust considers the placement to be satisfactory (Regulation 3).

10. In summary, the role of the Trust is to ensure that the welfare of the child is safeguarded and promoted through supervising, regulating and advising in respect of the placement. A Trust can impose requirements that may be appealed against (Article 113 of the Children Order). It has, however, no power of removal except under an emergency protection order (Para 20.5 Children Order Guidance, volume 3). If, however, a Trust considers that a placement is unsuitable and the child cannot be returned to his/her parents then it must decide on appropriate action to safeguard the child's welfare. This may include providing support to the carer (including in exceptional circumstances, cash), it could also, in some situations, require taking the child into care. Where necessary, private foster carers should also be facilitated to access appropriate means of support and the Trust should provide information about local fostering supports and other networks.

11. In the case of children from overseas, the child's passport and where appropriate, the child's visa outlining the conditions of his/her stay in the UK should be checked by the Trust.

RESPONSIBILITIES OF PARENTS, THOSE WITH PARENTAL RIGHTS OR OTHER PERSONS INVOLVED IN MAKING A PRIVATE FOSTERING ARRANGEMENT

12. A parent (or another person with parental responsibility for a child) may, under Article 5(8) of the Children Order, arrange for some or all of his parental responsibilities to be met by a person acting on his behalf. Such an arrangement does not affect any liability of the parent which may arise from any failure to meet any part of his or her parental responsibility for the child (Article 5 (10)). How parental responsibilities are to be met and exercised is a matter for agreement by the parent with the person discharging duties on his/her behalf – in this case, the private foster carer.
13. Any person involved either directly or indirectly in a private fostering arrangement has a legal responsibility under regulation 6 to notify the relevant Trust of the arrangement not less than 6 weeks and not more than 13 weeks before the private fostering begins, unless he receives the child in an emergency, in which case the Trust should be notified not more than 48 hours after the placement began. Regulation 4 (3) sets out the information to be supplied in such notifications.
14. It is most important for the child's well-being that the parents, or those arranging a private fostering placement provide the private foster carer with as much information about the child as possible before a placement. Information provided should include health details, diet preferences, school records, hobbies and interests, religion, ethnicity etc. The ending of the private fostering arrangement must also be notified to the Trust by the parent (Regulation 6 (4)).

RESPONSIBILITIES OF PRIVATE FOSTER CARERS

15. A private foster carer is empowered to do what is reasonable in the circumstances to safeguard and promote the welfare of the child (Article 6(5) of the Children (Northern Ireland) Order 1995). In relation to all children who are privately fostered, Regulation 4, places a duty upon prospective and actual private foster parents to notify the Trust not less than 6 and not more than 13 weeks before the fostering arrangement begins. Where this is not possible, notification should be made within 48 hours of the child's placement. The details to be contained in the notification are set out in regulation 4 (4) , which requires the prospective private foster carer to include:
 - any offence of which he has been convicted;
 - any disqualification or prohibition from private fostering already placed on him under the Children Order (Articles 109 and 110), section 1 of the Children and Young Person's Act (NI) 1968 or section 2 of the Children and Young Person's Act (NI) 1950;

- any such conviction, disqualification or prohibition imposed on a person living in or employed at the same household.

16. If the private foster carer changes address or there are changes in the conviction, disqualification or prohibition status of the carer or any member of his household, these must also be notified. When the child leaves the care of the private foster parent, the Trust should be informed in writing of the reason and name and address of the person into whose care the child has been placed (Regulation 4 (5)(6) and Regulation 5).

SOURCES OF INFORMATION AND ADVICE

17. The following is a list of sources of additional information:

- The Children (Northern Ireland) Order 1995;
- The Children (Private Arrangements for Fostering) Regulations (Northern Ireland) 1996
- The Foster Placement (Children) Regulations (Northern Ireland) 1996
- The Disqualification for Caring for Children Regulations (Northern Ireland) 1996
- The Children (Northern Ireland) Order Guidance & Regulations Volume 3 "*Family Placements and Private Fostering*".
- The Safeguarding Vulnerable Groups (Northern Ireland) Order 2007

INQUIRIES

18. Inquiries, or requests for clarification, regarding any areas touched upon in this circular should be referred to:

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Further copies of this circular may be obtained on the DHSSPSNI website

THE CHILDREN (NORTHERN IRELAND) ORDER 1995

PART X: PRIVATE ARRANGEMENTS FOR FOSTERING CHILDREN

Interpretation

106.—(1) In this Order—

“foster a child privately” means look after the child in circumstances in which he is a privately fostered child;

“privately fostered child” means a child who is cared for, and provided with accommodation [F1 in their own home] by, someone other than—

- (a) a parent of his;
- (b) a person who is not a parent of his but who has parental responsibility for him; or
- (c) a relative of his.

