



## SPECIAL GUARDIANSHIP REGULATIONS 2013

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Consultation Draft

Statutory Document No. XX/20XX

*Children and Young Persons Act 2001*

## SPECIAL GUARDIANSHIP REGULATIONS 2013

*Approved by Tynwald:**Coming into Operation:**[insert date]*

The Department of Social Care makes the following Regulations under section 28 of the Children and Young Persons Act 2001.

### DIVISION 1 - INTRODUCTION

#### 1 Title

These Regulations are the Special Guardianship Regulations 2013.

#### 2 Commencement

If approved by Tynwald, these Regulations come into operation on [insert date]<sup>1</sup>.

#### 3 Interpretation

(1) In these Regulations—

“**the Act**” means the Children and Young Persons Act 2001;

“**couple**” has the same meaning as in section 58(1) of the Adoption Act 1984;

“**periodically**” in respect of payment of financial support means payments made both regularly and intermittently;

“**prospective special guardian**” means a person—

- (a) who has given notice to the Department under section 17A(6) of the Act of his or her intention to make an application for a special guardianship order in accordance with section 17A(3) of the Act; or
- (b) in respect of whom the court has requested that the Department conduct an investigation and prepare a report pursuant to section 17A(8) of the Act;

<sup>1</sup> As required by section 104(2) of the Children and Young Persons Act 2001.

“**relevant child**” means a child in respect of whom —

- (a) a special guardianship order is in force;
  - (b) a person has given notice to the Department under section 17A(6) of the Act of his or her intention to make an application for a special guardianship order in accordance with section 17A(3) of the Act; or
  - (c) the court is considering whether a special guardianship order should be made and has asked the Department to conduct an investigation and prepare a report pursuant to section 17A(8) of the Act.
- (2) In any case where —
- (a) a person aged 18 or over is in full-time education or training; and
  - (b) immediately before the person reached the age of 18, financial support was payable in relation to that person under Subdivision 2 of Division 2 of these Regulations,

then, for the purposes of the continued provision of financial support and any review of financial support, these Regulations shall have effect in relation to the person as if he or she were still a child.

#### **4 Eligibility**

These regulations apply to a prospective special guardian or a special guardian if the person —

- (a) was born in the Island; or
- (b) has been ordinarily resident in the Island throughout the 5 years immediately preceding his or her application for services or support in respect of special guardianship.

## **DIVISION 2 - SPECIAL GUARDIANSHIP SUPPORT SERVICES**

### **SUBDIVISION 1 — PROVISION OF SERVICES**

#### **5 Other special guardianship support services**

- (1) For the purposes of section 17F(1)(b) of the Act (special guardianship support services) the Department shall make arrangements for the provision of the following special guardianship support services (in addition to counselling, advice and information) —
- (a) financial support payable under Subdivision 2;
  - (b) assistance, including mediation services, in relation to arrangements for contact between a relevant child and —
    - (i) the child’s parent or a relative of the child; or

- (ii) any other person with whom such a child has a relationship which appears to the Department to be beneficial to the welfare of the child having regard to the factors specified in section 1(4) of the Act (welfare of the child);
  - (c) services in relation to the therapeutic needs of a relevant child;
  - (d) assistance for the purpose of ensuring the continuance of the relationship between a relevant child and a special guardian or prospective special guardian, including —
    - (i) training for that person to meet any special needs of that child;
    - (ii) mediation in relation to matters relating to special guardianship orders.
- (2) The services prescribed in paragraph 1 (b) to (d) may include giving assistance in cash.

## 6 Arrangements for securing provision of services

- (1) For the purposes of section 17F(7) of the Act (persons who may provide special guardianship support services) the Department may make available special guardianship support services by providing or securing their provision by the following persons —
- (a) an adoption society;
  - (b) an approved adoption society;
  - (c) another Government Department; and
  - (d) any other person under an arrangement, contract, engagement or understanding with the Department.
- (2) In paragraph (1) “**an adoption society**” and “**an approved adoption society**” have the same meaning as in the Adoption Act 1984.

