

# **Act of 17 July 1992 no 100 relating to Child Welfare Services (the Child Welfare Act)**

As subsequently amended, most recently by Act of 19 June 2009 No. 45. This version includes the amendments which came into force 1 January 2010.

Ministry of Children, Equality and Social Inclusion

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### **The Act relating to Child Welfare Services (Child Welfare Act).**

## **Chapter 1. The purpose and scope of the Act.**

### **Section 1-1. *The purpose of the Act.***

The purpose of this Act is

- to ensure that children and young persons who live in conditions that may be detrimental to their health and development receive the necessary assistance and care at the right time,
- to help ensure that children and young persons grow up in a secure environment.

### **Section 1-2. *The territorial extent of the Act.***

The provisions of the Act regarding services and measures apply to all persons who are present in the realm.

The King may make regulations concerning the application of the Act in Svalbard.

### **Section 1-3. *To whom the Act applies.***

Measures dealt with in this Act may be applied in respect of children under 18 years of age.

When the child consents thereto, measures implemented before the child has reached the age of 18 may be maintained or replaced by other measures dealt with in this Act until the child has reached the age of 23. See, however, section 4-24, third paragraph. The termination of a measure when the child reaches the age of 18 and the rejection of an application for a measure after the child has reached the age of 18 shall be regarded as individual decisions and shall be justified by the consideration of the child's best interests, cf. section 4-1.

## **Chapter 2. Division of responsibility and administration.**

### **Section 2-1. *The municipality's functions.***

The municipality is responsible for performing those functions pursuant to the Act which are not assigned to a central government body.

The municipality shall have internal controls to ensure that the municipality performs its functions in accordance with the requirements laid down by statute or pursuant to statute. The municipality must be able to explain how it satisfies the requirement for internal controls. The Ministry may by regulations make further provisions regarding internal controls.

The municipal council may decide that functions following from this Act shall be assigned to an elected body. This body, which may not be the municipal council itself, shall have five members when dealing with client cases.

In each municipality there shall be a child welfare administration headed by a person who is responsible for functions pursuant to this Act.

The administration shall perform the day-to-day child welfare work, including

- (a) providing advice and guidance,
- (b) making administrative decisions in accordance with the Act, if appropriate

- recommending such decisions; cf. third paragraph,
- (c) preparing cases for consideration by the county social welfare board,
- (d) implementing and following up child welfare measures.

The bodies that perform functions on behalf of the municipality, cf. third and fourth paragraphs, constitute the municipal child welfare service.

The municipality is responsible for the requisite training of child welfare service personnel. Such personnel are obligated to participate in training which is prescribed, and which is considered necessary to keep up their qualifications. The King may make regulations regarding training.

**Section 2-2. Organisational structure of the central government child welfare authorities.**

The central government child welfare authorities are divided into four levels: central, regional, county and local. The central government child welfare authorities are headed by the Ministry.

**Section 2-3. The functions and authority of the central government child welfare authorities.**

The Ministry shall

- (a) oversee that the Act and regulations and other provisions that apply to services and measures pursuant to this Act are correctly applied and in such a way as to promote the purpose of the Act,
- (b) ensure that experience gained in connection with the Act is assessed, and that requisite changes are made in the body of rules,
- (c) issue any guidelines and instructions that are necessary in order to achieve such objectives as are mentioned in (a),
- (d) work to ensure that research is initiated that may be significant for the performance of functions pursuant to the Act,
- (e) work to ensure that satisfactory programmes are available for the training of personnel, and that those responsible for applying the Act otherwise receive satisfactory guidance,
- (f) ensure the preparation of information material suitable for use by the child welfare service.

The government authorities at regional level shall

- (a) at the request of a municipality, assist the municipal child welfare service in placing a child in care.
- (b) be responsible for recruitment of and placement relating to foster homes,
- (c) be responsible for ensuring that foster parents receive the requisite training and general guidance.

The government authorities at regional level shall have internal controls to ensure that the functions are performed in accordance with requirements laid down by statute or pursuant to statute. The regional authorities must be able to explain how

they satisfy the requirement regarding internal controls. The Ministry may by regulations make further provisions regarding internal controls.

The county governor is the central government child welfare authority at county level. The county governor is obligated to exercise special supervision of child welfare activities in the individual municipalities. The county governor shall, for example,

- (a) see to it that municipalities perform the functions imposed on them pursuant to this Act,
- (b) ensure that municipalities receive advice and guidance,
- (c) exercise supervision of institutions and centres for parents and children pursuant to Chapter 5 and care centres for minors pursuant to Chapter 5 A.

The Ministry may issue further regulations regarding the exercise of supervision, cf. fourth paragraph.

The child welfare institutions are central government child welfare authorities at the local level, cf. Chapter 5.

The Ministry may require that municipal agencies to which the Act applies shall, notwithstanding the duty of confidentiality, provide such information and reports as are necessary to enable the Ministry to perform its functions pursuant to the first paragraph. The Norwegian Board of Health Supervision and the county governor may require that municipal agencies to which the Act applies shall, notwithstanding the duty of confidentiality, provide such information and reports as are necessary to enable these authorities to perform their supervisory functions in accordance with the Act. Central government authorities at central level, central government authorities at regional level, the Norwegian Board of Health Supervision and the county governor may require that all institutions and centres for parents and children to which Chapter 5 of this Act applies, and care centres for minors to which Chapter 5 A of this Act applies shall, notwithstanding the duty of confidentiality, provide such information and reports as are necessary to enable the authorities to perform their functions pursuant to the Act. These authorities may also require access to all institutions and centres for parents and children covered by Chapter 5, and to care centres for minors that are covered by Chapter 5 A.

The Ministry may make further regulations regarding the authority, functions and organisation of central government child welfare authorities at central, regional and local level.

### **Section 2-3a** *Special provisions for Oslo Municipality.*

The provisions of the Act regarding the functions and authority of the central government child welfare authorities at regional level do not apply in Oslo Municipality. In Oslo Municipality the functions and authority of central government authorities at regional level shall be exercised by the municipality.

The Ministry may make further regulations regarding the duties, functions and competence of Oslo Municipality and regarding central government supervision and control.

### **Section 2-3b.** *The supervisory activities of the Norwegian Board of Health Supervision.*

The Norwegian Board of Health Supervision is responsible for the overall supervision of child welfare services in individual municipalities, and of institutions, centres for parents and children and care centres for minors pursuant to this Act. The Norwegian Board of Health Supervision shall exercise authority in accordance with the provisions of the Child Welfare Act and appurtenant regulations.

#### **Section 2-4. *Pilot projects.***

The King may consent to the implementation of pilot projects in municipalities for the purpose of developing methods of cooperation between the child welfare service and relevant partners in the central government, county municipal and municipal administration.

In relation to other persons who perform services or work for a public administrative body, the King may consent to departures from the statutory duty of confidentiality that is laid down in the present and following Acts: the Act of 2 July 1999 No. 61 relating to Specialised Health Services, etc., section 6-1, the Act of 2 July 1999 No. 64 relating to Health Personnel, etc., Chapter 5, the Act of 10 February 1967 relating to Procedure in Cases concerning the Public Administration, sections 13 to 13 f, the Act of 17 June 2005 No. 64 relating to Day Care Institutions, section 20, the Act of 19 November 1982 No. 66 relating to Municipal Health Services, section 6-6, the Act of 13 December 1991 No. 81 relating to Social Services, etc., section 8-8 and the Act of 17 July 1998 No. 61 relating to Primary and Secondary Education, section 15-1. Furthermore, consent may be given for the establishment of a common registration card index at the site of the pilot project. The card index shall state whether the various administrative bodies possess information regarding an individual client or patient and where such information may be found.

Regulations shall be drawn up for each pilot project. The regulations shall be laid down by the municipal council. When the regulations are drawn up, section 37 of the Public Administration Act shall apply correspondingly.

The regulations shall be subject to approval by the King. In connection with such approval the King may make minor amendments to the regulations. The King may make minor amendments to regulations that have already been approved

The King may issue further rules regarding pilot projects pursuant to this provision, such as regarding the number of pilot projects in total and within an individual pilot area, procedures for selecting pilot projects and areas, and the approval and implementation of pilot projects.

The Ministry shall exercise the overall supervision of pilot projects.

#### **Section 2-5. *Expert Commission on Children***

The Expert Commission on Children shall assess reports submitted by experts in child welfare cases. The members of the Commission shall be appointed by the King.

The Commission shall inform the person who engaged the expert and the expert of its assessment. The Ministry may make further provisions regarding the Commission's functions, organisation and administrative procedure.

### **Chapter 3. General functions of the municipality and the child welfare service.**



**Section 3-1.** *The preventive activities of the child welfare service.*

The municipality shall closely monitor the conditions in which children live, and is responsible for framing measures to prevent neglect and behavioral problems.