(2) Paragraph (1) is subject to—

- (a) the provisions of Articles 90 [F1 and 91] (children's homes); and
- (b) the exceptions made by Article 107 (privately fostered children further defined).

(3) In this Part “child” means a person who is under the age of 16 or, if he is disabled, under the age of 18.

The Department may by regulations make provision as to the circumstances in which a person who provides accommodation to a child is, or is not, to be treated as providing him with accommodation in the person's own home.]

F1 2003 NI 9

Privately fostered children further defined

107.—(1) A child is not a privately fostered child if the person caring for and accommodating him—

- (a) has done so for a period of less than 28 days; and
- (b) does not intend to do so for any longer period.

(2) A child is not a privately fostered child while he is being looked after by an authority.

(3) A child is not a privately fostered child while he is in the care of any person—

- (a) in premises in which any—
 - (i) parent of his;
 - (ii) person who is not a parent of his but who has parental responsibility for him; or
 - (iii) person who is a relative of his and who has assumed responsibility for his care,is for the time being living;

Sub- para.(b) rep. by 2003 NI 9

- (c) in accommodation provided by or on behalf of any voluntary organisation;
 - (d) in any school in which he is receiving full-time education;
 - (e) in any residential care home;
 - (f) in any hospital (including a private hospital) or nursing home; or
 - (g) in any home or institution not specified in **F2** sub-paragraphs (c) to (f) but provided by the Secretary of State, a government department or a prescribed public body,
- but **F2** sub-paragraphs (c) to (g) do not apply where the person caring for the child is doing so in his personal capacity and not in the course of carrying out his duties in relation to the establishment mentioned in the sub-paragraph in question.

(4) A child is not a privately fostered child while he is living with any person in compliance with a probation order which includes a residence requirement.

(5) A child is not a privately fostered child while **F3** he is living with any person in compliance with a juvenile justice centre order.]

(6) A child is not a privately fostered child while he is liable to be detained, or subject to guardianship, under the Mental Health (Northern Ireland) Order 1986 **F4**.

(7) A child is not a privately fostered child while—

(a) he is placed in the care of a person who proposes to adopt him under arrangements made by an adoption agency within the meaning of—

- (i) Article 3 of the Adoption Order; or
- (ii) section 1 of the Adoption Act 1976 **F5**; or
- (iii) section 1 of the Adoption (Scotland) Act 1978 **F6**;

(b) he is a protected child.

F22003 NI 9 **F3**1998 NI 9 **F4**1986 NI 4 **F5**1976 c. 36 **F6**1978 c. 28

Welfare of privately fostered children

108.—(1) Every authority shall—

- (a) satisfy itself that the welfare of children who are privately fostered within the authority's area is being satisfactorily safeguarded and promoted; and
- (b) secure that such advice is given to those caring for them as appears to the authority to be needed.

(2) The Department may make regulations—

(a) requiring every child who is privately fostered within an authority's area to be visited by an officer of the authority—

(i) in prescribed circumstances; and

(ii) on specified occasions or within specified periods; and

(b) imposing requirements which are to be met by any authority, or officer of an authority, in carrying out functions under this Article.

(3) Where any person who is authorised by an authority to visit privately fostered children has reasonable cause to believe that—

(a) any privately fostered child is being accommodated in premises within the authority's area; or

(b) it is proposed to accommodate any such child in any such premises,

he may at any reasonable time inspect those premises and any children there.

(4) Any person exercising the power under paragraph (3) shall, if so required, produce some duly authenticated document showing his authority to do so.

