

## **Children, Young Persons, and Their Families (Residential Care) Amendment Regulations 2002**

Pursuant to section 447 of the Children, Young Persons, and Their Families Act 1989, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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#### **1 Title**

These regulations are the Children, Young Persons, and Their Families (Residential Care) Amendment Regulations 2002.

2 In these regulations, the Children, Young Persons, and Their Families (Residential Care) Regulations 1996<sup>1</sup> are called “the principal regulations”.

**2 Commencement**

These regulations come into force on the 28th day after the date of their notification in the *Gazette*.

**3 Interpretation**

Regulation 2 of the principal regulations is amended by revoking the definitions of **pat down search**, **scanner search**, **strip search**, and **unauthorised item**.

**4 Right to be informed of certain matters**

- (1) Regulation 4(1)(a) of the principal regulations is amended by inserting, after the words “these regulations”, the words “and sections 384A to 384K of the Act”.
- (2) Regulation 4(5) of the principal regulations is amended by inserting, after the words “these regulations”, the words “and a copy of sections 384A to 384K of the Act”.
- (3) Regulation 4(6)(a) of the principal regulations is amended by inserting, after the words “these regulations”, the words “and sections 384A to 384K of the Act”.

**5 Right to personal privacy**

Regulation 7(1) of the principal regulations is amended by omitting the expression “regulation 41”, and substituting the words “section 384E of the Act”.

**6 Right to be given instructions verbally**

Regulation 9(2) of the principal regulations is amended by omitting the words “regulation 41(3) of these regulations”, and substituting the words “section 384F of the Act”.

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<sup>1</sup> SR 1996/354

**7 Rights to send and receive mail**

Regulation 11(1) of the principal regulations is amended by omitting the words “regulation 39 of these regulations”, and substituting the words “section 384B of the Act”.

**8 Use of force in dealing with child or young person**

(1) Regulation 22(1) of the principal regulations is amended by revoking paragraph (e), and substituting the following paragraph:

“(e) subject to section 384H of the Act, for the purpose of carrying out any search authorised by section 384C or section 384E of the Act.”

(2) Regulation 22(2) of the principal regulations is amended by omitting from paragraph (a) the words “physical force than”, and substituting the words “than the minimum amount of force that”.

**9 Inspection of residences**

(1) Regulation 37(1) of the principal regulations is amended by inserting, after the words “these regulations”, the words “and sections 384B to 384K of the Act”.

(2) Regulation 37(5)(a) of the principal regulations is amended by inserting, after the words “these regulations”, the words “and sections 384B to 384K of the Act”.

(3) Regulation 37(5)(b) of the principal regulations is amended by inserting, after the words “these regulations”, the words “or sections 384B to 384K of the Act”.

**10 Inspection of mail**

(1) Regulation 39 of the principal regulations is amended by revoking subclause (1), and substituting the following subclause:

“(1) The Manager of a residence may exercise the powers in subclause (2) when causing an inspection of mail to be undertaken under section 384B of the Act.”

(2) Regulation 39(4)(b) is amended by omitting the words “subclause (1)(b) or (c) of this regulation”, and substituting the words “section 384B(c) or (d) of the Act”.

**11 Regulations 40, 41, 43, and 44 revoked**

The principal regulations are amended by revoking regulations 40, 41, 43, and 44.

**12 Power to seize articles, etc, found on search or examination**

(1) The principal regulations are amended by revoking regulation 45(1), and substituting the following subclause:

“(1) Any article, drug, or substance found during any search or examination conducted under sections 384C or 384E of the Act may be seized under section 384K(1) of the Act by a member of staff of the residence referred to in that section if either or both of the conditions set out in subclause (3)(a) or (b) applies to that article, drug, or substance.”

(2) The principal regulations are amended by revoking regulation 45(2).

**13 Daily log**

Regulation 54(2) of the principal regulations is amended by revoking paragraph (f), and substituting the following paragraph:

“(f) those matters the details of which are required by section 384I or section 384K of the Act or any of regulations 5(6), 7(3), 8(2), 10(5), 11(6), 18(6), 19(1), 22(2), 39(6), 45(6), 48(3).”

Marie Shroff,

Clerk of the Executive Council.

**Explanatory note**

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations, which come into force on the 28th day after the date of their notification in the *Gazette*, amend the Children, Young Persons, and Their Families (Residential Care) Regulations 1996 to—

- remove the powers of search from the regulations, now that similar powers have been enacted in sections 384A to 384K of the Children, Young Persons, and Their Families Act 1989:

- modify the powers of seizure in accordance with the new provisions of the Act:
- make other consequential amendments.

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