The child welfare service has particular responsibility for bringing to light neglect and behavioral, social and emotional problems at a sufficiently early stage to avoid lasting problems, and for instituting measures to this end.

**Section 3-2.** *Collaboration with other parts of the public administration.*

The child welfare service shall contribute to ensure that children's interests are also safeguarded by other public agencies.

The child welfare service shall collaborate with other sectors and levels of the public administration when such collaboration may facilitate the performance of the functions imposed on the child welfare service pursuant to this Act. As part of these functions the child welfare service shall give its opinion and advice and take part in municipal and county municipal planning activities and in the collaborative bodies that are established.

**Section 3-2a.** *Duty to prepare individual plans.*

The child welfare service shall prepare an individual plan for children who require long-term, coordinated measures or services if this is deemed necessary in order to provide comprehensive assistance for the child, and consent has been obtained. The child welfare service shall cooperate on the plan with other agencies from whom the child receives assistance.

The Ministry may make further provisions in regulations regarding the groups of children to which this duty applies, and regarding the content of the plan.

**Section 3-3.** *Collaboration with voluntary organisations.*

The child welfare service should also collaborate with voluntary organisations that work with children and young persons.

**Section 3-4.** *Housing measures for unaccompanied minors who are refugees and asylum seekers.*

In connection with the settlement of unaccompanied minors who have submitted an application for asylum or who have been granted residence on the basis of such an application, the municipality shall carry out an assessment of individual needs and provide suitable housing measures on this basis. The King may make regulations regarding the municipality's functions related to settlement.

If the municipality, in connection with the assessment pursuant to the first paragraph, finds reasonable cause to assume that circumstances exist which may provide a basis for measures pursuant to Chapter 4, the child welfare service shall investigate the matter, cf. section 4-3.

**Chapter 4. Special measures.**

**Section 4-1.** *Consideration of the child's best interests.*

When applying the provisions of this chapter, decisive importance shall be attached to framing measures which are in the child's best interests. This includes attaching importance to giving the child stable and good contact with adults and continuity in the care provided.

**Section 4-2. *Reports to the child welfare service.***

The child welfare service shall at the earliest opportunity, and within one week at the latest, examine reports it receives and assess whether the individual report shall be followed up by investigations pursuant to section 4-3.

**Section 4-3. *Right and duty of the child welfare service to make investigations.***

If there is reasonable cause to assume that circumstances obtain which may provide a basis for measures pursuant to this chapter, the child welfare service shall investigate the matter at the earliest opportunity, cf. time limits set out in section 6-9.

The investigation shall be carried out in such a way as to minimise the harm it causes to anyone affected, and it shall not have a wider scope than that justified by its purpose. Importance shall be attached to preventing the unnecessary spreading of information about the investigation.

The parents or the person with whom the child is living may not oppose an investigation as mentioned in the first paragraph being carried out in the form of a visit paid to the home.

The child welfare service may engage experts. Before the expert's report is used as the basis for a decision to implement a measure pursuant to Chapter 4 of the Child Welfare Act, it shall be assessed by the Expert Commission on Children, cf. section 2-5. This shall not apply to interim orders in emergencies, cf. sections 4-6, 4-9 and 4-25. The expert's report shall also be assessed by the Commission before it is used as the basis for a decision by the child welfare service to drop a case.

The child welfare service, and experts whom it has appointed, may demand to speak with the child alone in a separate room. If there is suspicion that the child is being mistreated or subjected to other serious abuse at home, cf. section 4-12, first paragraph (c), the child welfare service may order that the child shall be taken to a hospital or elsewhere for examination.

**Section 4-4. *Assistance for children and families with children.***

The child welfare service shall contribute to provide the individual child with sound circumstances and opportunities for development by providing advice, guidance and assistance.

The child welfare service shall, when the child due to conditions at home or for other reasons is in particular need of assistance, initiate measures to assist the child and the family, e.g. by appointing a personal support contact, by ensuring that the child is given a place at a kindergarten, or by providing a respite home or respite measures at home or a stay in a centre for parents and children or other parental support measures. The child welfare service shall similarly seek to initiate measures designed to encourage the child to take part in leisure activities, or contribute to ensuring that the child is offered training or employment, or an opportunity to live

away from home. Furthermore, the child welfare service may place the home under supervision by appointing a supervisor for the child.

The child welfare service may also provide assistance for the child in the form of financial support.

The county social welfare board may if necessary decide that measures such as a place at a kindergarten or other suitable day-care facilities shall be implemented by issuing the parents with an order to this effect. The county social welfare board may issue a supervision order when the conditions of section 4-12 are satisfied. In the case of children who have shown serious behavioural problems, cf. section 4-24, first paragraph, or who are developing such serious behavioural problems, the county social welfare board may decide that parental support measures aimed at reducing the child's behavioural problems may be implemented without the child's consent. Such parental support measures may also be implemented without the child's consent when the measures are carried out as part of the final stage of a stay in an institution pursuant to section 4-24. Parental support measures implemented without the child's consent may not be maintained for more than six months after the decision was made by the county social welfare board.

When the conditions in the second paragraph are satisfied, and provided the needs cannot be met by other assistance measures, the child welfare service may also arrange for a place in a foster home, an institution or a care centre for minors. However, if it must be assumed that the parents will be unable to take proper care of the child for an extended period, consideration should be given to deciding immediately that the child welfare service shall take the child into care pursuant to section 4-12, first paragraph, rather than prescribe voluntary placement pursuant to this section.

#### **Section 4-5. *Follow-up of assistance.***

When a decision is made to provide assistance measures, the child welfare service shall draw up a time-limited plan of measures. The child welfare service shall closely monitor the progress of the child and the parents, and assess whether the assistance provided is appropriate, and if relevant whether new measures are necessary, or whether there are grounds for taking the child into care. The plan of measures shall be evaluated on a regular basis.

#### **Section 4-6. *Interim orders in emergencies.***

If a child is without care because the parents are ill or for other reasons, the child welfare service shall implement such assistance as is immediately required. Such measures may not be maintained against the will of the parents.

If there is a risk that a child will suffer material harm by remaining at home, the head of the child welfare administration or the prosecuting authority may immediately make an interim care order without the consent of the parents.

In such a case the head of the child welfare administration may also make an interim order pursuant to section 4-19.

If an order has been made pursuant to the second paragraph, an application for measures as mentioned in section 7-11 shall be sent to the county social welfare board as soon as possible, and within six weeks at the latest, but within two weeks if it is a matter of measures pursuant to section 4-24.

If the matter has not been sent to the county social welfare board within the time-limits mentioned in the fourth paragraph, the order lapses.

**Section 4-7** *Children placed in care by the parents.*

When a child is placed with other persons in such a way that the parents cannot be said to have the child in their care, the child welfare service may demand the right to approve the accommodation if the placement lasts more than two months, cf. section 4-22, second paragraph. The basis for making such a demand is the same as for making investigations pursuant to section 4-3. The rules applying to investigations pursuant to section 4-3 shall also be followed in these cases.

The requirement regarding approval does not apply when the child is over 15 years of age, when the placement is necessary in the interest of the child's schooling, or when the child is placed in a public institution due to his/her health and development.

When the child welfare service receives information about placement pursuant to the first paragraph, it shall investigate whether there is a need for assistance that can give the parents a basis for having the child in their care, or that is otherwise desirable in the interests of the child. The second, third and fourth paragraphs of section 4-3 apply in regard to implementation of the investigation. The investigation may be omitted if the information to hand renders it unnecessary.

**Section 4-8** *Ban on removal of the child, or issue of a care order, when the child lives away from home.*

If a child is placed in care by the parents or with their consent pursuant to section 4-4, the county social welfare board may decide that the child shall not be removed for a period of up to three months. Such a decision may only be made if there are no reasonable grounds for removing the child, or if removal may be harmful for the child. The child welfare service shall, in the course of the stipulated period, take steps to ensure that removal may take place with the least possible inconvenience for the child.

If it is highly probable that removing the child will lead to a situation or risk for the child as mentioned in section 4-12, first paragraph, a care order may be made. Such an order may also be made before a newborn child is moved to his parents. Section 4-12, second and third paragraphs, applies correspondingly.

Even if the conditions pursuant to section 4-12 are not satisfied, a care order may be made if the placement has lasted more than two years, and the child has become so attached to the persons and the environment in which he/she is living that it must be assumed, on the basis of an overall assessment, that removing the child may lead to serious problems for him/her.

**Section 4-9** *Interim orders pursuant to section 4-8.*

An interim order pursuant to section 4-8, first paragraph and second paragraph, second sentence, may be made by the head of the child welfare administration if those interests which the provision is intended to protect may be significantly prejudiced if the order is not made and implemented immediately.

