

CAYMAN ISLANDS



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THE CHILDREN LAW, 2003

THE CHILDREN (SECURE ACCOMMODATION) REGULATIONS, 2012

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THE CHILDREN LAW, 2003

THE CHILDREN (SECURE ACCOMMODATION) REGULATIONS, 2012

The Governor in Cabinet, in exercise of the powers conferred by section 27(10) of, and paragraph 4(1) and 4(2) of Schedule 4 to the Children Law, 2003, hereby makes the following Regulations-

1. These Regulations may be cited as the Children (Secure Accommodation) Regulations, 2012. Citation

2. In these Regulations-

Definitions

“independent visitor” means a person appointed under paragraph 14 of Schedule 2 to the Law;

“Law” means the Children Law, 2003; and

“secure accommodation,” means accommodation, which is provided for the purpose of restricting the liberty of children to whom section 27 of the Law applies.

3. Accommodation in a community home shall not be used as secure accommodation unless it has been approved by the Governor in Cabinet for such use and approval shall be subject to such terms and conditions as he sees fit.

Approval by Governor
in Cabinet of secure
accommodation in a
community home

4. A child under the age of thirteen years shall not be placed in secure accommodation in a community home without the prior approval of the Governor in Cabinet.

Placement of a child
aged under 13 in secure
accommodation in a
community home

5. Section 27 of the Law shall not apply to a child-

Children to whom
section 27 of the Law
shall not apply

- (a) who is detained under any provision of the Mental Health Law (1997 Revision) or in respect of whom an order made has been made under section 20 of the Youth Justice Law (2005 Revision);
- (b) to whom section 22(4) of the Law applies and who is being accommodated under that section; or

(1997 Revision)
(2005 Revision)

- (c) in respect of whom an order has been made under section 45 of the Law and who is kept away from home pursuant to that order.
6. (1) Section 27 of the Law shall not have effect in relation to children who are being looked after by the Department and are of the following descriptions-
- (a) the child has a history of absconding, is likely to abscond from any other description of accommodation, and if he absconds, he is likely to suffer significant harm;
 - (b) if the child is kept in any other description of accommodation, he is likely to injure himself or other persons;
 - (c) the child is charged with, or convicted of an offence of violence;
 - (d) the child has been remanded or detained and committed to the care of the Department under sections 14 and 15 of the Youth Justice Law (2005 Revision); or
 - (e) the child is the subject of a rehabilitation order imposing a detention residences requirement under section 27 of the Youth Justice Law (2005 Revision).
7. Subject to regulation 5, section 27 of the Law shall apply, in addition to children looked after by the Department, to children, other than those looked after by the Department, who are accommodated in a residential care home, mental health facility, hospital or other treatment facility.
8. Applications to a court under section 27 of the Law in respect of a child shall be made only by the Department.
9. The Department shall notify the owner of a community home of an intention to place a child in the community home for purposes of section 27 of the Law.
10. (1) Subject to paragraphs (2) and (3), the maximum period beyond which a child to whom section 27 of the Law applies may not be kept in secure accommodation without the authority of a court is seventy-two hours, whether consecutively or seventy-two hours in aggregate in any period of twenty-eight consecutive days.
- (2) Where authority of a 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 purpose 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.

Detained and remanded children to whom section 27 of the Law shall not have effect
(2005 Revision)

Other children to whom section 27 of the Law shall apply

Applications to court

Duty to give information of placement in community homes

Maximum period in secure accommodation without court authority

(3) Where a child is in secure accommodation at any time between twelve midday on the day before and twelve midday on the day after a public holiday or a Sunday, and-

- (a) during that period, the maximum period specified in paragraph (1) expires; and
- (b) the child had, in the twenty-seven 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 forty-eight hours,

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

11. Subject to regulations 12 and 13, the maximum period for which a court may authorise a child to whom section 27 of the Law applies to be kept in secure accommodation is three months.

