

ANNEX B: Amended Fees and Frequency Regulations

STATUTORY INSTRUMENTS

2012 No. 000

CHILDREN AND YOUNG PERSONS, ENGLAND

Her Majesty's Chief Inspector of Education, Children's Services and Skills (Fees and Frequency of Inspections) (Children's Homes etc.) (Amendment) Regulations 2013

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| <i>Made</i> | - - - - | 2013 |
| <i>Laid before Parliament</i> | | 2013 |
| <i>Coming into force</i> | - - | 1st April 2013 |

The Secretary of State for Education makes the following Regulations in exercise of the powers conferred by sections 16(3), 31(7) and 118(5) and (6) of the Care Standards Act 2000⁽¹⁾, sections 147(1) and 155(1) and (2) of the Education and Inspections Act 2006⁽²⁾ and sections 87D(2) and 104(4)(a) of the Children Act 1989⁽³⁾.

Citation, commencement and interpretation

—a) These Regulations may be cited as Her Majesty's Chief Inspector of Education, Children's Services and Skills (Fees and Frequency of Inspections) (Children's Homes etc.) (Amendment) Regulations 2013 and come into force on 1st April 2013.

In these Regulations “the Principal Regulations” means Her Majesty's Chief Inspector of Education, Children's Services and Skills (Fees and Frequency of Inspections) (Children's Homes etc.) Regulations 2007⁽⁴⁾.

Amendment of regulation 2 of the Principal Regulations

In regulation 2 (interpretation) after the definition of “existing provider” insert—

““holiday camp for disabled children” means an establishment of a kind described at regulation 42B(21) of the Children's Homes Regulations 2001⁽⁵⁾.”.

Amendment of regulations 14 and 15 of the Principal Regulations

In regulations 14(1) and (2) (voluntary adoption agencies) and 15(1) (adoption support agencies) of the Principal Regulations—

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- (1) 2000 c.14. See section 121 for the definitions of “appropriate Minister”, “prescribed” and “regulations”. Section 16(3) was substituted by the Health and Social Care (Community Health and Standards) Act 2003 (c.43), section 105(1) and (6) and amended by the Health and Social Care Act 2008 (c.14), Schedule 5, paragraph 15.
 - (2) 2006 c.40. See section 147(3) for the definition of “relevant functions” in relation to a local authority.
 - (3) 1989 c.41. Section 87D was inserted by the Care Standards Act 2000, section 108.
 - (4) S.I. 2007/694; amended by S.I. 2009/2724, 2010/617, 2011/553 and 2012/511.
 - (5) S.I. 2001/3967, amended by S.I. 2002/865, 2002/2469, 2004/664, 2004/865, 2004/3168, 2005/1541, 2006/1738, 2009/1895, 2011/583 and 2012/tbc.

for “£918.39” in each place where it occurs substitute “£1010.23”; and
for “£459.20” in each place where it occurs substitute “£505.12”.

Amendment of regulation 16 of the Principal Regulations

In regulation 16(1) of the Principal Regulations (fostering agencies) for “£1597” substitute “£1756.70”.

Amendment of regulation 17 of the Principal Regulations

—b) Regulation 17 of the Principal Regulations (children’s homes etc.) is amended as follows.

In paragraph (1) (children’s homes)—

insert, after “the amount of the annual fee”, “subject to paragraph (1A)”;

for “£1323.01” in both places where it occurs substitute “£1455.31”;

for “62” in each place where it occurs substitute “37”;

in sub-paragraph (b)(ii)—

for “£131.77” substitute “£144.95; and

for “62nd” substitute “37th”; and

in sub-paragraph (c) for “£9120” substitute “£6395”.

After paragraph (1) insert—

“(1A) In respect of a children’s home which is a holiday camp for disabled children, the annual fee shall be, where the camp —

(a) has 3 or fewer approved places, “£727.65”;

(b) has between 4 and 37 approved places, the sum of—

(i) £727.65, plus

(ii) an amount of £72.47 for each approved place from the 4th to the 37th inclusive; and

(c) has more than 37 approved places, £3197.50.”.

In paragraph (2A) (residential family centres)—

for “£881.12” in both places where it occurs substitute “£969.23”;

in sub-paragraph (b)(ii) for “£110.47” substitute “£121.52”; and

in sub-paragraph (c) for “£1138” substitute “1251.80”.

In paragraph (3A) (boarding schools)—

for “£574.99” in both places where it occurs substitute “£632.49”;

in sub-paragraph (b)(ii) for “£34.61” substitute “£38.07”;

in sub-paragraph (c) for “£994” substitute “1093.40”;

in sub-paragraph (d) for “£1391” substitute “£1530.10”;

in sub-paragraph (e) for “£1789” substitute “£1967.90”; and

in sub-paragraph (f) for “£2186” substitute “£2404.60”.