## SUBDIVISION 2 — PROVISION OF FINANCIAL SUPPORT

### 7 Circumstances in which financial support is payable

- (1) Financial support is payable under this Subdivision to a special guardian or prospective special guardian —
- (a) to facilitate arrangements for a person to become the special guardian of a child where the Department considers such arrangements to be beneficial to the child's welfare; or
  - (b) to support the continuation of such arrangements after a special guardianship order is made.
- (2) Such support is payable only in the following circumstances —

- (a) where the Department considers that it would enable the special guardian or prospective special guardian to look after the child;
- (b) where the Department considers that the child needs special care which requires a greater expenditure of resources than would otherwise be the case because of the child's illness, disability, emotional or behavioural difficulties or the consequences of the child's past abuse or neglect;
- (c) where the Department considers that it is appropriate to contribute to any legal costs, including court fees, of a special guardian or prospective special guardian, as the case may be, associated with —
  - (i) the making of a special guardianship order or any application to vary or discharge such an order;
  - (ii) an application for an order under section 11 of the Act (parental contact etc with children in care);
  - (iii) an order for financial provision to be made to or for the benefit of the child; or
- (d) where the Department considers that it is appropriate to contribute to the expenditure for the purposes of providing a suitable home for the child, including the provision of furniture and domestic equipment, alterations to and adaptations of the home, provision of means of transport, assisting the child's contact with birth parents or siblings and provision of clothing, toys and other items necessary for the purpose of looking after the child.

## 8 Provisions for former foster parents

- (1) This regulation applies if —
  - (a) the special guardian or prospective special guardian has been the official foster parent in respect of the child; and
  - (b) an element of remuneration was included in the payments made by the Department to that person in relation to his or her fostering the child.
- (2) Subject to paragraph 1 financial support under this Division may include an allowance for former foster parents but only where the decision to include such an allowance is taken before the special guardianship order is made, and the Department considers it necessary to enable that person to become the special guardian of a child.
- (3) That element of financial support that comprises of the allowance ceases to be payable after the expiry of the period of two years from the making of the special guardianship order unless the Department considers its continuation to be necessary having regard to the exceptional needs of the child or any other exceptional circumstances.

## 9 Payment of financial support

Financial support under this Subdivision may be paid —

- (a) by a single payment or, if the Department and the special guardian or prospective special guardian agree, by instalments;
- (b) periodically, if it is provided to meet a need which is likely to give rise to recurring expenditure.

## 10 Cessation of financial support

(1) Financial support ceases to be payable —

- (a) to a special guardian or prospective special guardian if paragraph (2) applies; or
- (b) to a special guardian on the second anniversary of the making of the special guardianship order,

unless the Department considers its continuation to be necessary having regard to the exceptional needs of the child or any other exceptional circumstances.

(2) This paragraph applies if the child —

- (a) dies;
- (b) ceases to have a home with the special guardian or prospective special guardian;
- (c) ceases full-time education or training and commences employment;
- (d) qualifies for income support, jobseeker's allowance, incapacity benefit or employed person's allowance in the child's own right; or
- (e) attains the age of 18 unless the child continues in full-time education or training, when it may continue until the end of the course or training the child is then undertaking.

(3) If financial support is to be paid periodically it is not payable until the special guardian or prospective special guardian agrees to the conditions in paragraphs (4) and (5).

(4) The first condition is that the special guardian or prospective special guardian must inform the Department immediately if —

- (a) the special guardian or prospective special guardian changes address;
- (b) any of the changes mentioned in paragraph (2) occurs; or
- (c) there is a change in —
  - (i) the special guardian's or prospective special guardian's financial circumstances; or

- (ii) the financial needs or resources of the child, which may affect the amount of financial support payable to the special guardian or prospective special guardian,
- and, if the information is given orally, confirm it in writing within 7 days.
- (5) The second condition is that the special guardian or prospective special guardian must complete and supply the Department with an annual statement as to the following matters —
- (a) the special guardian's or prospective special guardian's financial circumstances;
  - (b) the financial needs and resources of the child;
  - (c) the special guardian's or prospective special guardian's address; and
  - (d) whether the child still has a home with the special guardian or prospective special guardian.
- (6) In providing financial support the Department may impose any other conditions it considers appropriate, including the timescale within which, and purposes for which, any payment of financial support should be utilised.
- (7) Subject to paragraph (8), if any condition imposed in accordance with this regulation is not complied with, the Department may —
- (a) suspend or terminate payment of financial support; and
  - (b) seek to recover all or part of the financial support it has paid.
- (8) If the condition not complied with is a failure to provide an annual statement in accordance with an agreement referred to in paragraph (5), the Department must not take any steps under paragraph (7) until —
- (a) it has sent to the person who entered into the agreement a written reminder of the need to provide an annual statement; and
  - (b) 28 days have expired since the date on which that reminder was sent.