(5) If an authority is not satisfied that the welfare of any child who is privately fostered within the authority's area is being satisfactorily safeguarded or promoted the authority shall—

(a) unless it considers that it would not be in the best interests of the child, take such steps as are reasonably practicable to secure that the care and accommodation of the child is undertaken by—

(i) a parent of his;

(ii) any person who is not a parent of his but who has parental responsibility for him; or

(iii) a relative of his; and

(b) consider the extent to which (if at all) it should exercise any of its functions under this Order with respect to the child.

Persons disqualified from being private foster parents

109.—(1) Unless he has disclosed the fact to the appropriate authority and obtained its written consent, a person shall not foster a child privately if he is disqualified from doing so by regulations made by the Department for the purposes of this Article.

(2) The regulations may, in particular, provide for a person to be so disqualified where—

(a) an order of a kind specified in the regulations has been made at any time with respect to him;

(b) an order of a kind so specified has been made at any time with respect to any child who has been in his care;

(c) a requirement of a kind so specified has been imposed at any time with respect to any such child under any statutory provision;

(d) he has been convicted of any offence of a kind so specified, or has been placed on probation or discharged absolutely or conditionally for any such offence;

(e) he has at any time been disqualified from child minding or providing day care for children under the age of twelve;

(f) a prohibition has been imposed on him at any time under Article 110 or under any other specified statutory provision.

(3) Unless he has disclosed the fact to the appropriate authority and obtained its written consent, a person shall not foster a child privately if—

(a) he lives in the same household as a person who is himself prevented from fostering a child by paragraph (1); or

(b) he lives in a household at which any such person is employed.

(4) Where an authority refuses to give its consent under this Article, it shall inform the applicant by a written notice which states—

(a) the reason for the refusal;

(b) the applicant's right under Article 113 to appeal against the refusal; and

(c) the time within which he may do so.

(5) In this Article—

“the appropriate authority” means the authority within whose area it is proposed to foster the child in question;

“statutory provision” includes any statutory provision having effect, at any time, in any part of the United Kingdom.

Power to prohibit private fostering

110.—(1) This Article applies where a person—

(a) proposes to foster a child privately; or

(b) is fostering a child privately.

(2) Where the authority for the area within which the child is proposed to be, or is being, fostered is of the opinion that—

(a) he is not a suitable person to foster a child;

(b) the premises in which the child will be, or is being, accommodated are not suitable; or

(c) it would be prejudicial to the welfare of the child for him to be, or continue to be, accommodated by that person in those premises,

the authority may impose a prohibition on that person.

(3) A prohibition imposed on any person under paragraph (2) may prohibit him from fostering privately—

- (a) any child in any premises within the authority's area;
- (b) any child in premises specified in the prohibition; or
- (c) a child identified in the prohibition, in premises specified in the prohibition.

(4) An authority which has imposed a prohibition on any person under paragraph (2) may, if it thinks fit, cancel the prohibition—

- (a) of its own motion; or
 - (b) on an application made by that person,
- if it is satisfied that the prohibition is no longer justified.

(5) Where an authority imposes a requirement on any person under Article 111, it may also impose a prohibition on him under paragraph (2).

(6) Any prohibition imposed by virtue of paragraph (5) shall not have effect unless—

- (a) the time specified for compliance with the requirement has expired; and
- (b) the requirement has not been complied with.

(7) A prohibition imposed under this Article shall be imposed by notice in writing addressed to the person on whom it is imposed and informing him of—

- (a) the reason for imposing the prohibition;
- (b) his right under Article 113 to appeal against the prohibition; and
- (c) the time within which he may do so.

Power to impose requirements

111.—(1) Where a person is fostering any child privately, or proposes to foster any child privately, the appropriate authority may impose on him requirements as to—

- (a) the number, age and sex of the children who may be privately fostered by him;
- (b) the standard of the accommodation and equipment to be provided for them;
- (c) the arrangements to be made with respect to their health and safety; and
- (d) particular arrangements which must be made with respect to the provision of care for them,

and he shall comply with any such requirement before the end of such period as the authority may specify unless, in the case of a proposal, the proposal is not carried out.

(2) A requirement may be limited to a particular child.

(3) A requirement (other than one imposed under paragraph (1)(a)) may be limited by the authority so as to apply only when the number of children fostered by the person exceeds a specified number.