The head of the child welfare administration may, when an interim order has been made pursuant to section 4-8, second paragraph, second sentence, also make an interim order pursuant to section 4-19.

If an interim order has been made, an application for measures as mentioned in section 7-11 shall be sent to the county social welfare board as soon as possible, and within six weeks at the latest.

If the matter has not been sent to the county social welfare board within the time limit mentioned in the third paragraph, the order lapses.

**Section 4-10.** *Orders for medical examination and treatment.*

If there is reason to believe that a child is suffering from a life-threatening or other serious illness or injury, and if the parents fail to ensure that the child is examined or receives treatment, the county social welfare board may decide that the child with the assistance of the child welfare service shall be examined by a doctor, or be taken to a hospital for examination. The county social welfare board may also decide that such an illness shall be treated at a hospital or at home in accordance with a doctor's instructions.

**Section 4-11.** *Treatment orders for children with special treatment and training needs.*

If the parents fail to ensure that a child who is disabled or in special need of help receives the treatment and training required, the county social welfare board may decide that the child shall receive treatment or training with the assistance of the child welfare service.

**Section 4-12.** *Care orders.*

A care order may be made

- (a) if there are serious deficiencies in the everyday care received by the child, or serious deficiencies in terms of the personal contact and security needed by a child of his or her age and development,
- (b) if the parents fail to ensure that a child who is ill, disabled or in special need of assistance receives the treatment and training required,
- (c) if the child is mistreated or subjected to other serious abuses at home, or
- (d) if it is highly probable that the child's health or development may be seriously harmed because the parents are unable to take adequate responsibility for the child.

An order may only be made pursuant to the first paragraph when necessary due to the child's current situation. Hence such an order may not be made if satisfactory

conditions can be created for the child by assistance measures pursuant to section 4-4 or by measures pursuant to section 4-10 or section 4-11.

An order pursuant to the first paragraph shall be made by the county social welfare board pursuant to the provisions of chapter 7.

**Section 4-13. *Implementation of care orders.***

A care order shall be implemented as soon as possible. The order lapses if it is not implemented within six weeks from the date of the decision. The head of the county social welfare board may extend the time limit when special reasons justify doing so.

**Section 4-14. *Placement alternatives after a care order.***

When an order is made pursuant to section 4-12 or section 4-8, second and third paragraphs, the child shall be placed

- (a) in a foster home, cf. section 4-22,
- (b) in an institution, cf. section 5-1 and section 5-8, or
- (c) in a training or treatment institution when this is necessary because the child is disabled, or
- (d) in a care centre for minors, cf. chapter 5 A.

**Section 4-15. *Choice of placement in the individual case.***

Within the framework determined in section 4-14, the placement shall be chosen on the basis of the child's distinctive characteristics and need for care and training in a stable environment. Due account shall also be taken of the desirability of ensuring continuity in the child's upbringing, and of the child's ethnic, religious, cultural and linguistic background. Account shall also be taken of the likely duration of the placement, and of whether it is possible and desirable for the child to have access to and other contact with the parents.

In its proposal to the county social welfare board the child welfare service shall give an account of the points of view upon which the choice of placement in the individual case should be based. In its order the county social welfare board may attach conditions to the placement. If it is not possible for the child to be placed as stipulated in the proposal or the order, the matter shall be resubmitted to the county social welfare board.

The child welfare service shall already have adopted a plan for care of the child when he or she is taken into care. The child welfare service shall, at the latest two years after the county social welfare board's order, adopt a plan for the future care of the child which shall not be amended unless the conditions on which it was based have ceased to apply.

Well before the child reaches 18 years of age, the child welfare service and the child shall jointly assess whether the placement shall be maintained or whether the child shall receive other assistance measures after reaching the age of 18. If the child consents thereto, the child welfare service shall draw up a plan for future measures. This plan may be amended.

**Section 4-16. *Follow-up of care orders.***

The child welfare service shall closely follow the development of those children in respect of whom a care order has been made, and also the development of their parents. Shortly after a child has been placed in care, the child welfare service shall contact the parents to offer guidance and follow-up. If the parents so desire, the child welfare service shall, as part of such follow-up, put them in contact with other assistance agencies.

**Section 4-17. *Removal of the child.***

The child welfare service may remove the child only if this is necessitated by changed circumstances, or if it must be considered to be in the child's best interests. Decisions of the child welfare service in removal cases may be appealed to the county social welfare board.

**Section 4-18. *Responsibility for care in the parents' stead.***

When an order pursuant to section 4-12, cf. section 4-8, second and third paragraphs, is implemented, responsibility for care is transferred to the child welfare service. Foster parents or the institution in which the child is living shall have the child in their daily care on behalf of the child welfare service. The child welfare service may decide that the foster parents or the institution in which the child is living shall also decide matters other than those pertaining to daily care.

The county social welfare board may decide that the parents shall be entitled to decide matters not pertaining to daily care.

**Section 4-19. *Right of access. Covert address.***

Unless otherwise provided, children and parents are entitled to access to each other.

When a care order has been made, the county social welfare board shall determine the extent of access, but may in the interests of the child also decide that there shall be no access. The county social welfare board may also decide that the parents shall not be entitled to know the child's whereabouts.

Other persons who have provided daily care for the child in his or her parents' stead prior to the child's being placed in care may demand that the county social welfare board determine whether they shall be entitled to access to the child and the extent of such right of access.

The child's relatives, or other persons to whom the child is closely attached, may demand that the county social welfare board determine whether they shall be entitled to access to the child and the extent of such right of access when

- a) one or both of the parents is/are dead, or
- b) the county social welfare board has decided that one or both parents shall not be entitled to access to the child or that the parents' right of access shall be very limited.

The private parties may not demand that a case regarding access shall be dealt with by the county social welfare board if the case has been dealt with by the county social welfare board or a court of law in the preceding twelve months.

**Section 4-20. *Deprivation of parental responsibility. Adoption.***

If the county social welfare board has made a care order for a child, the county social welfare board may also decide that the parents shall be deprived of all parental responsibility. If, as a result of the parents being deprived of parental responsibility, the child is left without a guardian, the county social welfare board shall as soon as possible take steps to have a new guardian appointed for the child.

When an order has been made depriving the parents of parental responsibility, the county social welfare board may give its consent for a child to be adopted by persons other than the parents.

Consent may be given if

- a) it must be regarded as probable that the parents will be permanently unable to provide the child with proper care or the child has become so attached to persons and the environment where he or she is living that, on the basis of an overall assessment, removing the child may lead to serious problems for him or her and
- b) adoption would be in the child's best interests and
- c) the adoption applicants have been the child's foster parents and have shown themselves fit to bring up the child as their own and
- d) the conditions for granting an adoption pursuant to the Adoption Act are fulfilled.

When the county social welfare board consents to adoption, the Ministry shall issue the adoption order.

**Section 4-21. *Revocation of a care order.***

The county social welfare board shall revoke a care order when it is highly probable that the parents will be able to provide the child with proper care. The decision shall nonetheless not be revoked if the child has become so attached to persons and the environment where he or she is living that, on the basis of an overall assessment, removing the child may lead to serious problems for him or her. Before a care order is revoked, the child's foster parents shall be entitled to state their opinion.

The parties may not demand that a case concerning revocation of a care order shall be dealt with by the county social welfare board if the case has been dealt with by the county social welfare board or a court of law in the preceding twelve months. If a demand for revocation of the previous order or judgment was not upheld in terms of section 4-21, first paragraph, second sentence, new proceedings may only be demanded when documentary evidence is provided to show that significant changes have taken place in the child's situation.

**Section 4-22. *Foster homes.***



In this Act, "foster home" means

- (a) a private home that accepts children for fostering on the basis of a decision of the child welfare service regarding assistance pursuant to section 4-4, or in connection with a care order pursuant to section 4-12 or section 4-8, second and third paragraphs,
- (b) a private home that is subject to approval pursuant to section 4-7.

Persons selected as foster parents shall have a special aptitude for giving children a secure and good home, and be capable of discharging their responsibilities as foster parents in accordance with the conditions on which the duration of the placement etc., cf. section 4-15, is based.

The Ministry may make regulations regarding the criteria that shall be applied when selecting foster homes, regarding the foster parents' rights and duties, regarding the child welfare service's duty to provide guidance and to follow up foster homes, and regarding supervision of children in foster homes.

The child welfare service shall appoint a supervisor for children in foster homes.

The municipality in which the foster home is located is responsible for approval and supervision of the home.

**Section 4-23.** *Agency for placement in foster homes.*

It is prohibited for private individuals to act as agents for the placement of children without a view to adoption. Nor may organisations engage in such activity without a licence from the Ministry, which in such case supervises the activity.