### SUBDIVISION 3 — ASSESSMENT AND PLANS

#### 11 Request for assessment

- (1) Paragraphs (2) and (3) apply if the Department receives a written request from or, in the case of a child, on behalf of, any of the following persons for an assessment of the person's needs for special guardianship support services —
- (a) a person mentioned in section 17F(3)(a) to (c) of the Act;
  - (b) a child of a special guardian;



- (c) any person whom the Department considers to have a significant and ongoing relationship with a relevant child.
- (2) The Department must consider whether to carry out an assessment.
- (3) In the case of a request from or on behalf of a previously looked after child, the Department must carry out an assessment.
- (4) If the Department is minded not to carry out an assessment it must give the person notice of the proposed decision (including the reasons for it) and must allow the person a reasonable opportunity to make representations in relation to that decision.
- (5) If —
  - (a) the request of a person for an assessment relates to a particular special guardianship support service, or
  - (b) it appears to the Department that a person's needs for special guardianship support services may be adequately assessed by reference to a particular special guardianship support service,the Department may carry out the assessment by reference to that service only.

## 12 Procedure for assessment

- (1) Where the Department carries out an assessment of a person's needs for special guardianship support services it must have regard to such of the following considerations as are relevant to the assessment —
  - (a) the developmental needs of the child;
  - (b) the parenting capacity of the special guardian or prospective special guardian, as the case may be;
  - (c) the family and environmental factors that have shaped the life of the child;
  - (d) what the life of the child might be like with the person falling within sub-paragraph (b);
  - (e) any previous assessments undertaken in relation to the child or a person falling within sub-paragraph (b);
  - (f) the needs of a person falling within sub-paragraph (b) and of that person's family;
  - (g) where it appears to the Department that there is a pre-existing relationship between a person falling within sub-paragraph (b) and the parent of the child, the likely impact of the special guardianship order on the relationships between that person, that child and that parent.
- (2) The Department must, where it considers it appropriate to do so —

- (a) interview the person whose needs for special guardianship support services are being assessed;
- (b) where the person falling within sub-paragraph (a) is a child, interview —
  - (i) any special guardian or prospective special guardian, as the case may be, of the child; or
  - (ii) any adult the Department considers it appropriate to interview.
- (3) Where it appears to the Department that the person may have a need for services from any other Government Department it must, as part of the assessment, consult that Department.
- (4) After undertaking an assessment, the Department must prepare a written report of the assessment.

### **13 Assessment of need for financial support**

- (1) This regulation applies where the Department carries out an assessment of a person's need for financial support.
- (2) In determining the amount of financial support, the Department must take account of any other grant, benefit, allowance or resource which is available to the person in respect of the person's needs as a result of becoming a special guardian of the child.
- (3) Subject to paragraphs (4) and (5) the Department must also take account of the following considerations —
  - (a) the person's financial resources, including any benefit, which would be available to the person if the child lived with him or her;
  - (b) the amount required by the person in respect of the person's reasonable outgoings and commitments (excluding outgoings in respect of the child);
  - (c) the financial needs and resources of the child.
- (4) The Department must disregard the considerations in paragraph (3) where it is considering providing financial support in respect of legal costs, including court fees, in a case where a special guardianship order is applied for in respect of a child who is looked after by the Department and the Department supports the making of the order or an application is made to vary or discharge a special guardianship order in respect of such a child.
- (5) The Department may disregard any of the considerations in paragraph (3) —
  - (a) if it is considering providing financial support in respect of —
    - (i) initial costs of providing a suitable home for the child and the child has been looked after by the Department;

- (ii) recurring costs in respect of travel for the purpose of visits between the child and a related person; or
  - (iii) any special care referred to in regulation 7(2)(b) in relation to a child who has been looked after by the Department; or
- (b) if it is considering including an element of allowance under regulation 8 (provisions for former foster parents).
- (6) In paragraph (5)(a)(ii) “related person” means a relative of the child or any other person with whom the child has a relationship which appears to the Department to be beneficial to the welfare of the child having regard to the factors specified in section 1(4) of the Act (welfare of the child).