(4) A requirement shall be imposed by notice in writing addressed to the person on whom it is imposed and informing him of—

- (a) the reason for imposing the requirement;
- (b) his right under Article 113 to appeal against it; and
- (c) the time within which he may do so.

(5) An authority may vary any requirement, impose any additional requirement or remove any requirement.

(6) In this Article—

“the appropriate authority” means—

- (a) the authority within whose area the child is being fostered; or
- (b) in the case of a proposal to foster a child, the authority within whose area it is proposed that he will be fostered; and

“requirement”, in relation to any person, means a requirement imposed on him under this Article.

Regulations requiring notification of fostering, etc.

112.—(1) The Department may by regulations make provision as to—

- (a) the circumstances in which notification is required to be given in connection with children who are, have been or are proposed to be, fostered privately; and
- (b) the manner and form in which such notification is to be given.

(2) The regulations may, in particular—

- (a) require any person who is, or proposes to be, involved (whether or not directly) in arranging for a child to be fostered privately to notify the appropriate authority;
- (b) require any person who is—
 - (i) a parent of a child; or
 - (ii) a person who is not a parent of his but who has parental responsibility for a child, and who knows that it is proposed that the child should be fostered privately, to notify the appropriate authority;
- (c) require any parent of a privately fostered child, or person who is not a parent of such a child but who has parental responsibility for him, to notify the appropriate authority of any change in that parent's, or that person's, address;
- (d) require any person who proposes to foster a child privately, to notify the appropriate authority of his proposal;

(e) require any person who is fostering a child privately, or proposes to do so, to notify the appropriate authority of—

- (i) any offence of which he has been convicted;
- (ii) any disqualification imposed on him under Article 109; or
- (iii) any prohibition imposed on him under Article 110;

(f) require any person who is fostering a child privately, to notify the appropriate authority of any change in that person's address;

(g) require any person who is fostering a child privately to notify the appropriate authority in writing of any person who begins, or ceases, to be part of his household;

(h) require any person who has been fostering a child privately, but has ceased to do so, to notify the appropriate authority (indicating, where the child has died, that that is the reason).

(3) In paragraph (2) "the appropriate authority" has the same meaning as in Article 111.

Appeals

113.—(1) A person aggrieved by—

- (a) a requirement imposed under Article 111;
 - (b) a refusal to consent under Article 109;
 - (c) a prohibition imposed under Article 110;
 - (d) a refusal to cancel such a prohibition;
 - (e) a refusal to make an exemption under paragraph 4 of Schedule 5;
 - (f) a condition imposed in such an exemption; or
 - (g) a variation or cancellation of such an exemption or condition,
- may appeal to the court.

(2) The appeal must be made within 14 days from the date on which the person appealing is notified of the requirement, refusal, prohibition, condition, variation or cancellation.

(3) Where the appeal is against—

- (a) a requirement imposed under Article 111;
- (b) a condition of an exemption imposed under paragraph 4 of Schedule 5; or
- (c) a variation or cancellation of such an exemption or condition,

the requirement, condition, variation or cancellation shall not have effect while the appeal is pending.

(4) Where it allows an appeal against a requirement or prohibition, the court may, instead of cancelling the requirement or prohibition—

(a) vary the requirement, or allow more time for compliance with it; or

(b) if an absolute prohibition has been imposed, substitute for it a prohibition on using the premises after such time as the court may specify unless such specified requirements as the authority had power to impose under Article 111 are complied with.

(5) Any requirement or prohibition specified or substituted by a court under this Article shall be deemed for the purposes of this Part (other than this Article) to have been imposed by the authority under Article 111 or (as the case may be) Article 110.

(6) Where it allows an appeal against a refusal to make an exemption, a condition imposed in such an exemption or a variation or cancellation of such an exemption or condition, the court may—

(a) make an exemption;

(b) impose a condition; or

(c) vary the exemption or condition.

(7) Any exemption made or varied under paragraph (6), or any condition imposed or varied under that paragraph, shall be deemed for the purposes of Schedule 5 (but not for the purposes of this Article) to have been made, varied or imposed under that Schedule.