Anyone who wilfully contravenes the prohibition of the first paragraph or aids and abets thereto is liable to fines or imprisonment for a term not exceeding three months. Attempts are subject to the same penalty as a completed contravention.

Chapter 3 A of the Adoption Act applies to agencies for placement of children with a view to adoption.

**Section 4-24.** *Placement and retention in an institution without the child's own consent.*

A child who has shown serious behavioural problems

- in the form of serious or repeated criminality
- in the form of persistent abuse of intoxicants or drugs or
- in other ways

may without his or her consent or the consent of the person with parental responsibility for him or her be placed in an institution for observation, examination and short-term treatment for up to four weeks, or for a shorter period as determined in the order. In the event of a renewed order the period of placement may be extended by up to a further four weeks.

If it is likely that a child as mentioned in the first paragraph is in need of more long-term treatment, an order may be made to place the child in a treatment or training institution for up to twelve months without his or her consent or the consent of the person who has parental responsibility for the child. In the event of a renewed order the period of placement may in special cases be extended by up to a further twelve months. The child welfare service shall continuously monitor the placement, and reassess the measure when the placement has lasted six months.

If the placement has been implemented before the child reaches the age of 18, a measure pursuant to the first and second paragraphs may be implemented in the manner decided by the county social welfare board, even if the child in question reaches the age of 18 during the period of placement.

An order pursuant to the first and second paragraphs may only be made if the institution has the expertise and resources required to provide the child with satisfactory assistance in relation to the purpose of the placement.

**Section 4-25.** *Procedure in connection with orders pursuant to section 4-24.*

Before making an order pursuant to section 4-24, first and second paragraphs, the child welfare service shall consider whether assistance pursuant to section 4-4 should be implemented instead. The child welfare service shall also plan and implement such assistance as is necessary as a follow-up of the stay in the institution.

Orders pursuant to section 4-24, first and second paragraphs, shall be made by the county social welfare board pursuant to the provisions of chapter 7. Interim orders may be made by the head of the child welfare administration and by the prosecuting authority. Section 4-6, second, fourth and fifth paragraphs, applies correspondingly.

The child welfare service may refrain from implementing an order if the circumstances so indicate. The county social welfare board shall be informed accordingly. If the order is not implemented within six weeks, it lapses.

**Section 4-26.** *Retention in an institution on the basis of consent.*

A child with serious behavioural problems may be admitted to an institution that falls within the scope of section 4-24, first and second paragraphs, also on the basis of his or her consent and the consent of those who have parental responsibility for the child. If the child has reached the age of 15, his or her consent is sufficient.

When a child is admitted to an institution on the basis of consent, the institution may impose the condition that the child may be retained in the institution for up to three weeks as from the date of admission. In the event of admission to an institution with a view to treatment or training lasting at least three months, a condition may also be imposed that the child may be retained for up to three weeks after consent has been expressly withdrawn.

If the child absconds, but is returned within three weeks, the period of retention is reckoned from the date on which the child is returned to the institution.

The child's consent shall be in writing and shall be given to the management of the institution at the start of the stay at the latest. Before giving his or her consent, the child shall be informed of any present conditions as mentioned in the second paragraph.

**Section 4-27.** *Placement alternatives in connection with orders for special measures for children and young persons with serious behavioural problems, cf. sections 4-24 and 4-26.*

The central government child welfare authority at regional level shall designate the institutions that shall accept children on the basis of orders as mentioned in section 4-24, cf. section 4-26. It may be decided that a child may be placed in a foster home which has special qualifications for solving the problems at hand.

**Section 4-28.** *Plan of measures.*

When a child is placed in an institution without his or her consent or the consent of those who have parental responsibility for him or her, cf. section 4-24, the child welfare service shall ensure that a plan of measures is drawn up for the child. A draft of the plan of measures shall have been prepared when the county social welfare board deals with the case. A final plan of measures shall be drawn up as soon as possible after the county social welfare board has made a decision. The plan of measures must not be contrary to the decision of the county social welfare board or with the conditions for the decision. Moreover, when the child welfare service assists in placing a child in an institution on the basis of consent, cf. section 4-26, it shall ensure that a plan of measures is drawn up for the child if the child and those who have parental responsibility for him or her consent thereto. If the child has reached the age of 15, the consent of the child is sufficient. If possible, the plan of measures shall have been prepared before the placement is implemented.

The plan of measures shall be amended if the needs of the child justify doing so. As far as possible, the preparation and amendment of the plan of measures shall be carried out in collaboration with the child. When placement takes place in pursuance of section 4-24, no changes must be made that are contrary to the decision of the county social welfare board or to the conditions for the decision. When placement is carried out in pursuance of section 4-26, consent as mentioned in the first paragraph, fifth and sixth sentences, must also be obtained if the plan of measures is to be amended.

When the placement is carried out with the assistance of the central government child welfare authorities at regional level, cf. section 2-3, the latter shall, at the request of the municipal child welfare service, assist the child welfare service in drawing up the plan of measures.

The Ministry may issue guidelines regarding the content of the plan of measures.

## **Chapter 5. Institutions.**

**Section 5-1** *Responsibility for institutions for children.*

The central government child welfare authorities at regional level are responsible for the establishment and operation of institutions, and any associated specialised services for the care and treatment of children. This responsibility applies to institutions falling within the scope of this Act.

**Section 5-2.** (Repealed by the Act of 9 May 2003 No. 29 (in force from 1 January 2004 pursuant to the Decree of 9 May 2003 No. 596).)

**Section 5-3.** (Repealed by the Act of 9 May 2003 No. 29 (in force from 1 January 2004 pursuant to the Decree of 9 May 2003 No. 596).)

**Section 5-4.** *Admission to and discharge from institutions as mentioned in section 5-1.*

The central government authorities at regional level shall make rules for the procedure for deciding admissions and discharges.

If it has been decided that a child shall be placed in an institution, the institution may not refuse to admit the child.

Children may not be discharged before the due date without the consent of the child welfare service.

It may be demanded that a disagreement regarding admission or discharge be decided by the county governor in the county in which the institution is located.

**Section 5-5.** (Repealed by the Act of 9 May 2003 No. 29 (in force from 1 January 2004 pursuant to the Decree of 9 May 2003 No. 596).)

**Section 5-6.** *Collaboration with institutions falling within the scope of other statutes.*

In the case of children whom the authorities are considering placing in an institution that falls within the scope of another statute, the central government child welfare authorities at regional level shall ensure that collaboration is established between the child welfare service, the regional authorities and institutions as mentioned. The King may make provisions regarding collaborative arrangements, including a duty to participate in collaborative groups, admissions panels and the like.

**Section 5-7.** *Supervision.*

The county governor shall supervise that institutions falling within the scope of section 5-1, state centres for parents and children and private and municipal institutions and centres for parents and children that have been approved pursuant to section 5-8 are operated in accordance with this Act and regulations laid down pursuant to the Act.

If the county governor deems that the institution or the centre is improperly run, the county governor may order that the conditions be rectified, or close down the institution.

The county governor may appoint a supervisory committee to exercise ongoing supervision of the institutions and the centres. The Ministry may make regulations regarding the area of responsibility and composition of the supervisory committees.

**Section 5-8.** *Private and municipal institutions and centres for parents and children.*

Private and municipal institutions and private and municipal centres for parents and children may only be used for children to whom the Act applies if the institution or the centre has been approved by the central government child welfare authorities at regional level. The institution or the centre may only be approved if it is operated in accordance with this Act and appurtenant regulations, and is otherwise properly run. Decisions regarding approval pursuant to this Act are individual decisions and may be appealed to the central government child welfare authorities at central level. The Ministry may make further regulations regarding the system of approval, including conditions for approval and the system of appeal.

The Ministry may make regulations regarding the keeping of accounts and public authorities' access to the accounts.

**Section 5-9.** *Rights during stays in institutions falling within the scope of section 5-1 and in private and municipal institutions approved pursuant to section 5-8.*

Institutions shall be run in such a way that the children themselves may decide personal matters and have such access to other persons as they wish, to the extent this is compatible with the child's age and maturity, with the object of the stay, and with the institution's responsibility for its day-to-day operation, including its responsibility for security and well-being.

The children shall have the right to move around both on and off the institution's premises, subject to the constraints established out of consideration for the children's need for security and well-being. In the case of children placed in the institution on the basis of an order or consent as mentioned in section 4-24 or section 4-26, the institution may limit the right of such children to leave the premises to the extent necessitated by the purpose of the order.

It is not permitted to

- (a) punish a child physically,
- (b) to lock the child in a room alone or employ similar coercive means unless this is authorised by regulations as mentioned in the fourth paragraph (a),
- (c) keep a check on a child's correspondence unless this is authorised by regulations as mentioned in the fourth paragraph (b).