#### **14 Plan**

- (1) This regulation applies in relation to the requirement in section 17F(6) of the Act for the Department to prepare a plan in accordance with which special guardianship support services are to be provided.
- (2) The Department must prepare a plan if —
  - (a) it proposes to provide special guardianship support services to a person on more than one occasion; and
  - (b) the services are not limited to the provision of advice or information.
- (3) If it appears to the Department that the person may have a need for services from another Government Department, it must consult that Department before preparing the plan.
- (4) The Department must nominate a person to monitor the provision of the services in accordance with the plan.

#### **15 Notice of proposal as to special guardianship support services**

- (1) Before making any decision under section 17F(5) of the Act about a person's needs for special guardianship support services, the Department must allow the person an opportunity to make representations as follows.
- (2) The Department must first give the person notice of the proposed decision and specify the time allowed for making representations.
- (3) The notice must contain the following information —
  - (a) a statement as to the person's needs for special guardianship support services;
  - (b) if the assessment relates to the person's need for financial support, the basis upon which financial support is determined;
  - (c) whether the Department proposes to provide the person with special guardianship support services;

- (d) the services (if any) that are proposed to be provided to the person;
  - (e) if financial support is to be paid to the person, the proposed amount that would be payable;
  - (f) if the financial support is to be paid to the person periodically, the conditions mentioned in regulation 10(4) and (5)); and
  - (g) any proposed conditions under regulation 10(6).
- (4) In a case where the Department proposes to provide special guardianship support services and is required to prepare a plan under section 17F(6) of the Act, the notice must be accompanied by a draft of that plan.
- (5) The Department must not make a decision until —
- (a) the person has made representations to the Department or notified the Department that the person is satisfied with the proposed decision and, where applicable, the draft plan; or
  - (b) the period of time for making representations has expired.

## **16 Notification of decision as to special guardianship support services**

- (1) After making their decision under section 17F(5) of the Act as to whether to provide special guardianship support services to a person, the Department must give the person notice of that decision, including the reasons for it.
- (2) If the Department is required to prepare a plan under section 17F(6) of the Act, the notice must include details of that plan and the person nominated under regulation 14(4).
- (3) If the Department decides that financial support is to be provided, the notice given under paragraph (1) must include the following information —
- (a) the method of the determination of the amount of financial support;
  - (b) where financial support is to be paid in instalments or periodically —
    - (i) the amount of financial support;
    - (ii) the frequency with which the payment will be made;
    - (iii) the period for which financial support is to be paid;
    - (iv) when payment will commence;
  - (c) if financial support is to be paid as a single payment, when the payment is to be made;
  - (d) if the financial support is to be paid periodically, the conditions mentioned in regulation 10(4) and (5);

- (e) if financial support is to be paid subject to any conditions imposed in accordance with regulation 10(6), those conditions, the date (if any) by which the conditions are to be met and the consequences of failing to meet the conditions;
- (f) the arrangements and procedure for review, variation and termination of financial support;
- (g) the responsibilities of —
  - (i) the Department under regulations 17 and 18 (reviews); and
  - (ii) the special guardian or prospective special guardian pursuant to any agreement mentioned in regulation 10.

