L.N. 102 of 2005

CHILDREN AND YOUNG PERSONS (CARE ORDERS) ACT (CAP. 285)

Children and Young Persons (Care Orders) (Amendment) Regulations, 2005

IN exercise of the powers conferred by article 13 of the Children and Young Persons (Care Orders) Act, the Minister for the Family and Social Solidarity has made the following regulations:-

Title.

1. The title of these regulations is the Children and Young Persons (Care Orders) (Amendment) Regulations, 2005 and they shall be read and construed as one with the Children and Young Persons (Care Orders) Regulations, 1985, hereinafter referred to as "the principal regulations".

L.N. 49 of 1985.

Amends regulation 2 of the principal regulations.

2. Regulation 2 of the principal regulations shall be amended as follows:-

(a) immediately after the definition "Act", which shall be amended to read "the Act", there shall be added the following new definitions:-

" "the Agency" means the Government Agency approved and designated by the Minister;

"the Board" means the Children and Young Persons Advisory Board;";

(b) immediately after the definition "care order", there shall be added the following new definitions:-

" "care plan" means a plan drawn up by the key social worker in collaboration with others involved in the case in the best interests of the child or young person;

"case review" means the meeting whereby the key social worker and others involved in the case, review the developments and significant changes in connection with the child or young person;

"child protection case conference" means a conference held among those involved in the case following the issue of an interim care order for the purpose of establishing a care

plan to protect a child or young person, including the issue of a care order or otherwise;";

(c) for the definition "Director", there shall be substituted the following:-

" "the Director" means the director responsible of the department for social welfare or any person so delegated by him for the purpose;";

(d) immediately after the definition "the Director", there shall be added the following new definition:-

" "fit person" means a person verified as such by the Agency;";

(e) in the definition "gainfully occupied", for the words "in terms of regulation 8 (4) are derived." there shall be substituted the words "in terms of regulation 12 (4) are derived;";

(f) immediately after the definition "gainfully occupied", there shall be added the following new definitions:-

" "interim order" means an order made under the Act, and in the form set out in Part II of the Schedule to these regulations;

"key social worker" means the worker appointed by the Agency to draw up, co-ordinate and follow up progress of a care plan;

"the Minister" means the Minister responsible for social policy.".

Renumbers regulations 3 to 8 of the principal regulations.

3. Regulations 3, 4, 5, 6, 7 and 8 of the principal regulations shall be renumbered as regulations 4, 5, 9, 10, 11 and 12 thereof respectively.

Adds new regulation 3 to the principal regulations.

4. Immediately after regulation 2 of the principal regulations, there shall be added the following new regulation:-

"Representative to hear parents and guardian.

3. "For the purposes of article 4 (1) of the Act, the Minister may delegate a representative to hear the parents and the guardian, if any, of the child or young person, or the same child or young person or any other person the Minister deems likely to assist the child or young person.".

Amends regulation 5 as renumbered of the principal regulations.

5. In sub-regulation (2) of regulation 5 as renumbered of the principal regulations, for the words "referred to in regulation 3." there shall be substituted the words "referred to in regulation 4:" and immediately thereafter there shall be added the following proviso:-

"Provided that prior to the sitting, the Registrar of the Court shall notify the parties of the date, hour and location of the hearing.".

Adds new regulations 6, 7 and 8 to the principal regulations.

6. Immediately after regulation 5 as renumbered of the principal regulations, there shall be added the following new regulations 6, 7 and 8: -

"Right to representation by an advocate.

6. In all cases a child or young person who is under the care of the Minister shall have the right to be represented by an advocate appointed by the Minister for the purpose of examining or cross examining witnesses, producing evidence and making any other submissions as deemed necessary.

Duties of key social worker.

7. Following the issue of a care order in respect of a child or young person, a key social worker shall be appointed to follow the development and well-being of such child or young person and for such purpose such key social worker shall *inter alia*:-

(a) visit the child or young person at regular intervals;

(b) monitor the child or young person's placement and assess his well-being;

(c) ensure that the child or young person's educational and medical needs are taken care of;

(d) ensure the provision of such other requirement which the child or young person may need;

(e) hold a case review every six months or during any such other lesser period as may be required for the purpose of hearing the professionals involved, the child or young person, the parents and the foster carers, if any, of the child or young person, the carers of the residential homes in which such child or young person may be residing, and any other significant person as determined by the key social worker following consultation with the professionals involved;

(f) establish a care plan for the child or young person giving details of the tasks to be accomplished, the services to be provided to the child or young person and the intended outcome of such care plan;

(g) ensure the provision of support and counselling to the child or young person, where and when necessary;

(h) act on reported episodes of alleged abuse, if any, of the child or young person;

(i) establish the possibility or otherwise of re-integrating the child or young person with the natural family or of placing the child or young person with a foster family;

(j) send a copy of the reports of the case review to the Board;

(k) prepare a report for the Board, establishing a care plan for the child or young person and the significant recommendations necessary in the best interests of the child or young person;

(l) inform the Board of any serious incident relating to the well being of the child or young person;

(m) appear at Board hearings to provide any additional information, as may be necessary, for the Board to reach its recommendations.