In paragraph (3B) (residential colleges)—

for “£574.99” in both places where it occurs substitute “£632.49”;

in sub-paragraph (b)(ii) for “£34.61” substitute “£38.07”; and

in sub-paragraph (c) for “£969” substitute “£1065.90”.

In paragraph (3C) (residential special schools)—

for “£1058.15” in both places where it occurs substitute “£1163.97”;

in sub-paragraph (b)(ii) for “£105.15” substitute “£115.67”; and

in sub-paragraph (c) for “£2899” substitute “£3188.90”.

Amendment of regulation 18 of the Principal Regulations

—c) Regulation 18 of the Principal Regulations (local authority adoption and fostering functions) is amended as follows.

After the words “annual fee”, the first time it occurs, insert “of £2977”.

In paragraph (a) (relevant adoption functions) omit “, of £1549”.

In paragraph (b) (relevant fostering functions) omit “, of £2421”.

Amendment of regulation 19 of the Principal Regulations

—d) Regulation 19 of the Principal Regulations (frequency of inspections) is amended as follows.

In paragraph (1)(a) omit the words “at least twice in every 12 month period” and, at the end insert—

“(i) in the case of a children’s home which is a holiday camp for disabled children, once in every 12 month period; and

(ii) in any other case, at least twice in every 12 month period.”.

In paragraph (1)(c)—

for “three” substitute “four”; and

insert, at the end, “, such inspection to be carried out at the same time as an inspection of local authority functions under section 136(1) of the Education and Inspections Act 2006⁽⁶⁾ or a review of children’s services under section 20(2) of the Children Act 2004⁽⁷⁾”.

In paragraph (4)—

omit the “and” preceding sub-paragraph (b); and

at the end of that sub-paragraph insert—

“(c) “four year period” means a period commencing on 1st April in any year ending on 31st March in the fourth year following.”.

Edward Timpson
Parliamentary Under Secretary of State
Department for Education

Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend Parts 4 and 5 of Her Majesty’s Chief Inspector of Education, Children’s Services and Skills (Fees and Frequency of Inspections) (Children’s Homes etc.) Regulations 2007 (S.I. 2007/694) (“the Principal Regulations”). The Principal Regulations apply in relation to England only.

These Regulations amend the annual fees that are paid under the Care Standards Act 2000, the Education and Inspections Act 2006 and the Children Act 1989 to Her Majesty’s Chief Inspector

(6) 2006 c.40. Section 136 of the Education and Inspections Act 2006 allows the Chief Inspector to inspect local authority functions to which Chapter 4 of Part 8 of that Act applies. Functions to which Chapter 4 applies are listed in section 135(1) of the Act and include education and social care functions of local authorities towards children.

(7) 2004 c.31. Subsections (1) and (2) of the Children Act 2004 were amended by S.I. 2010/1158.

of Education, Children's Services and Skills in respect of voluntary adoption agencies, adoption support agencies, children's homes, residential family centres, boarding schools, residential colleges, residential special schools and in respect of local authority fostering and adoption functions.

Regulation 6(2) and (3) amends the Principal Regulations to require the Chief Inspector to inspect holiday camps for disabled children at least once a year. A holiday camp for disabled children is defined in regulation 2 as an establishment of a kind described at regulation 42B(21) of the Children's Homes Regulations 2001 (S.I. 2001/3967). Other children's homes continue to be inspected twice a year.

Regulation 6(4) amends the Principal Regulations to require the Chief Inspector to inspect premises used by local authorities in their performance of relevant functions (that is, their adoption and fostering functions) at least once in every four year period at the same time as the inspection or review of other local authority functions.

2013 No. 0000(C. 000)

CHILDREN AND YOUNG PERSONS, ENGLAND

The Children’s Homes (Amendment) Regulations 2013

Made - - - - [] 2013

Laid before Parliament [] 2013

Coming into force - - [] 2013

The Secretary of State for Education makes the following Regulations in exercise of the powers conferred by sections 22(1), (2)(b) to (d), (f) to (i), (5)(a), (7)(a) to (c), (e) and (f), 34(1) and 118(5) and (6) [and (7)] of the Care Standards Act 2000⁽⁸⁾:

Citation and commencement

These Regulations may be cited as the Children’s Homes (Amendment) Regulations 2013 and come into force on [2013].

Amendment to the Children’s Homes Regulations 2001

The Children’s Homes Regulations 2001⁽⁹⁾ are amended as follows.

Insertion of regulation 42B

After regulation 42A insert—

42B Application of these Regulations with modifications to holiday camps for disabled children

These Regulations apply in relation to holiday camps for disabled children with the modifications set out below.

In regulation 4 (statement of purpose and children’s guide)—

the statement of purpose which the registered person must compile under paragraph (1) need not include the matter listed at paragraph 13 of Schedule 1; and

paragraphs (2)(d), (4) and (5) do not apply.