Maximum initial period of authorisation by a court

12. Subject to regulation 13, a court may authorise a child to whom section 27 of the Law applies to be kept in secure accommodation for a further period not exceeding six months at any one time.

Further periods of authorisation by a court

13. (1) The maximum period for which a court may from time to time authorise a child who has been remanded under section 14 and 15 of the Youth Justice Law (2005 Revision) to be kept in secure accommodation, whether the period is an initial period or a further period, is the period of the remand.

Maximum periods of authorisation by court for remanded children
(2005 Revision)

(2) Any period of authorisation in respect of such a child shall not exceed twenty-eight days on any one occasion without further court authorisation.

(3) If the court considers it to be in the best interest of the child, it may require that child to be brought before the court at specified intervals during the period of secure accommodation.

14. Where a child to whom section 27 of the Law applies is kept in secure accommodation in a community home and it is intended that an application will be made to a court to keep the child in that accommodation, the Department shall, if practicable, inform the following persons of that intention as soon as possible-

Duty to inform parents and others in relation to children in secure accommodation in a community home

- (a) his parents;
- (b) any person who has parental responsibility for him;
- (c) the child's independent visitor, if one has been appointed; and
- (d) any other person whom the Department considers should be informed.

Appointment of persons to review placement in secure accommodation in a community home

15. (1) The Governor in Cabinet may appoint at least three persons for such period as he considers necessary to review the manner in which a child in secure accommodation is kept for the purpose of ensuring his welfare.

(2) The appointed persons shall conduct the first review within one month of the placement of the child and such other reviews at intervals not exceeding three months.

Review of placement in secure accommodation in a community home

16. (1) The persons appointed under regulation 15 to review the keeping of a child in secure accommodation shall satisfy themselves as to whether or not-

- (a) the criteria for keeping the child in secure accommodation continues to apply;
- (b) the placement in such accommodation in a community home continues to be necessary; and
- (c) any other description of accommodation would be appropriate for him,

and in doing so shall have regard to the welfare of the child whose case is being reviewed.

(2) In undertaking the review referred to in regulation 15, the person appointed shall, if practicable, ascertain and take into account the wishes and feelings of-

- (a) the child;
- (b) any parent of the child;
- (c) any person 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.

(3) The Department shall, if practicable, inform all those whose views are required to be taken into account under paragraph (2) of the outcome of the review and the reasons for such outcome.

(4) The Department may, if it considers it necessary for the welfare of the child, provide the court with a report on the outcome of a review conducted under paragraph (2) and the court may on receiving that report take such action as it considers to be in the best of interest of the child.

Records to be kept in respect of a child in secure accommodation in a community home

17. Whenever a child is placed in secure accommodation in a community home, 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 statutory provision by virtue of which the child is in the community home;
- (c) the date and time of his placement in secure accommodation, the reason for his placement, the name of the officer authorising the placement and where the child was living before the placement;
- (d) the names of all persons informed of the placement;
- (e) court orders made in respect of the child by virtue of section 27 of the Law;
- (f) reviews undertaken in respect of the child by virtue of regulation 15;
- (g) the date and time of any occasion on which the child is locked 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
- (h) the date and time of his discharge from the secure accommodation,

and the Governor in Cabinet may require copies of these records to be sent to him at any time.

18. (1) A person shall not use a voluntary home or registered children's home to restrict the liberty of a child.

Voluntary home and
registered children's
home not to be used for
restricting liberty

(2) A person commits an offence if, knowingly and without lawful authority or reasonable excuse, he restricts the liberty of a child in contravention of paragraph (1).

(3) A person who commits an offence under this regulation is liable on summary conviction to a fine of five thousand dollars or to imprisonment for a term of twelve months, or to both.

Made in Cabinet on the *28* day of *August*, 2012


Clerk of the Cabinet

Laid in the Legislative Assembly on the day of , in
accordance with section 95(2) of the Children Law, 2003.

Clerk of the Legislative Assembly

