L.N. 49 of 1985

CHILDREN AND YOUNG PERSONS (CARE ORDERS) ACT, 1980 (ACT NO. XVIII OF 1980)

Children and Young Persons (Care Orders) Regulations, 1985

IN exercise of the powers conferred by section 13 of the Children and Young Persons (Care Orders) Act, 1980, the Minister of Labour and Social Services has made the following regulations:–

Citation.

1. These regulations may be cited as the Children and Young Persons (Care Orders) Regulations, 1985.

Interpretation.

2. In these regulations—

"Act" means the Children and Young Persons (Care Orders) Act, 1980;

"Care Order" means a Care Order made under the Act, and in the form set out in the Schedule to these regulations;

"Director" means the Director of Social Services;

"gainfully occupied" means engaged in any form of activity from which earnings exceeding the remuneration payable in respect of the child or young person in terms of paragraph (4) of regulation 8 of these regulations are derived.

Procedure for referring cases to Juvenile Court.

3. (1) When the Director becomes aware of any objection by the person exercising parental authority over, or the guardian of, a child or young person, to a Care Order made by the Minister under subsection (1) of section 4 of the Act, he shall, as soon as may be but in any case not later than seven days from the date on which he shall have become aware as aforesaid, refer the case to the Juvenile Court by means of a written communication addressed to the Registrar of that Court.

(2) The communication referred to in the foregoing paragraph of this regulation shall be accompanied by—

(a) a copy of the relevant Care Order signed by the Minister;

(b) if the objection was made in writing, a copy of the said objection; if the objection was made orally, a written statement containing the substance of such oral objection;

(c) a copy of the written representations made by the Director to the Minister under subsection (1) of section 4 of the Act;

(d) a written statement indicating the persons, including the parents and the guardian, if any, heard by the Minister or given an opportunity to express their views in terms of subsection (1) of section 4 of the Act and before the Care Order was made; and

(e) a list of persons (with their addresses) who in the opinion of the Director could be of assistance to the Juvenile Court in reviewing the case.

Manner and time within which the Juvenile Court is to review a case.

Act No. XXIV of 1980

4. (1) Save as hereinafter provided, the manner and the time within which the Juvenile Court shall review a case as provided in subsection (4) of section 4 of the Act shall be in accordance with the provisions of the Juvenile Court Act, 1980.

(2) The Juvenile Court shall hold a sitting to review a case as soon as may be, but in any case not later than seven days from the date on which the Registrar of that Court shall have received from the Director the written communication referred to in the foregoing regulation.

(3) The Juvenile Court shall deal with the case as expeditiously as possible, and shall in any case reach its decision not later than twenty-one days from the date of the first sitting referred to in the foregoing paragraph of this regulation.

Cap. 15

(4) Saving the provisions of subsections (2), (3) and (4) of section 77 of the Code of Organisation and Civil Procedure, it shall be lawful for the Minister and for the person objecting to the Care Order to be represented by an Advocate or a Legal Procurator and such Advocate or Legal Procurator may examine or cross-examine witnesses, produce evidence and make in support of or against the Care Order any other submissions which the Court may consider admissible:

Provided that the Minister shall not be required to be present in person during any sitting of the Juvenile Court, except when his evidence is required.

(5) Proceedings before the Juvenile Court for the review of cases as provided in subsection (4) of section 4 of the Act shall be deemed to be civil proceedings; and the burden of proving that the Care Order should be confirmed shall, in every case, lie with the Minister.

(6) It shall be lawful for the Juvenile Court to require further evidence besides that submitted by the Minister or the person objecting to the Care Order and for such purpose the Juvenile Court may, *ex officio,* summon any person to give evidence and order any document to be produced:

Provided that the Juvenile Court may not require any evidence which would otherwise be inadmissable in a civil court:

Provided further that nothing in this paragraph shall be construed as affecting sections 587, 588, subsection (2) of section 589 and subsection (3) of section 637 of the Code of Organisation and Civil Procedure.

(7) Whenever the child or young person in respect of whom the Care Order has been made is required by the parties or by the Juvenile Court *ex officio* to give evidence, the said Court may, if it is satisfied that in the special circumstances it is appropriate so to do, order the parents and the guardian, including the person making the objection and any other relative of the said child or young person, to withdraw from the court while his evidence is heard:

Provided that if the person so excluded is the person making the objection to the Care Order, the Juvenile Court shall inform him of

the substance of any allegations made against him or against any of his close relatives by the child or young person in the course of his deposition:

Provided further that for the purpose of this paragraph a person who lives or has lived for a period of two weeks or for periods amounting in the aggregate to two weeks with the person making the objection to the Care Order shall, even though not related by blood or marriage, be deemed to be a close relative of that person.

(8) No objection may be raised to the competence of the Juvenile Court to review a case as provided in subsection (4) of section 4 of the Act on the grounds that the child or young person in respect of whom he Care Order was made has, since the date when the said Order was made but before the Juvenile Court has disposed of the case, attained the age of sixteen years.