The Ministry may make regulations

- (a) to supplement the above provisions, including regulations regarding the use of coercive measures,
- (b) with a view to preventing intoxicants and drugs or dangerous objects from being brought into the institution,
- (c) regarding management of the child's funds.

**Section 5-9a.** *Rights during stays in a centre for parents and children.*

Centres for parents and children shall be operated in such a way as to respect the right of parents and their child to private and family life and the parents' right to make decisions by reason of their daily care of the child are respected, to the extent this is in accordance with the object of the stay and with the centre's responsibility for operations, including security and well-being.

The Ministry may by regulations make further provisions regarding the rights and duties of children and parents in centres for parents and children.

**Section 5-10.** *General requirements for institutions and centres for parents and children.*

In order to ensure that institutions falling within the scope of section 5-1 and state centres for parents and children are of a proper standard, the Ministry may make regulations regarding the requirements that shall be imposed on the institutions and the centres, including professional requirements and requirements regarding buildings, equipment and staffing.

**Chapter 5 A. Care centres for minors.**

**Section 5A-1.** *Offer to stay in a care centre for minors.*

The central government child welfare authorities at regional level shall offer children who have come to the realm and applied for asylum without parents or any other person with parental responsibility accommodation in a care centre for minors.

This offer shall apply from the time the child is transferred from the immigration authorities to the central government child welfare authorities at regional level until the child becomes a resident of a municipality or leaves the realm.

This provision applies to children who are under 15 years of age when they file their application for asylum. In the case of children over 15 years of age, the provision applies from the date decided by the King.

**Section 5A-2.** *Responsibility for care.*

While the child is staying at a care centre, the central government child welfare authorities at regional level are responsible for providing care for the child. The care centre shall provide such care on behalf of the central government child welfare authorities at regional level.

The care centre shall give the child good care and security and help to ensure that he or she receives the necessary follow-up and treatment.

**Section 5A-3.** *Responsibility for meeting the child's needs upon arrival.*

When the child arrives at the care centre, the centre shall assess the child's situation and needs and meet such needs in the best possible way also before a follow-up order is issued pursuant to section 5A-4.

If, on the basis of the care centre's assessment, the child's needs cannot be met satisfactorily at the centre, or the child wishes to stay outside the care centre, the

centre shall notify the child welfare service to assess whether special measures pursuant to chapter 4 should be implemented.

**Section 5A-4. *Follow-up orders.***

The care centre shall in collaboration with the child assess the child's situation and needs and prepare a proposal for following up the child while he or she is staying at the centre. The proposal shall be sent to the central government child welfare authorities at regional level within three weeks of the child's arrival at the centre. Within six weeks of the child's arrival at the centre, the central government child welfare authorities at regional level shall make an order regarding follow-up of the child while he or she is staying at the centre.

The follow-up order shall serve as the basis for the further follow-up of the child at the care centre.

**Section 5A-5. *Responsibility for monitoring the child's development during his or her stay at the care centre.***

The care centre and the central government child welfare authorities at regional level shall monitor the child's development closely. Should there be significant changes in the child's need for follow-up, a new follow-up order shall be made if necessary in accordance with section 5A-4, first paragraph.

If the care centre finds that, as a result of the child's development, the child's needs can no longer be met in a satisfactory manner at the care centre, or the child wishes to stay outside the care centre, the care centre shall instead notify the child welfare service to assess whether special measures should be implemented pursuant to Chapter 4.

**Section 5A-6. *Assessment.***

During the child's stay at the centre, the care centre shall make an assessment of the child's situation and needs as a basis for his or her subsequent settlement in a municipality.

The assessment shall be drawn up in collaboration with the child. The assessment may only be sent to relevant authorities with his or her written consent.

**Section 5A-7. *Supervision, approval, rights during the stay and quality standards.***

Sections 5-7, 5-8, 5-9 and 5-10 of the Act and appurtenant regulations apply to care centres in the same way as to institutions.

**Section 5A-8. *Responsibility for establishment and operation.***

Central government child welfare authorities at regional level are responsible for establishing and operating care centres for minors.

**Section 5A-9. *Financial liability.***

Expenses connected with a stay at a care centre pursuant to section 5A-1 are covered by the central government child welfare authorities at regional level.

**Section 5A-10. *Placement in a care centre pursuant to Chapter 4 of the Act.***

When a child is placed in a care centre by order pursuant to Chapter 4, section 4-18 regarding responsibility for care in the parents' stead, section 5-4 regarding admission and discharge and the provisions of Chapter 9 regarding the distribution of expenses apply in the same way as when a child is placed in an institution.

## **Chapter 6. General rules of procedure.**

### **Section 6-1. Application of the Public Administration Act.**

The Public Administration Act applies together with the special rules laid down in this Act.

Decisions concerning benefits and services pursuant to this Act shall be regarded as individual decisions.

If several persons simultaneously seek a service which is in short supply, they are nevertheless not regarded as parties in the same case, and an applicant who believes that he or she has been passed over may not complain that another person has received the benefit.

The Ministry may make regulations to the effect that the Public Administration Act shall apply to decisions made while the child is in an institution or the child and the parents are staying in a centre for parents and children.

### **Section 6-2. Application of the Public Administration Act to private institutions, private centres for parents and children and private care centres for minors.**

Client cases dealt with by private institutions, private centres for parents and children, and private care centres for minors that have been approved pursuant to section 5-8 are subject to the Public Administration Act, together with the special rules laid down in this Act, cf. section 6-1.

### **Section 6-3. Children's rights during proceedings.**

A child who has reached the age of 7, and younger children who are capable of forming their own opinions, shall receive information and be given an opportunity to state his or her opinion before a decision is made in a case affecting him or her. Importance shall be attached to the opinion of the child in accordance with his or her age and maturity.

A child may appear as a party in a case and exercise his or her rights as a party if he or she has reached the age of 15 and understands the subject-matter of the case. The county social welfare board may grant a child under 15 years of age rights as a party in special cases. In a case concerning measures for children with behavioural problems, the child shall always be regarded as a party.

### **Section 6-4. Obtaining information.**

Information shall as far as possible be obtained in collaboration with the person whom the case concerns or in such a way that the person concerned is aware that information is being obtained.

Notwithstanding the duty of confidentiality, public authorities shall of their own initiative provide information to the municipal child welfare service when there is reason to believe that a child is being mistreated at home or is subjected to other



forms of serious neglect, cf. sections 4-10, 4-11 and 4-12, or when a child has shown persistent, serious behavioural problems, cf. section 4-24. Organisations and private individuals that perform functions for the central government, county municipality or municipality are considered to be on a par with public authorities. Public authorities are also obligated to disclose such information when ordered to do so by bodies that are responsible for implementing the Act. By order of these bodies public authorities are also obligated, in connection with cases to be decided by the county social welfare board pursuant to section 4-19, 4-20 and 4-21, to disclose any information necessary to be able to assess whether moving a child back to his or her parents, or his or her access to them, might give rise to a situation for or risk to the child as mentioned in sections 4-10, 4-11 or 4-12.

Practitioners of professions pursuant to the Act relating to Health Personnel, etc., the Act relating to Mental Health Care, the Act relating to Municipal Health Services, the Act relating to Family Counselling Services and Mediators in Matrimonial Cases (cf. the Marriage Act) and the Act relating to Independent Schools are also obligated to disclose information pursuant to the provisions of the second paragraph.

**Section 6-4a.** (Repealed by the Act of 19 June 2009 No. 44 (in force from 1 January 2010 pursuant to the Decree of 4 September 2009 No. 1154).)

**Section 6-5.** *Appeals against decisions/orders of the child welfare service and the central government child welfare authorities at regional level.*

Individual decisions made by the child welfare service, and follow-up orders made by the central government child welfare authorities at regional level, may be appealed to the county governor.

Unless otherwise provided in this Act, the first paragraph does not apply to cases which come under the jurisdiction of the county social welfare board pursuant to chapter 7.

**Section 6-6.** *The county governor's competence in appeals.*

The county governor may review all aspects of the decision/order.

If a decision that upholds the appeal cannot be implemented immediately, the county governor may decide that interim measures to meet the immediate need shall be implemented without delay.

**Section 6-7.** *Duty of confidentiality.*

Anyone who performs services or work for a public administrative body, an institution, a centre for parents and children or a care centre for minors pursuant to this Act is subject to a duty of confidentiality pursuant to sections 13 to 13e of the Public Administration Act. Breaches are punishable under section 121 of the Penal Code.

The duty of confidentiality also applies to place of birth, date of birth, personal identity number, nationality, marital status, occupation, address and place of employment. Information about a client's whereabouts may nonetheless be disclosed when it is clear that provision of such information will not impair confidence in the child welfare service, the institution or the centre for parents and children.

