

SUBSIDIARY LEGISLATION 285.01**CHILDREN AND YOUNG PERSONS
(CARE ORDERS) REGULATIONS**

29th November, 1985

LEGAL NOTICE 49 of 1985, as amended by Legal Notices 43 of 1999 and 102 of 2005.

1. The title of these regulations is the Children and Young Persons (Care Orders) Regulations. Title.

2. In these regulations -

"the Act" means the Children and Young Persons (Care Orders) Act;
Interpretation.
Amended by:
L.N. 102 of 2005.
Cap. 285.

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

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

"care order" means a care order made under the Act, and in the form set out in the Schedule;

"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;

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

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

"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 regulation 12(4) are derived;

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

"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.

Representative to
hear parents and
guardian.
Added by:
L.N. 102 of 2005.

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.

Procedure for
referring cases to
Juvenile Court.
Amended by:
L.N. 43 of 1999.
Renumbered by:
L.N. 102 of 2005.

4. (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 article 4(1) 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 Courts or to the person performing the functions of registrar as may be assigned for the purpose in accordance with the provisions of article 369 of the Criminal Code.

Cap. 9.

(2) The communication referred to in subregulation (1) 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 article 4(1) 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 article 4(1) 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.
*Renumbered and
amended by:*
L.N. 102 of 2005.
Cap. 287.

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

(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 regulation 4:

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

(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 subregulation (2).

Cap. 12.

(4) Saving the provisions of article 77(2), (3) and (4) 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 article 4(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 inadmissible in a civil court:

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

Cap. 12.

(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 subregulation 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 article 4(4) of the Act on the grounds that the child or young person in respect of whom the 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.

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

Right to representation by an advocate.
Added by:
L.N. 102 of 2005.

submissions as deemed necessary.

Duties of key
social worker.
Added by:
L.N. 102 of 2005.

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 reintegrating 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.
Added by:
L.N. 102 of 2005.

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.

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

Procedure of the Children and Young Persons Advisory Board. Renumbered and amended by: L.N. 102 of 2005.

(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 article 10(4) and of article 11(3) 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:

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.

(5) 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.

10. (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 article 10(1) 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.

Manner in which homes, hostels and institutions shall be administered. Renumbered by: L.N. 102 of 2005.

(2) The provisions of the subregulation (1) shall, *mutatis mutandis*, apply to the accommodation, maintenance or boarding out of a child or young person under the other provisions of article 10 of the Act.

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

Rights and duties of the Director. Renumbered and substituted by: L.N. 102 of 2005.

(2) Without prejudice to subregulation (1), 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 reintegration 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.

Fit persons.
Renumbered and
substituted by:
L.N. 102 of 2005.

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 remuneration otherwise payable by the Head of Agency in terms of this regulation;
- (ii) notwithstanding the provisions of regulation 13 of the Children's Allowances Regulations, 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, 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.

SCHEDULE

*Amended by:
L.N. 102 of 2005.*

PART I

Ref. No.

Children and Young Persons (Care Orders) Act

CARE ORDER

Sir/Madam,

Pursuant to the powers vested in me by article 4 of the Children and Young Persons (Care Orders) Act, 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 with effect 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 responsible for social welfare by not later than (21) twenty-one days from the day of the receipt of this order.

.....

Date

.....

Minister responsible for social policy

PART II

Ref. No.

Children and Young Persons (Care Orders) Act

INTERIM CARE ORDER

Sir/Madam,

In exercise of the powers conferred by article 5 of the Children and Young Persons (Care Orders) Act, 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 responsible for social policy