#### SUBDIVISION 4 — REVIEWS

### 17 **Reviews: general procedure**

- (1) This regulation applies if the Department provides special guardianship support services for a person other than financial support payable periodically.
- (2) The Department must review the provision of such services —
  - (a) if any change in the person's circumstances which may affect the provision of special guardianship support services comes to their notice;
  - (b) at such stage in the implementation of the plan as it considers appropriate; and
  - (c) in any event, at least annually.
- (3) Regulations 12 and 13 (procedure for assessment and assessment of need for financial support) apply in relation to a review under this regulation as they apply in relation to an assessment under Subdivision 3 of this Division.
- (4) If the Department proposes to vary or terminate the provision of special guardianship support services to any person, before making any decision as a result of the review it must give the person an opportunity to make representations and for that purpose it must give the person notice of the proposed decision and specify the time allowed for making representations.
- (5) The notice must contain the information mentioned in regulation 15(3) (notice of proposal as to special guardianship support services) and, if the Department proposes to revise the plan, a draft of the revised plan.
- (6) The Department must, having regard to the review and after considering any representations received within the period specified in the notice —
  - (a) decide whether to vary or terminate the provision of special guardianship support services for the person; and

- (b) where appropriate, revise the plan.
- (7) The Department must give the person notice of their decision (including the reasons for it) and, if applicable, details of the revised plan.

## **18 Review of financial support payable periodically**

- (1) This regulation applies where the Department provides financial support for a person payable periodically.
- (2) The Department must review the financial support —
  - (a) on receipt of the annual statement mentioned in regulation 10(5);
  - (b) if any relevant change of circumstances or any breach of a condition mentioned in regulation 10 comes to their notice; and
  - (c) at any stage in the implementation of the plan that it considers appropriate.
- (3) In paragraph (2) a relevant change of circumstances is any of the changes that the person has agreed to notify under regulation 10.
- (4) Regulations 12 and 13 (procedure for assessment and assessment of need for financial support) apply in relation to a review under this regulation as they apply in relation to an assessment under Subdivision 3 of this Division.
- (5) If the Department proposes, as a result of the review, to reduce or terminate financial support or revise the plan, before making that decision, the Department must give the person an opportunity to make representations and for that purpose it must give the person notice of the proposed decision and specify the time allowed for making representations.
- (6) But paragraph (5) does not prevent the Department from suspending payment of financial support pending that decision.
- (7) The notice must contain the information mentioned in regulation 15(3) (notice of proposal as to special guardianship support services) and, if applicable, a draft of the revised plan.
- (8) The Department must, having regard to the review, and after considering any representations received within the period specified in the notice —
  - (a) decide whether to vary or terminate payment of the financial support or whether to seek to recover all or part of any financial support that has been paid; and
  - (b) if appropriate, revise the plan.
- (9) The Department must give the person notice of their decision, including the reasons for it, and, if applicable, the revised plan.

**SUBDIVISION 5 – URGENT CASES, NOTICES AND COURT REPORT****19 Urgent cases**

If any requirement applicable to the Department in this Division in relation to carrying out an assessment, preparing a plan or giving notice would delay the provision of a service in a case of urgency, that requirement does not apply.

**20 Notices**

- (1) Any notice required to be given under this Division must be given in writing.
- (2) If the person to whom notice is to be given is a child and –
  - (a) it appears to the Department that the child is not of sufficient age and understanding for it to be appropriate to give the child such notice; or
  - (b) in all the circumstances it is not appropriate to give the child such notice,

the notice must be given to the child's special guardian or prospective special guardian (where applicable) or otherwise to the adult the Department considers most appropriate.

**21 Court report**

The matters specified in the Schedule are the matters to be dealt with in a report for the court for the purposes of section 17A(7) of the Act.

**SUBDIVISION 6 – DISCHARGE OF FUNCTIONS****22 Delegation by the Department**

In Subdivisions 3, 4 and 5 any reference to the Department includes any person the Department authorises to act on its behalf.

**MADE**

**C R ROBERTSHAW**  
*Minister for Social Care*





## SCHEDULE

## MATTERS TO BE DEALT WITH IN A REPORT FOR THE COURT

**1 Information about the child**

In respect of the child —

- (a) name, sex, date and place of birth and address;
- (b) a photograph and physical description;
- (c) nationality (and immigration status where appropriate);
- (d) racial origin and cultural and linguistic background;
- (e) religious persuasion (including details of baptism, confirmation or equivalent ceremonies);
- (f) details of any siblings including their dates of birth;
- (g) the extent of the child's contact with the child's relatives and any other person the Department considers relevant;
- (h) whether the child is or has been looked after by the Department or is or has been provided with accommodation by a voluntary organisation and details (including dates) of placements by the Department or organisation;
- (i) whether the prospective special guardian is an official foster parent of the child;
- (j) a description of the child's —
  - (i) personality;
  - (ii) social development; and
  - (iii) emotional and behavioural development, and any related needs;
- (k) details of the child's interests, likes and dislikes;
- (l) a health history and a description of the state of the child's health which shall include any treatment the child is receiving;
- (m) names, addresses and types of nurseries or schools attended with dates;
- (n) the child's educational attainments;
- (o) details of any order made by a court with respect to the child under the Act including —
  - (i) the name of the court;
  - (ii) the order made; and
  - (iii) the date on which the order was made.