(8) Nothing in paragraph (1)(e) to (g) confers any right of appeal on—

(a) a person who is, or would be if exempted under Schedule 5, an authority foster parent; or

(b) a person who is, or would be if so exempted, a person with whom a child is placed by a voluntary organisation.

Application of this Part to certain school children during holidays

114.—(1) Where a child who is a pupil at a school lives at the school during school holidays for a period of more than two weeks, this Part shall apply in relation to the child as if—

(a) while living at the school, he were a privately fostered child; and

(b) Articles 107(3)(d) and 111 were omitted.

(2) Paragraph (3) applies to any person who proposes to care for and accommodate one or more children at a school in circumstances in which some or all of them will be treated as privately fostered children by virtue of this Article.

(3) That person shall, not less than two weeks before the first of those children is treated as a privately fostered child by virtue of this Article during the holiday in question, give written notice of his proposal to the authority within whose area the child is ordinarily resident (“the appropriate authority”), stating the estimated number of the children.

(4) An authority may exempt any person from the duty of giving notice under paragraph (3).

(5) Any such exemption may be granted for a special period or indefinitely and may be revoked at any time by notice in writing given to the person exempted.

(6) Where a child who is treated as a privately fostered child by virtue of this Article dies, the person caring for him at the school shall, not later than 48 hours after the death, give written notice of it—

(a) to the appropriate authority; and

(b) where reasonably practicable, to each parent of the child and to every person who is not a parent of his but who has parental responsibility for him.

(7) Where a child who is treated as a privately fostered child by virtue of this Article ceases for any other reason to be such a child, the person caring for him at the school shall give written notice of the fact to the appropriate authority.

Advertisements relating to fostering

115. No advertisement indicating that a person will undertake, or will arrange for, a child to be privately fostered shall be published, unless it states that person's name and address.

Avoidance of insurances on lives of privately fostered children

116. A person who fosters a child privately and for reward shall be deemed for the purposes of the Life Assurance Act 1774^{F7} as extended by the Life Insurance (Ireland) Act 1866^{F8} to have no interest in the life of the child.

[F71774 c. 48](#) [F81866 c. 42](#)

Offences

117.—(1) A person shall be guilty of an offence if—

(a) being required, under any provision made by or under this Part, to give any notice or information—

(i) he fails without reasonable excuse to give the notice within the time specified in that provision; or

(ii) he fails without reasonable excuse to give the information within a reasonable time; or

(iii) he makes, or causes or procures another person to make, any statement in the notice or information which he knows to be false or misleading in a material particular;

(b) he refuses to allow a privately fostered child to be visited by a duly authorised officer of an authority;

(c) he intentionally obstructs another in the exercise of the power conferred by Article 108(3);

(d) he contravenes Article 109;

(e) he fails without reasonable excuse to comply with any requirement imposed by an authority under this Part;

(f) he accommodates a privately fostered child in any premises in contravention of a prohibition imposed by an authority under this Part;

(g) he knowingly causes to be published, or publishes, an advertisement which he knows contravenes Article 115.

(2) Where a person contravenes Article 109(3), he shall not be guilty of an offence under this Article if he proves that he did not know, and had no reasonable ground for believing, that any person to whom Article 109(1) applied was living or employed in the premises in question.

(3) A person guilty of an offence under paragraph (1)(a) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) A person guilty of an offence under paragraph (1)(b), (c) or (g) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) A person guilty of an offence under paragraph (1)(d) or (f) shall be liable on summary conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the standard scale, or to both.

(6) A person guilty of an offence under paragraph (1)(e) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(7) If any person who is required, under any provision of this Part, to give a notice fails to give the notice within the time specified in that provision, proceedings for the offence may be brought at any time within six months from the date when evidence of the offence came to the knowledge of the authority.

(8) Paragraph (7) is not affected by anything in Article 19(1)(a) of the Magistrates' Courts (Northern Ireland) Order 1981F9.

[F9](#)1981 NI 26

STATUTORY RULES OF NORTHERN IRELAND

1996 No. 452

CHILDREN

The Children (Private Arrangements for Fostering) Regulations (Northern Ireland) 1996

Made

25th September 1996

Coming into operation

4th November 1996

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 108(2) and 112(1) and (2) of the Children (Northern Ireland) Order 1995(1) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Children (Private Arrangements for Fostering) Regulations (Northern Ireland) 1996 and shall come into operation on 4th November 1996.