Information may only be disclosed to other bodies of the public administration, cf. section 13b, subsections 5 and 6, of the Public Administration Act, when necessary to facilitate the functions of the child welfare service, the institution, the centre for parents and children or the care centre for minors, or to prevent material danger to life or serious harm to any person's health. Professionals in accordance with the Health Personnel Act may also provide information pursuant to this provision. Notwithstanding the duty of confidentiality, the child welfare service shall of its own initiative disclose information to the social services when there is reason to believe that a pregnant woman is abusing intoxicants in such a way that it is highly probable that the baby will be born with a defect, cf. section 6-2a of the Social Services Act. The child welfare service is also obligated to disclose such information on the order of the bodies responsible for implementing the Social Services Act.

If it is in the child's best interests, the county governor or the Ministry may decide that information shall be subject to a duty of confidentiality, even if the parents have consented to its disclosure.

**Section 6-7a. *Response to reporters.***

The child welfare service shall give a response to any person who has sent a report to the child welfare service, cf. section 4-2. The response shall be sent within three weeks of receipt of the report. A response may be omitted in cases where the report is obviously unfounded, or where other special considerations argue against responding.

The response shall confirm receipt of the report. If the report comes from a reporter falling within the scope of section 6-4, second and third paragraphs, the response shall also state whether an investigation has been opened pursuant to section 4-3.

If an investigation has been opened, the child welfare service shall give a reporter falling within the scope of section 6-4, second and third paragraphs, a new response to the effect that that the investigation has been completed. The new response shall be sent within three weeks of completion of the investigation and shall contain information as to whether the case has been dropped, or whether the child welfare service is following up the case.

When the child welfare service shall initiate or has initiated measures of which it is necessary for a reporter falling within the scope of section 6-4, second and third paragraphs, to be informed in the interests of his/her further follow-up of the child, the child welfare service may give the reporter a response regarding the measures.

**Section 6-8. *Use of coercion when carrying out investigations and when executing decisions/orders.***

The head of the child welfare administration may, when deemed necessary, request the assistance of the police when carrying out investigations pursuant to section 4-3 and when executing decisions/orders pursuant to sections 4-6, second paragraph, 4-8, 4-9, 4-10, 4-11, 4-12, 4-17, 4-24 and 4-25, second paragraph.

**Section 6-9. *Time limits and imposition of fines.***

An investigation pursuant to section 4-3 shall be carried out as soon as possible and within three months at the latest. In special cases the time limit may be six months.

An investigation is completed when the child welfare service has made a decision to implement measures or it has been decided to drop the case. In those instances where the measure comes under the jurisdiction of the county social welfare board, the investigation is completed when the child welfare service has submitted an application for measures to the county social welfare board in accordance with section 7-11.

If the time limits are exceeded the county governor may impose a fine on the municipality. The same applies if the time limit mentioned in section 4-2 is exceeded. The Ministry may make regulations regarding the implementation of the arrangement and regarding the size of the fine.

#### **Section 6-10. *Police certificate of conduct.***

Anyone who is to be employed in the child welfare service, cf. section 2-1, shall present a satisfactory police certificate of conduct.

Any person who is to be employed in an institution that falls within the scope of section 5-1 or a state centre for parents and children, in a private or municipal institution or a private or municipal centre for parents and children that is approved pursuant to section 5-8 or in a care centre for minors pursuant to Chapter 5 A shall present a satisfactory police certificate of conduct. A police certificate of conduct may also be required from other persons who perform functions for the institution the centre for parents and children, or the care centre for minors, and who have direct contact with children and youth or parents staying there.

Any person or persons who is/are to be approved as foster parents, cf. section 4-22, shall present a satisfactory police certificate of conduct. A police certificate of conduct may also be required from other persons living in the foster home.

A police certificate of conduct may be required from personal support contacts, supervisors, private individuals who take care of children as a respite measure and other persons who perform functions for the child welfare service in connection with the provision of assistance pursuant to section 4-4.

The police certificate of conduct shall show whether the person concerned has been charged with, indicted for, issued an optional penalty writ for or convicted of a breach of sections 193, 194, 195, 196, 197, 199, 200, second paragraph, 201 (c), 203 and 204 a of the Penal Code.

Any person who has been issued an optional penalty writ or been convicted of a contravention as mentioned in the fifth paragraph is precluded from performing work or functions as described in this provision.

The Ministry may make regulations supplementing this provision.

### **Chapter 7. Rules of procedure for the county social welfare board.**

#### **Section 7-1. *The territorial jurisdiction of the county social welfare board.***

In each county there shall be a board – the county board for child welfare and social affairs. The Ministry may decide that several counties are to have a common board.

The county social welfare board decides cases brought by municipalities, cf. section 8-4, in the county covered by the board. When the expedient processing of cases so requires, the Ministry may decide that cases instituted in one or more municipalities shall be decided in another county.

**Section 7-2.** *The composition of the county social welfare board.*

Each county social welfare board shall consist of

- (a) one or more chairs who are qualified to act as judges,
- (b) a committee of professional experts,
- (c) a committee of ordinary members. The Ministry may decide that the committee shall be divided into sub-committees covering different parts of the board's territorial jurisdiction.

The Ministry appoints committees as mentioned in the first paragraph (b) and (c). Appointments are made for a term of four years. Members of committees as mentioned in the first paragraph (c) shall be selected from the committee of lay judges who are chosen in accordance with section 66, first paragraph, of the Courts of Justice Act.

The Ministry may make regulations regarding the qualifications required of members of committees as mentioned in the first paragraph (b) and (c).

**Section 7-3.** *Main principles for the county social welfare board's proceedings.*

The county social welfare board shall deal with cases in a satisfactory, expeditious and confidence-inspiring manner. Its proceedings shall be adapted to the measure in question and the nature, scope and complexity of the case, and shall underpin the fundamental considerations of the Act.

In order to achieve the goals set out in the first paragraph,

- (a) the county social welfare board shall ensure that the evidence submitted provides an adequate factual basis for decision-making,
- (b) the parties to the case shall be heard, normally by means of oral statements made directly to the boards,
- (c) steps shall be taken to ensure that both sides are heard,
- (d) the parties to the case shall be treated equally and receive the necessary guidance,
- (e) the county social welfare board shall carry out an independent and genuine assessment of the basis for decision-making, and
- (f) the grounds for decisions on measures and other important decisions shall be stated.

The board chair is responsible for ensuring that cases are dealt with in accordance with the first and second paragraphs, and to this end shall plan and direct the preparatory proceedings, negotiation meeting and deliberations, and shall see to it that the proceedings are proportionate to the case that is to be decided.

**Section 7-4. Access to documents.**

The parties are entitled to access to applications for measures with attached documents, decisions of the county social welfare board and other documents in the case to be heard by the county social welfare board, and may demand copies of them.

The limitations on the party's right to see case documents which are laid down in section 19, first paragraph (c) and second paragraph, of the Public Administration Act, do not apply to these documents.

**Section 7-5. The board's composition in individual cases.**

In individual cases the county social welfare board shall consist of a board chair, one member of the ordinary committee and one member of the expert committee. When the complexity of the case so requires, the board chair may decide that the board, in addition to the board chair, shall consist of two members of the ordinary committee and two members of the expert committee.

If the parties consent thereto, the board chair may decide cases as mentioned in the first paragraph alone unless this is precluded by due regard for the satisfactory hearing of the case.

When the case concerns a demand for an alteration in a previous decision/order or judgment, the board chair may decide the case alone if this is unobjectionable with due regard for the subject of the case, its complexity, the need for professional expertise, and a valid hearing of the case.

**Section 7-6. Competence.**

Chapter 6 of the Courts of Justice Act applies correspondingly to the chair and members of the board.

Participation in earlier hearings of cases with the same parties or in proceedings in the same case in the county social welfare board does not in itself entail incompetence.

**Section 7-7. Summoning of the parties. Non-appearance.**

The parties shall be summoned to the negotiation meeting, if necessary by service of summons. In the event of such service, section 7-21 regarding service of decisions/orders shall apply correspondingly. Service of summons may be omitted on the conditions ensuing from section 16, third paragraph, of the Public Administration Act.

When a private party is summoned pursuant to the provisions of the first paragraph, the case may be dealt with even if the person concerned fails to appear.

**Section 7-8. Legal counsel.**

The county social welfare board shall ensure that legal counsel is appointed for the private parties. The counsel shall immediately be informed of any application for a measure with attached documents, and be given a time limit for reply pursuant to section 7-11. The Ministry may make further provisions regarding the choice of legal counsel who may be appointed for private parties in cases pursuant to section 7-23.

The public party shall as a rule be represented by legal counsel during the case.

**Section 7-9. Spokesperson.**

The county social welfare board may appoint a special spokesperson for the child in cases that are to be dealt with by the board. The Ministry may make regulations regarding the further implementation of the arrangement.