## 2 Information about the child's family

In respect of the child's family —

- (a) name, date and place of birth and address (and the date on which their last address was confirmed) of each parent of the child and the child's siblings under the age of 18;
- (b) a photograph, if available, and physical description of each parent;
- (c) nationality (and immigration status where appropriate) of each parent;
- (d) racial origin and cultural and linguistic background of each parent;
- (e) whether the child's parents were married to each other at the time of the child's birth or have subsequently married and whether they are divorced or separated;
- (f) where the child's parents have been previously married or formed a civil partnership, the date of the marriage or civil partnership;
- (g) where the child's parents are not married, whether the father has parental responsibility and, if so, how it was acquired;
- (h) if the identity or whereabouts of the father are not known, the information about him that has been ascertained and from whom, and the steps that have been taken to establish paternity;
- (i) the past and present relationship of the child's parents;
- (j) where available, the following information in respect of each parent—
  - (i) health history, including details of any serious physical or mental illness, any hereditary disease or disorder or disability;
  - (ii) religious persuasion;
  - (iii) educational history;
  - (iv) employment history;
  - (v) personality and interests;
- (k) in respect of the child's siblings under the age of 18 —
  - (i) the person with whom the sibling is living;
  - (ii) whether the sibling is looked after by the Department or provided with accommodation by a voluntary organisation; and
  - (iii) details of any court order made with respect to the sibling under the Act, including the name of the court, the order made and the date on which the order was made.

## 3 Wishes and feelings of the child and others

In respect of the wishes and feelings of the child and others —

- (a) an assessment of the child's wishes and feelings (considered in light of the child's age and understanding) regarding —
  - (i) special guardianship;
  - (ii) the child's religious and cultural upbringing; and
  - (iii) contact with the child's relatives and any other person the Department considers relevant,and the date on which the child's wishes and feelings were last ascertained.
- (b) the wishes and feelings of each parent regarding —
  - (i) special guardianship;
  - (ii) the child's religious and cultural upbringing; and
  - (iii) contact with the child,and the date on which the wishes and feelings of each parent were last ascertained; and
- (c) the wishes and feelings of any of the child's relatives, or any other person the Department considers relevant regarding the child and the dates on which those wishes and feelings were last ascertained.

#### 4 Information about prospective special guardian

In respect of the prospective special guardian or, where two or more persons are jointly prospective special guardians, each of them —

- (a) name, date and place of birth and address;
- (b) a photograph and physical description;
- (c) nationality (and immigration status where appropriate);
- (d) racial origin and cultural and linguistic background;
- (e) if the prospective special guardian is —
  - (i) married, the date and place of marriage;
  - (ii) has formed a civil partnership, the date and place of registration of the civil partnership; or
  - (iii) has a partner, details of that relationship;
- (f) details of any previous marriage, civil partnership, or relationship;
- (g) where the prospective special guardians wish to apply jointly, the nature of their relationship and an assessment of the stability of that relationship;
- (h) if the prospective special guardian is a member of a couple and is applying alone for a special guardianship order, the reasons for this;
- (i) whether the prospective special guardian is a relative of the child;