Receipt of report by the Board.

8. For the purpose of making the recommendations established in article 11(3) of the Act, the Board shall receive the report mentioned in regulation 6 from the key social worker of the child or young person establishing a care plan for the child or young person. The Board shall, in all cases when making recommendations to the Minister, attach the aforementioned report.".

Amends regulation 9 as renumbered of the principal regulations.

7. Regulation 9 as renumbered of the principal regulations shall be amended as follows:-

(a) in sub-regulation (4) for the words "in the care of the Minister." there shall be substituted the words "in the care of the

Minister:" and immediately thereafter there shall be added the following proviso:-

"Provided that in the event that the Board does not approve the proposed care plan, it shall send a copy to the Agency of its views that led to the recommendation sent in writing to the Minister.";

(b) sub-regulation (5) thereof shall be deleted; and

(c) sub-regulation (6) thereof shall be renumbered as sub-regulation (5).

Amends regulation 11 as renumbered of the principal regulations.

8. For regulation 11 as renumbered of the principal regulations, there shall be substituted the following:-

"11. (1) The Director shall:

(a) have the duty to inspect any premises in which a child or young person is accommodated or boarded out to ensure that the provisions of regulation 10 of the principal regulations are being complied with;

(b) have the right to visit and interview children or young persons at the place where they are accommodated.

(2) Without prejudice to sub-regulation (1) hereof, the Head of Agency or his representative shall:-

(a) visit and interview children or young persons at the place where they are accommodated or boarded out;

(b) make arrangements as he may deem fit in the interests of the child or young person for such child or young person to visit or to be visited by his guardians, parents or other relatives at regular intervals;

(c) maintain regular contact with the families, relatives, guardians or interested persons of such child or young person and make referral for suitable support services;

(d) monitor the child or young person's educational progress, and follow up the child or young person's development and well-being;

(e) make arrangements for the provision of the necessary support and therapeutic intervention to the child or young person, when so required;

(f) re-integrate the child or young person with the natural family, where such re-integration is in the best interest of such child or young person;

(g) promote contact with the natural family if re-integration is not possible or otherwise not beneficial to the child or young person, if such contact is beneficial to the child or young person;

(h) take all necessary measures to find a stable placement for the child or young person, preferably in a family environment;

(i) review the placement arrangements of a child or young person."

Amends regulation 12 as renumbered of the principal regulations.

9. For regulation 11 as renumbered of the principal regulations, there shall be substituted the following:-

"12. (1) For the purpose of boarding out with a fit person a child or young person in accordance with the provisions of article 10 (1) (b) of the Act, the Head of Agency shall keep a register of fit persons and shall be empowered to include therein or delete therefrom such names as in his opinion should be so included or deleted.

(2) The Head of Agency shall pay, in respect of every child or young person boarded out in accordance with article 10 (1) (b) of the Act, such remuneration as may from time to time be determined by the Minister in agreement with the fit person or the management of the institution concerned:

Provided that -

(i) no remuneration shall be payable by the Head of Agency in respect of any child or young person who is gainfully occupied, in which case such child or young person shall be liable to contribute to the person or institution with whom or with which he is boarded out, a sum not exceeding the remuneraton otherwise payable by the Head of Agency in terms of this regulation;

L.N. 14 of 1987.

(ii) notwithstanding the provisions of regulation 13 of the Children's Allowances Regulations, 1987, no allowance under those regulations shall be payable in respect of a child or young person in respect of whom remuneration is payable by the Head of Agency under this regulation.

(3) In addition to the duties and responsibilities contained in regulation 10 hereof, any fit person and any private institution with whom or with which a child or young person is boarded out, is to report all incidents, accidents, abscondments, incidents of truancy, injury, sickness or death immediately as they occur to the Head of Agency or the key social worker which he may delegate in his stead.

(4) A fit person or a private institution with whom or with which a child or young person is boarded out shall enter into a formal agreement with the Head of Agency indicating the rights and responsibilities of the fit person or private institution, as the case may be, including any condition which the Head of Agency may consider necessary at the time of the signing of such agreement.".

Amends the Schedule to the principal regulations.

10. The Schedule to the principal regulations shall be amended as follows:-

(a) in Part I thereof, for the words "Director of Social Services" there shall be substituted the words "Director responsible for social welfare" and for the words "Minister of Labour and Social Services" there shall be substituted the words "Minister responsible for social policy"; and

(b) in Part II thereof, for the words "Minister of Labour and Social Services" there shall be substituted the words "Minister responsible for social policy".

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