**Section 7-10. Institution of proceedings by the child welfare service.**

Proceedings in a case to be heard by the county social welfare board are instituted by the child welfare service drafting an application for a measure. An appeal case pursuant to section 4-17 shall be prepared by the child welfare service in accordance with the provisions of section 33, first to fourth paragraphs, of the Public Administration Act.

When the case concerns a demand by the private party for alterations to an earlier decision/order, the child welfare service shall prepare and send the case to the county social welfare board as soon as possible and not later than three months from receipt of the demand by the child welfare service. In special cases the time limit may be six months.

If the application is to be submitted to an elected body pursuant to section 2-1, third paragraph, and the body agrees thereto, the proposal with any comments shall immediately be sent to the county social welfare board. If the case is urgent, it may be sent to the board without being submitted to the elected body in advance.

If the county governor is made aware by an appeal, cf. section 6-5, or by other means, of circumstances that justify the implementation of measures requiring a decision/order by the county social welfare board, the county governor may present a proposal as mentioned in the first paragraph.

**Section 7-11. Applications for measures. Reply.**

Applications for measures shall be sent to the county social welfare board and shall contain or have as attachments:

- (a) the name of the board,
- (b) the name, occupation and address of the parties, their legal deputies and legal counsel,
- (c) a brief statement of what the application concerns,
- (d) a presentation of the case,
- (e) the evidence that will be produced, including a list of witnesses and experts, with a statement of what their testimony concerns, and
- (f) a proposal for a decision/order, a brief summary account of the circumstances on which the proposal is based with reference to the legal provisions that are applicable.

In the application an account shall be given of circumstances that may be of significance for the board chair's assessment of the further proceedings and mode of decision-making, including the composition of the board and a timetable for a possible negotiation meeting.

If an application for a measure does not satisfy the requirements ensuing from the first and second paragraphs, the board chair shall order that this be remedied and shall set a short time limit for this to be done.

The private parties shall immediately be notified of the application, and be given a short time limit for reply, normally no longer than ten days. They shall give an account of their view of the application and the stated grounds on which it is based, a summary of their own evidence and any circumstances of significance for the board chair's assessment of the further proceedings and mode of decision-making, including the composition of the county social welfare board and a timetable for a possible negotiation meeting.

**Section 7-12. Preparatory proceedings in the county social welfare board.**

The scope of the case to be heard by the board shall be defined through the preparatory proceedings, to ensure that the further proceedings and decision-making process can take place in accordance with section 7-3.

Immediately after an application for a measure is received by the board, the board chair shall assess and, if appropriate, make a decision regarding the further proceedings, relating to such matters as:

- (a) the composition of the board,
- (b) the need for meetings, including whether a negotiation meeting shall be held,
- (c) the topic of discussion, time and place for such meetings,
- (d) the need for the submission of additional evidence, including expert reports,
- (e) the mode of submission of evidence, including use of remote examination, and
- (f) whether a spokesperson shall be appointed for the child.

In cases where the facts are unclear the board chair may order the municipality to submit a brief chronological or other systematised account of the facts or parts thereof. The private party or parties shall be given a time limit for making a reply indicating which parts of the description of facts are accepted, and which parts are not accepted. If the description is not accepted, the board chair may request the party or parties to state briefly which facts they consider to be correct. The board chair may call upon the parties to collaborate in making the statement.

If there are several cases which wholly or in part concern the same child or parents, an attempt shall be made to deal with them collectively in so far as this can be done without setting aside the statutory duty of confidentiality.

The board chair may summon the parties to a preparatory meeting in order, *inter alia*, to clarify the differences in opinion between the parties and discuss the further handling of the case.

Before the preparatory proceedings are concluded, the board chair may require the parties to submit a brief closing statement with a proposal for a decision/order, the circumstances on which it is based and the legal provisions that apply, as well as the evidence that the parties wish to submit.

**Section 7-13. Procedural decisions. Summary dismissal and discontinuance.**

Decisions regarding procedure during the preparatory proceedings are to be made by the board chair. If the board chair in question is prevented from reaching a rapid decision, the decision may be made by another board chair.

A board chair may make a decision to summarily dismiss or discontinue the case during the preparatory proceedings pursuant to the provisions of the first paragraph.

Decisions as mentioned in the first paragraph may be reversed if this is justified by the purpose of the Act. Decisions made during the preparatory proceedings are not binding at the negotiation meeting.

**Section 7-14.** *When a negotiation meeting shall be held.*

Before a decision is made a negotiation meeting shall be held. The negotiation meeting shall be held as soon as possible, and if possible within four weeks after receipt of the case by the county social welfare board.

A decision may be made without holding a negotiation meeting:

- (a) when the parties to the case consent thereto and this is not precluded by considerations pertaining to the satisfactory hearing of the case,  
or
- (b) when the case concerns a demand for amendment of an earlier decision/order or judgment, and the board chair finds this unobjectionable with regard to the topic of the case, its complexity, the need for expertise and due regard for a proper hearing of the case.

When the conditions set out in the second paragraph (a) or (b) are fulfilled, a decision may be made on the basis of a combination of oral proceedings pursuant to the first paragraph and written proceedings.

**Section 7-15.** *Implementation of the negotiation meeting.*

The board chair conducts the negotiation meeting and sees to it that it is carried out in accordance with the established limits. Otherwise section 9-15 of the Civil Procedure Act applies in so far as it is appropriate.

**Section 7-16.** *In camera proceedings.*

The meetings of the county social welfare board are held in camera.

However, at the request or with the consent of the parties, and when the board finds this unobjectionable, the board may decide that the meeting shall wholly or in part be open to the public.

On the same conditions as in the second paragraph the board may decide that

- (a) specific persons who are connected with a party, or for educational purposes, may attend the proceedings, and
- (b) specific persons may attend the proceedings and the deliberations meeting for research purposes.

All the persons present are subject to a duty of confidentiality and are banned from recording the proceedings unless otherwise decided by the board.



**Section 7-17. Evidence.**

The following provisions of the Civil Procedure Act apply correspondingly to the county social welfare board in so far as they are appropriate:

- (a) chapter 21 regarding the general provisions concerning evidence, except for section 21-4,
- (b) chapter 22 regarding the exclusion of evidence and exemption from testifying,
- (c) chapter 24 regarding testimony,
- (d) chapter 25 regarding expert testimony,
- (e) chapter 26 regarding material evidence, and
- (f) chapter 27 regarding the judicial recording of evidence in legal proceedings.

Expert testimony may only be used as a basis by the county social welfare board if it has been assessed by the Expert Commission on Children, cf. section 2-5.

**Section 7-18. Basis for decision-making.**

Decisions after the negotiation meeting shall be made on the basis of the proceedings of the meeting. The board chair may decide that written statements of facts, cf. section 7-12, third paragraph, shall be included in the decision-making basis.

When the case is decided without a negotiation meeting pursuant to section 7-14, second paragraph, the decision shall be made on the basis of the case documents and any evidence submitted at a meeting as mentioned in section 7-12, fifth paragraph.

When the case is decided on the basis of a combination of oral and written proceedings pursuant to section 7-14, third paragraph, the decision shall be made on the basis of the proceedings in the negotiation meeting and the case documents.

In the case of appeals against emergency decisions/orders, section 7-23, second paragraph, shall apply.

**Section 7-19. Administrative decisions.**

The county social welfare board makes decisions as soon as possible and not later than two weeks after the conclusion of the negotiation meeting, unless this is not practically possible. If the time limit is exceeded, the reason shall be stated in the decision.

Section 19-3 of the Civil Procedure Act shall apply correspondingly to deliberation meetings and voting in so far as it is appropriate.

The reasons for decisions shall be stated in the same way as for judgments. Section 19-6 of the Civil Procedure Act shall apply correspondingly in so far as it is appropriate. In the notification of the decision attention shall be drawn to the right to demand a judicial review, cf. section 7-24.

The decision of the board becomes binding when it has been signed by all the members of the board. The board chair is the last person to sign.

**Section 7-20. Correcting errors. Supplementary decisions.**

Section 19-8 of the Civil Procedure Act applies correspondingly to the correction of errors in decisions made by the county social welfare board in so far as it is appropriate. The board has a duty to deal with an application for correction when the application is presented within the time limit for demanding a judicial review.

Section 19-9 of the Civil Procedure Act applies correspondingly to supplementary decisions made by the board in so far as it is appropriate.

**Section 7-21. *Service of decisions.***

Decisions of the county social welfare board are served by post pursuant to section 163a of the Courts of Justice Act.

The board may decide that the decision is to be served by a process server pursuant to the provisions of the Courts of Justice Act if it deems it to be necessary to ensure that it is properly served.