Procedure of the Children and Young Persons Advisory Board.

5. (1) The Board shall meet as and when necessary but shall meet with urgency at the request of the Minister or of the Director conveyed to it through the Secretary of the Board.

(2) The Chairman and two other members shall constitute a quorum.

(3) Decisions of the Board shall be taken by a simple majority of votes; however, in the case of an equality of votes the Chairman shall have a second or casting vote.

(4) Without prejudice to the provisions of subsection (4) of section 10 and of subsection (3) of section 11 of the Act, the Board shall make recommendations to the Minister with regard to the placement, transfer or discharge of any child or young person in the care of the Minister.

(5) Every recommendation by the Board shall be copied to the Director.

(6) The Board shall, by not later than the fifteenth day of February of each year, submit to the Minister a report of all its activities during the preceding calendar year.

Manner in which homes, hostels and institutions shall be administered.

6. (1) It shall be the duty of any person or persons responsible for the home, hostel or institution with whom or in which a child or young person has been boarded out or accommodated in accordance with the provisions of subsection (1) of section 10 of the Act to ensure that such child or young person is treated and brought up in an environment which is normally to be found in a good Maltese family and which is conducive to psychological security as well as to physical well-being, so as to promote normal and healthy development. In particular, such person or persons shall provide a balanced and nourishing diet and maintain normally acceptable standards of hygiene to the satisfaction of the Director; and shall further ensure that, without prejudice to anything contained in any other law, the child or young person attends regular religious services and receive religious instruction.

(2) The provisions of the foregoing paragraph of this regulation shall, *mutatis mutandis*, apply to the accommodation, maintenance or boarding out of a child or young person under the other provisions of section 10 of the Act.

Rights and duties of the Director.

7. The Director or any Welfare Officer from his Department 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 6 are being complied with;

(b) have the right at all reasonable times to visit and interview children or young persons at the place where they are accommodated or boarded out;

(c) make arrangements as he may deem fit in the interest 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;

(d) give advice throughout the period in which a child or young person is accommodated or boarded out, and maintain regular contact with the families, relatives or guardians of such child or young person.

Fit persons.

8. (1) For the purpose of boarding out with a fit person a child or young person in accordance with the provisions of paragraph (b) of subsection (1) of section 10 of the Act, the Director 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) Except in the case of relatives closely related to the child or young person, such persons shall be married couples with a record of sound matrimonial relations.

(3) Notwithstanding the provisions of this regulation, no child or young person shall be boarded out with a fit person unless the latter would have qualified to adopt the child or young person concerned in terms of the provisions of Title III of Book First of the Civil Code.

Cap. 23

(4) The Director shall pay, in respect of every child or young person boarded out in accordance with paragraph (b) of subsection (1) of section 10 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 Director 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 remuneration otherwise payable by the Director in terms of this paragraph;

(ii) notwithstanding the provisions of regulation 14 of the Children's Allowances Regulations, 1975, no allowance under

L.N. 43 of 1975

those regulations shall be payable in respect of a child or young person in respect of whom remuneration is payable by the Director under this paragraph.

(5) In addition to the duties and responsibilities contained in regulation 6 of these regulations, 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 Director or to a Welfare Officer from his Department.

(6) 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 Director indicating the rights and responsibilities of the fit person or private institution, as the case may be, including any condition which the Director may consider necessary at the time of the signing of such agreement

SCHEDULE

PART I

Ref. No. .....

Children and Young Persons (Care Orders) Act, 1980
CARE ORDER

Sir/Madam,

Pursuant to the powers vested in me by section 4 of the Children and Young Persons (Care Orders) Act, 1980.I hereby order that:

Name .....
son/daughter of .....
born on .....
residing at .....
.....
.....
shall be under my care in accordance with the provisions of the said Act witheffect from the .....

In your capacity as father/mother/guardian of the said .....
if you object to this Care Order you have a right to signify your objection to the Director of Social Services by not later than (21) twenty-one days from the day of the receipt of this order.

.....
Date

.....
Minister of Labour and Social Services

PART II

Ref. No. .....

Children and Young Persons (Care Orders) Act, 1980
INTERIM CARE ORDER

Sir/Madam,

In exercise of the powers conferred by section 5 of the Children and Young Persons (Care Orders) Act, 1980, I hereby order that:

Name .....
son/daughter of .....
born on .....
residing at .....
.....
.....
shall be under my care in accordance with the provisions of the said Act.

This Interim Order shall remain operative for (21) twenty-one days from the date indicated hereunder.

....
Date Minister of Labour and Social Services

Ippubblikat mit-Taqsima tat-Tagħrif - Kastilja — *Published by the Information Division - Kastilja*
Mitbugħ fl-Istamperija tal-Gvern — *Printed at the Government Printing Press*
Prezz 4c — *Price 4c*