(2) In these Regulations—

“the Order” means the Children (Northern Ireland) Order 1995;

“address” includes a temporary address; and

“appropriate authority” has the meaning assigned to it by Article 111(6) of the Order.

General welfare of children

2.—(1) In carrying out functions under Article 108 of the Order, as to the welfare of children who are privately fostered within its area, an authority (including any officer of the authority making a visit under regulation 3) shall satisfy itself as to such of the matters specified in paragraph (2) as are relevant in the particular circumstances.

(2) The matters referred to in paragraph (1) are—

(a) the purpose and intended duration of the fostering arrangement;

(b) the child’s physical, intellectual, emotional, social and behavioural development;

(c) whether the child’s needs arising from his religious persuasion, racial origin and cultural and linguistic background are being met;

(d) the financial arrangements for the care and maintenance of the child;

(e) the suitability of the accommodation;

(f) the arrangements for the child’s medical and dental care and treatment and, in particular, that the child is included on the list of a general medical practitioner who provides general medical services under Part VI of the Health and Personal Social Services (Northern Ireland) Order 1972(2);

(g) the arrangements for the child’s education and, in particular, that the education and library board within whose area the foster parent lives has been informed of the fostering arrangement;

(h) the standard of care which the child is being given;

(i) the suitability of the foster parent to look after the child and the suitability of the foster parent’s household;

(j) whether the foster parent is being given any necessary advice;

(k) whether the contact between the child and his parents, or any other person with whom contact has been arranged, is satisfactory;

(l) whether the child's parents, or any other person, are exercising parental responsibility for the child;
and

(m) the ascertainable wishes and feelings of the child regarding the fostering arrangements.

Visits to children

3.—(1) An authority shall make arrangements for each child who is privately fostered within its area to be visited by an officer of the authority as the authority considers necessary in order to safeguard and promote the welfare of the child and when reasonably requested by the child or foster parent and in particular—

(a) in the first year of the fostering arrangement, within one week from its beginning and then at intervals of not more than 6 weeks;

(b) in any second or subsequent year, at intervals of not more than 3 months where the authority considers the placement to be satisfactory.

(2) For the purposes of making visits under this regulation the officer shall, if he considers it appropriate, arrange to see the child alone.

(3) The officer shall make a written report to the authority after each visit.

Notifications by prospective and actual foster parents

4.—(1) Any person who proposes to foster privately a child for whom he is not already caring and providing accommodation shall notify the appropriate authority not less than 6, nor more than 13, weeks before he receives the child, unless he receives him in an emergency.

(2) A person who is privately fostering a child—

(a) whom he received in an emergency; or

(b) for whom he was already caring and providing accommodation when he became a foster child,

shall notify the appropriate authority not more than 48 hours after the fostering arrangement began.

(3) A notice under paragraph (1) or (2) shall specify—

(a) the name, sex, date and place of birth, religious persuasion, racial origin and cultural and linguistic background of the child;

(b) the name and address of the person giving the notice and any previous address within the last 5 years;

(c) the purpose and intended duration of the fostering arrangement;

(d) the name and address of any parent 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 was, or is to be, received;

(e) the name and address of any person, other than a person specified in sub-paragraph (d), who is involved directly or indirectly in making the fostering arrangement; and

(f) the intended date of the beginning of the fostering arrangement or, as the case may be, the date on which the arrangement actually began.

(4) A person giving notice under paragraph (1) or (2) shall include in the notice particulars of—

(a) any offence of which he has been convicted;

(b) any disqualification or prohibition imposed on him under (as the case may be) Article 109 or 110 of the Order or any refusal of consent under section 1 of the Children and Young Persons Act (Northern Ireland) 1968(3) or section 2 of the Children and Young Persons Act (Northern Ireland) 1950(4); and

(c) any such conviction, disqualification or prohibition imposed on any other person living in, or employed at, the same household.

(5) Any person who is fostering a child privately shall notify the appropriate authority of—

(a) any change in his address;

(b) any person who begins, or ceases, to be part of his household; and

(c) any further conviction, disqualification or prohibition as mentioned in sub-paragraphs (a) to (c) of paragraph (4).