Otherwise the provisions of the Courts of Justice Act concerning service of process apply correspondingly in so far as they are appropriate.

**Section 7-22. *Approval of emergency orders.***

Emergency orders pursuant to sections 4-6, second paragraph, 4-9, first paragraph, and 4-25, second paragraph, shall immediately after execution be sent to the county social welfare board for approval. The order shall be approved by the board chair as soon as possible, and if possible within 48 hours after receipt of the case by the county social welfare board. Brief grounds shall be given for the decision.

Approval shall be given on the basis of the emergency order. The board chair may obtain further information where this is necessary in order to assess the question of approval.

**Section 7-23. *Appeal against emergency orders.***

The private parties may appeal against an emergency order pursuant to section 4-6, second and third paragraphs, section 4-9, first and second paragraphs, and section 4-25, second paragraph. The appeal shall be submitted in writing or orally to the county social welfare board.

The appeal is dealt with by the board chair alone. A short meeting shall be held at which the parties are given the opportunity to state their views and to submit such supplementary evidence as the board chair allows.

A decision shall be made in the appeal case within one week of receipt of the case by the county social welfare board.

**Section 7-24. *Judicial review.***

The decisions of the board may be brought before the district court pursuant to the provisions of chapter 36 of the Civil Procedure Act by the private party or by the municipality. The municipality is a party to the case. Section 6-3, second paragraph, shall apply to the right of a child to institute legal proceedings.

The time limit for instituting legal proceedings is two months from the day the person entitled to institute such proceedings was notified of the decision. Reinstatement may be granted if the time limit for instituting legal proceedings is exceeded.

Expert testimony may only be used as a basis by the court if it has been assessed by the Expert Commission on Children, cf. section 2-5.

The municipality shall cover its own costs relating to the case.

**Section 7-25. *Attempt to initiate a dialogue process.***

The Ministry may consent to the commencement in one or more boards of attempts whereby the board chair initiates a dialogue process to seek to find a basis for reaching agreement between the parties. The Ministry may make further provisions regarding the implementation of such attempts.

**Chapter 8. Responsibility for providing assistance pursuant to the Act.**

**Section 8-1. *Responsibility of the municipality where a person is present***

The child welfare service shall provide services and measures pursuant to this Act to all persons present in the municipality.

**Section 8-2. *Responsibility of the central government child welfare authorities at regional level.***

The central government child welfare authorities at regional level shall provide services pursuant to this Act to all persons present in the region.

**Section 8-3. *Decision of disputes.***

Should a dispute arise between municipalities concerning the application of section 8-1, municipalities may demand that the county governor decide the dispute. The Ministry may make further regulations regarding the procedure.

**Section 8-4. *Responsibility for instituting legal proceedings.***

The child welfare service in the municipality where the child is present is responsible for instituting legal proceedings pursuant to section 4-8, cf. sections 4-9, 4-10, 4-11, 4-12 and 4-24. Such responsibility may by agreement between the child welfare services in the municipalities involved be transferred to another municipality with which the child has an affiliation.

The child welfare service in the municipality which has instituted proceedings is responsible for implementation, follow-up and control. An alteration in the child's affiliation with the municipality entails no alteration in responsibility unless an agreement as mentioned in the first paragraph, second sentence, is entered into. This also applies when an order has been made pursuant to section 4-4, fifth paragraph, and section 4-26.

**Chapter 9. Financing, parental contributions, children's contributions.**

**Section 9-1. *The municipality's financial responsibility for the child welfare service.***

The individual municipality shall make provision for such appropriations as are necessary to provide the services and measures for which the municipality is responsible pursuant to this Act.

The costs of services and measures as mentioned in the first paragraph shall be covered by the municipality which under sections 8-1 and 8-4 is responsible for providing the service or for implementing the measure. Only under the provisions of sections 9-2, 9-3, 9-4 and 9-8 may these costs be required to be covered by others.

**Section 9-2. *Parents' duty of maintenance.***

When a child is placed in care as a result of a decision/order made pursuant to the Act, the municipality may require that the parents pay fostering contributions<sup>1</sup> from the month after the placement was made until and including the month the placement terminates. Fostering contributions may only be required if this is deemed to be reasonable in relation to the parents' financial situation.

Claims for contributions or alterations in the contribution determined pursuant to the first paragraph shall be sent to the maintenance enforcement agency. The maintenance enforcement agency pursuant to this provision is the body designated by the Directorate of Labour and Welfare, and this body decides the claim and determines the amount. The person liable to pay the contribution may submit a claim to the maintenance enforcement agency for an alteration of the contribution or for release from a contribution debt. The contribution may be determined or altered with effect from up to three months prior to receipt of the claim. Contributions determined pursuant to the Children Act shall cease to apply from the date contributions may be determined pursuant to this provision. The child welfare service shall, notwithstanding its duty of confidentiality, give the maintenance enforcement agency such information as is necessary in the individual case.

Decisions of the maintenance enforcement agency may be appealed to the body immediately superior to it or to the body designated by the Directorate of Labour and Welfare.

Contributions pursuant to this provision shall be recovered by the Norwegian Labour and Welfare Administration's National Insurance Collection Agency pursuant to the Maintenance Collection Act. The contribution shall be paid to the municipality.

The Ministry may make regulations regarding contributions pursuant to this provision.

1 By the Act of 29 April 2005 No. 20, the word 'oppfostringsbidrag' (fostering contribution) was replaced by the word 'underholdsbidrag' (maintenance contribution) in section 9-2 of the Child Welfare Act. The wording of the amendment adopted in 2006 reinstates the original word.

**Section 9-3. *The municipality's right to require contributions from the child.***

When a child is placed in care as a result of a decision/order made pursuant to the Act, the municipality may require the child to cover all or part of the costs of fostering for the duration of the placement.

Children's contributions as mentioned in the first paragraph may only be required if it is considered reasonable to do so. It may not be required that contributions are recovered from the child's assets, from the return on the latter, or from the child's own accumulated funds.

The county social welfare board decides the claim in those instances where the decision/order on which the placement is based comes under the jurisdiction of the county social welfare board pursuant to section 7-2.

Children's contributions shall be paid to the municipality.

The Ministry may make regulations regarding such contributions.

**Section 9-4.** *The financial responsibility of the central government child welfare authorities at regional level for the child welfare service.*

In the case of children under 20 years of age who are placed in a foster home or institution or who are granted a stay in a centre for parents and children, the central government child welfare authorities at regional level shall cover such part of the municipalities' expenses as exceeds the amount that the municipality is obligated to pay pursuant to section 9-5.

**Section 9-5.** *The right of central government child welfare authorities at regional level to claim reimbursement from the municipality.*

A municipality that has applied for a child to be admitted to an institution or for children and parents in a centre for parents and children shall partially reimburse accommodation expenses to the central government child welfare authorities at regional level according to rates determined by the Ministry. Pursuant to this Act rates may also be determined for municipal reimbursement in the event of admission to an institution or a centre for parents and children with associated specialised services. The Ministry may make regulations regarding the reimbursement system.

**Section 9-6.** *The right of central government child welfare authorities at regional level to claim reimbursement from another region.*

The expenses incurred by central government child welfare authorities at regional level for a child who on the date of admission was resident in another region shall be covered by the central government child welfare authorities at regional level in the region where the child lives. The Ministry may make further regulations regarding the right to claim reimbursement.

**Section 9-7.** *State grants.*

The state shall provide annual grants for partial coverage of municipalities' expenditure on the child welfare service.

**Section 9-8.** *State grants for expenditure on refugee children and children seeking asylum.*

The state shall give a grant to municipalities to cover expenditure on refugee children and children seeking asylum who have come to the country without parents or other persons with parental responsibility.

Grants shall also be given in the event of placement in care pursuant to section 4-8, second and third paragraph, and section 4-12 of children in reception centres for asylum seekers and refugees who have come to the country with parents or other persons with parental responsibility.

## **Chapter 10. Commencement of the Act and transitional provisions.**

### **Section 10-1. *Commencement of the Act.***

The Act shall come into force on the date<sup>1</sup> decided by the King. The King may decide that the individual provisions of the Act shall come into force at different times.

1 From 1 January 1993 according to the Royal Decree of 11 December 1992 No. 1048.

### **Section 10-2. *Transitional provisions.***

The King may make regulations regarding the application of the Act in relation to decisions/orders made pursuant to the Act of 17 July 1953 No. 14 regarding Child Welfare, and regarding cases being dealt with pursuant to the latter Act.

### **Section 10-3. *Repeal of other Acts.***

With effect from the commencement of the Act, the Act of 17 July 1953 No. 14 regarding child welfare shall be repealed.

### **Section 10-4. *Amendments to other Acts.***

With effect from the commencement of the Act the following amendments shall be made to other Acts: - - -