- (j) prospective special guardian's relationship with the child;
- (k) a health history of the prospective special guardian including details of any serious physical or mental illness, any hereditary disease or disorder or disability;
- (l) a description of how the prospective special guardian relates to adults and children;
- (m) previous experience of caring for children;
- (n) parenting capacity, to include an assessment of the prospective special guardian's ability and suitability to bring up the child;
- (o) where there have been any past assessments as a prospective adopter, foster parent or special guardian, relevant details as appropriate;
- (p) details of income and expenditure;
- (q) information about the prospective special guardian's home and the neighbourhood in which the prospective special guardian lives;
- (r) details of other members of the household and details of any children of the prospective special guardian even if not resident in the household;
- (s) details of the parents and any siblings of the prospective special guardian, with their ages or ages at death;
- (t) the following information —
  - (i) religious persuasion;
  - (ii) educational history;
  - (iii) employment history; and
  - (iv) personality and interests;
- (u) details of any previous family court proceedings in which the prospective special guardian has been involved (which have not been referred to elsewhere in this report);
- (v) a report of each of the interviews with the three persons nominated by the prospective special guardian to provide personal references for him;
- (w) whether the prospective special guardian is willing to follow any wishes of the child or the child's parents in respect of the child's religious and cultural upbringing;
- (x) the views of other members of the prospective special guardian's household and wider family in relation to the proposed special guardianship order;
- (y) an assessment of the child's current and future relationship with the family of the prospective special guardian;
- (z) reasons for applying for a special guardianship order and extent of understanding of the nature and effect of special guardianship and

whether the prospective special guardian has discussed special guardianship with the child;

- (aa) any hopes and expectations the prospective special guardian has for the child's future; and
- (bb) the prospective special guardian's wishes and feelings in relation to contact between the child and the child's relatives or any other person the Department considers relevant.

## **5 Departmental involvement**

In respect of the Department —

- (a) details of any past involvement of the Department with the prospective special guardian, including any past preparation for that person to be an official foster parent or adoptive parent or special guardian;
- (b) a summary of any special guardianship support services provided by the Department for the prospective special guardian, the child or the child's parent and the period for which those services are to be provided; and
- (c) if the Department has decided not to provide special guardianship support services, the reasons why.

## **6 Medical information**

A summary prepared by the medical professional who provided the information referred to in paragraphs 1(l) and 4(k).

## **7 Implications**

The implications of the making of a special guardianship order for —

- (a) the child;
- (b) the child's parent;
- (c) the prospective special guardian and the prospective special guardian's family; and
- (d) any other person the Department considers relevant.

## **8 Alternative Disposals**

The relative merits of special guardianship and other orders which may be made under the Act with an assessment of whether the child's long term interests would be best met by a special guardianship order.

## **9 Recommendations**

A recommendation as to —

- (a) whether or not the special guardianship order sought should be made in respect of the child and, if not, any alternative proposal in respect of the child; and
- (b) what arrangements there should be for contact between the child and the child's relatives or any person the Department considers relevant.

Consultation Draft

*EXPLANATORY NOTE**(This note is not part of the Regulations)*

These Regulations make provision in relation to special guardianship orders which are provided for in sections 17A to 17F of the Children and Young Persons Act 2001 (“the Act”).

Division 2 relates to the requirement in section 17F(1) of the Act for the Department to make arrangements for provision of special guardianship support services. Special guardianship support services are defined by section 17F(1) of the Act as counselling, advice and information, and other services prescribed by regulations, in relation to special guardianship.

Subdivision 1 of Division 2 deals with the provision of services. Such services are specified by regulation 5 and include financial support (as required by section 17F(2)). The provision of services may be secured from the persons specified in regulation 6.

Subdivision 2 of Division 2 deals with financial support. It may only be paid in the circumstances specified in regulation 7. It may include an allowance element where it is paid to a former official foster parent under regulation 8. Regulations 9 and 10 provide for payment of financial support, including conditions that may be imposed.

Subdivision 3 of Division 2 deals with assessment of a person's needs for special guardianship support services, plans for provision of services and notifications of proposals and decisions in relation to the provision of services.

Subdivision 4 of Division 2 deals with reviews of special guardianship support services.

Subdivision 5 of Division 2 contains miscellaneous provision in relation to special guardianship support services, including a general exemption from the requirements in relation to assessments, giving of notice etc. in cases of urgency (regulation 19) and provision as to service of notices (regulation 20). Regulation 21 introduces the Schedule which contains the matters to be included in the report for the court.

Subdivision 6 of Division 2 states that references to the Department in Subdivisions 3, 4 and 5 include any person authorised by the Department to act on its behalf.