(6) A notice under paragraph (5) shall be given—

(a) in advance if practicable; and

(b) in any other case, not more than 48 hours after the change of circumstances,

and if the new address is in the area of another authority, the authority to whom the notice is given shall inform the other authority of the new address and of the particulars given to it under sub-paragraphs (a) and (d) of paragraph (3).

(7) Paragraphs (4)(a) and (c) and (5)(c) are subject to the Rehabilitation of Offenders (Northern Ireland) Order 1978(5).

Notifications by former foster parents

5.—(1) Subject to paragraphs (2) and (3), any person who has been fostering a child privately, but has ceased to do so, shall notify the appropriate authority within 48 hours and shall include in the notice the name and address of the person into whose care the child was received.

(2) Where the reason for the ending of the fostering arrangement is the death of the child, the foster parent shall notify forthwith the appropriate authority and also the person from whom the foster parent received the child.

(3) Paragraph (1) shall not apply where the foster parent intends to resume the fostering arrangement after an interval of not more than 27 days, but if—

(a) he subsequently abandons his intention; or

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

he shall thereupon give notice to the appropriate authority within 48 hours of abandoning his intention or, as the case may be, the expiry of the interval.

Other notifications

6.—(1) Any person who is, or proposes to be, involved (whether or not directly) in arranging for a child to be fostered privately shall notify the appropriate authority not less than 6, nor more than 13, weeks before the fostering arrangement begins unless the fostering arrangement is made in an emergency in which case the notification shall be not more than 48 hours after the fostering arrangement began.

(2) A parent of a child, and any other person who has parental responsibility for the child, who knows that it is proposed that the child should be fostered privately shall notify the appropriate authority not less than 6, nor more than 13, weeks before the fostering arrangement begins unless the fostering arrangement is made in an emergency in which case the notification shall be not more than 48 hours thereafter.

(3) Any notice under paragraph (1) or (2) shall specify—

(a) the information mentioned in sub-paragraphs (a) to (c) of regulation 4(3);

(b) the arrangements for the care of any brother or sister of the child who is not included in the fostering arrangement;

(c) the name and address of any other person involved (whether or not directly) in the fostering arrangement;

(d) where the notice is given under paragraph (1), the relationship to the child of the person giving the notice and also the information specified in sub-paragraph (d) of regulation 4(3).

(4) Any parent of a privately fostered child, and any other person who has parental responsibility for the child, shall notify the appropriate authority of—

(a) the ending of the fostering arrangement; and

(b) any change in his own address.

Form of notifications

7. Any notice required under regulations 4 to 6 shall be given in writing and may be sent by ordinary post.

Sealed with the Official Seal of the Department of Health and Social Services on 25th September 1996.

L.S.

P. A. Conliffe
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations provide for the arrangements for fostering children privately and supplement the provisions contained in Part X of the Children (Northern Ireland) Order 1995 ("the Order").

The Regulations make provision for the matters as to which an authority is required to satisfy itself regarding the welfare of privately fostered children (regulation 2); for the occasions on which an officer of the authority is to visit privately fostered children (regulation 3); as to notifications by prospective and actual foster parents (regulation 4) and by former foster parents (regulation 5); and as to other notifications (regulation 6) and to the form of notifications (regulation 7). Failure to comply with the provisions for notification may be an offence under Article 117(1)(a) of the Order.

Articles 108(2) and 112(1) and (2) of the Order are the enabling provisions under which these Regulations are made. They were brought into operation on 18th July 1996 by virtue of Article 2(1) of, and Schedule 1 to, the Children (1995 Order) (Commencement No. 3) Order (Northern Ireland) 1996 (S.R. [1996 No. 297](#) (C. 17)).

(1) S.I. [1995/755](#) (N.I. 2), (2) S.I. [1972/1265](#) (N.I. 14), (3) [1968 c. 34](#) (N.I.); section 1 is repealed from 4th November 1996 by the Children (Northern Ireland) Order 1995, (4) [1950 c. 5](#) (N.I.); section 2 was repealed by the Children and Young Persons Act (Northern Ireland) 1968 (5) S.I. [1978/1908](#) (N.I. 27)