In regulation 11 (welfare of children) paragraph (1)(b) applies as if the word “education” were omitted.

In regulation 12 (placement plan for a child who is not looked after)—

paragraphs (1), (1A) and (4)(a) do not apply; and

paragraph (1B) applies as if the words “and education” were omitted.

⁽⁸⁾ 2000 c. 14. See section 121 for the definition of “regulations”.

⁽⁹⁾ S.I. 2001/3967, amended by S.I. 2002/865, 2002/2469, 2004/664, 2004/865, 2004/3168, 2005/1541, 2006/1738, 2009/1895, and 2011/583.

Regulations 12A (placement plan for looked after child) and 14 (provision of clothing, pocket money and personal necessities) do not apply.

Regulation 15 applies as if paragraphs (1)(a), (2), (3) and (6) to (8) were omitted.

In regulation 18 (education, employment and leisure activity) paragraphs (1), (3) and (4) do not apply.

In regulation 20 (health needs of children)—

paragraph (2)(a) applies as if the words “is a registered patient with” were substituted by “has access to a local”; and

paragraph (2)(b) applies:

as if the words “dental, nursing, psychological and psychiatric advice” were omitted;
and

the words “including nursing” were inserted at the end.

In regulation 24 (complaints and representations) paragraph (2)(e)(iii) does not apply.

In regulation 25 (staffing of children’s homes)—

paragraph (1) applies as if the word “qualified” was substituted by “trained”; and

paragraph (2) does not apply.

In regulation 26 (fitness of workers) paragraph (3)(b) applies as if the word “qualifications” was substituted by “training”.

In regulation 27 (employment of staff)—

paragraph (1)(a) does not apply;

paragraph (4)(a) applies as if the words “supervision and appraisal” were substituted by “and supervision”; and

paragraph (4)(b) does not apply.

In regulation 28 (children’s case records) —

the registered person’s duty, in paragraph (1)(a), to include the information, documents and records specified in Schedule 3 applies as if paragraphs 5 to 7, 9 and 10, 12, 15 to 17, 19, 23 and 26 of that Schedule were omitted; and

a child’s case records must only be retained for ten years from the date when the child was last accommodated at the holiday camp.

In regulation 29 (other records) the registered person’s duty, at paragraph (1), to maintain in the children’s home the records specified in Schedule 4 and ensure that they are up to date applies as if paragraphs 1(c) to (f) and 2(g) of that Schedule were omitted.

Regulation 31(9) (fitness of premises) does not apply in circumstances where—

a child’s parents have confirmed their agreement, in writing, to an adult being present in the child’s bedroom at the times specified in the agreement;

the registered provider is satisfied that that child’s needs require the presence or supervision of an adult in the child’s bedroom at the times specified in the agreement;

an assessment has been carried out by the registered person of the risk of harm to that child without the presence or supervision of an adult at those specified times; and

the assessment has been signed by the registered provider.

Where the registered person is satisfied that—

a child’s needs require the presence or supervision of an adult in the child’s bedroom at any time; and

any requirement in paragraph (15)(a), (c) and (d) cannot be met before that time,

regulation 31(9) does not apply but the registered person shall endeavour to comply with the requirements at paragraph (15) as soon as reasonably practicable.

The registered person shall supply any risk assessment carried out under paragraph (14) to HMCI at HMCI's request.

Regulation 33(3) (visits by registered provider) applies as if —

the words “a month” were substituted by “during the duration of the holiday camp”; and

at the end were inserted the words “and a written report of the visit shall be produced and, at HMCI's request, shall be made available for inspection to HMCI”.

The duty of the registered person, at regulation 34(1)(a), to establish and maintain a system for monitoring the matters set out in Schedule 6 at appropriate intervals shall apply as if paragraphs 1, 8, 15 and 19 and 20 were omitted from that Schedule.

Regulations 36 (financial position), 37 (notice of absence), 39 (appointment of liquidators etc.) and 42A (application of these Regulations with modifications for short breaks) do not apply.

In this regulation, a “holiday camp for disabled children” means an establishment of a kind described in regulation 3(1)(b)(i) or (ii) which is not excepted from being a children's home by virtue of regulation 3(2).

Date

Name
Parliamentary Under Secretary of State
Department for Education

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which are made under the Care Standards Act 2000, amend the Children's Homes Regulations 2001 (“the Principal Regulations”) in order to insert regulation 42B into the Principal Regulations.

Regulation 42B provides that certain regulations in the Principal Regulations will not apply, or will apply with certain modifications, to an establishment which provides accommodation for disabled children for less than 28 days in any twelve month period for the purposes of a holiday, or for the purpose of recreational, sporting, cultural or educational activities.