

Statutory Document No. 2002/0871

*Children and Young Persons Act 2001*

SECURE ACCOMMODATION REGULATIONS 2002¹

Approved by Tynwald: 22 January 2003
Coming into Operation: 1 February 2003

In exercise of the powers conferred on the Department of Health and Social Security by sections 27(2), (3) and (6), 28, 53(1)(b), (2)(e) and (3) and 104(1) of the Children and Young Persons Act 2001¹, and of all other enabling powers, the following Regulations are hereby made: —

Introductory

1 Citation, commencement and interpretation

- (1) These Regulations may be cited as the Secure Accommodation Regulations 2002 and, subject to section 104(2) of the Act, shall come into operation on the 1st February 2003.
- (2) In these Regulations —
“**the Act**” means the Children and Young Persons Act 2001;
“**independent visitor**”, in relation to a child, means a person appointed to be his visitor under paragraph 3 of Schedule 2 to the Act.

Exclusion and modification of section 27

2 Children to whom section 27 does not apply

Section 27 of the Act shall not apply to —

- (a) a child who is liable to be detained under any provision of the Mental Health Act 1998²;
- (b) a child in respect of whom a sentence or order under section 8(1) of the Custody Act 1995³ (detention during Her Majesty’s pleasure) is in force;

¹ 2001 c.20

² 1998 c.3

³ 1995 c.1

- (c) a child in respect of whom an order under section 41 of the Act (assessment order) is in force and who is kept away from home pursuant to that order.

3 Children to whom section 27 has effect subject to modifications

Subject to regulation 2, section 27 of the Act has effect subject to the following modification in relation to children who are detained under section 41(6) of the Police Powers and Procedures Act 1998⁴ and are being looked after by the Department, namely, in subsection (1), for the words from "unless it appears" onwards there is substituted "unless it appears that any accommodation other than secure accommodation is inappropriate because —

- (a) the child is likely to abscond from such other accommodation, or
- (b) the child is likely to injure himself or other people if he is kept in any such other accommodation."

Prescribed periods

4 Maximum period in secure accommodation without court authority

- (1) Subject to paragraphs (2) and (3), the maximum period beyond which a child may not be kept in secure accommodation without the authority of a juvenile court is an aggregate of 72 hours (whether or not consecutive) in any period of 28 consecutive days.
- (2) Where authority of a juvenile court to keep a child in secure accommodation has been given, any period during which the child has been kept in such accommodation before the giving of that authority shall be disregarded for the purposes of calculating the maximum period in relation to any subsequent occasion on which the child is placed in such accommodation after the period authorised by court has expired.
- (3) Where —
 - (a) a child is in secure accommodation at any time between 12 midday on the day before and 12 midday on the day after a bank holiday or a Sunday, and
 - (b) during that period the maximum period specified in paragraph (1) expires, and
 - (c) the child had, in the 27 days before the day on which he was placed in secure accommodation, been placed and kept in such accommodation for an aggregate of more than 48 hours,

the maximum period does not expire until 12 midday on the first day, which is not itself a bank holiday or a Sunday, after the bank holiday or Sunday.

⁴ 1998 c.9

5 Maximum period of authorisation by a court

The period which may be specified in an order under section 27(2) of the Act as the maximum period for which a child may be kept in secure accommodation without further order is —

- (a) 3 months, where no previous order under section 27(2) of the Act is in force in relation to him at the time the order is made;
- (b) 6 months, in any other case.

Exercise of functions in relation to secure accommodation

6 Duty to inform parents and others in relation to children in secure accommodation

Before the Department makes an application to a juvenile court for authority to keep a child in secure accommodation, it shall, if practicable, inform the following persons of its intention to do so —

- (a) his parent,
- (b) any person who is not a parent of his but who has parental responsibility for him,
- (c) the child's independent visitor, if one has been appointed, and
- (d) any other person who the Department considers should be informed.

7 Review of placement in secure accommodation

- (1) The Department when looking after a child in secure accommodation shall appoint at least 3 persons, at least one of whom is not an officer of or employed by the Department, who shall review the keeping of the child in such accommodation for the purposes of securing his welfare —
 - (a) not more than one month after he is placed in secure accommodation, and
 - (b) at intervals not exceeding 3 months thereafter while he continues to be kept in secure accommodation.
- (2) The persons appointed under paragraph (1), when carrying out a review under that paragraph in relation to a child, shall satisfy themselves as to whether or not —
 - (a) the criteria for keeping the child in secure accommodation continue to apply;
 - (b) it is necessary that he continue to be kept in secure accommodation; and
 - (c) any other description of accommodation would be appropriate for him,

having regard to his welfare.

- (3) The persons appointed under paragraph (1), when carrying out a review under that paragraph in relation to a child, shall, if practicable, ascertain and take into account the wishes and feelings of —
- (a) the child,
 - (b) any parent of his,
 - (c) any person, not being a parent of his, who has parental responsibility for him,
 - (d) any other person who has had the care of the child, whose views the persons appointed consider should be taken into account, and
 - (e) the child's independent visitor, if one has been appointed.
- (4) The Department shall, if practicable, inform all those whose views are required to be taken into account under paragraph (3) of the outcome of the review and the reasons for it.

8 Records to be kept in respect of a child in secure accommodation

In relation to any child kept in secure accommodation under section 27 of the Act, the Department shall ensure that a record is kept of —

- (a) the name, date of birth and sex of that child,
- (b) the care order or other order, if any, by reason of which the Department is looking after him,
- (c) particulars of any other agency involved with the placement of the child,
- (d) the date and time he was placed in secure accommodation,
- (e) the authority for keeping him there,
- (f) the reason for keeping him there,
- (g) the name of the officer placing him there,
- (h) where the child was living before he was placed there,
- (i) the names and addresses of —
 - (i) any parent of the child,
 - (ii) any person, not being a parent of his, who has parental responsibility for him, and
 - (iii) the child's independent visitor, if one has been appointed;
- (j) the names and address of —
 - (i) all those informed under regulation 6 of the placing of the child in secure accommodation, and
 - (ii) all those consulted under regulation 7(3) in the course of a review in relation to him;

- (k) every order under section 27(2) of the Act relating to keeping the child in secure accommodation,
- (l) every review undertaken in relation to him under regulation 7,
- (m) the date and time of any occasion on which the child is locked on his own in any room in the secure accommodation, other than his bedroom during usual bedtime hours, the name of the person authorising this action, the reason for it and the date on which and time at which the child ceases to be locked in that room, and
- (n) the date and time of his discharge from secure accommodation and his address following discharge.

MADE 20 DECEMBER 2002

ENDNOTES

Table of Endnote References

¹ The format of this legislation has been changed as provided for under section 75 of, and paragraph 2 of Schedule 1 to, the Legislation Act 2015. The changes have been approved by the Attorney General after consultation with the Clerk of Tynwald as required by section 76 of the Legislation Act 2015.