

FOSTERING ACT 2002**Principal Act**

Act. No. 2002-20	<i>Commencement (LN. 2005/112)</i>	16.12.2002
	<i>Assent</i>	16.12.2002

Amending enactments	Relevant current provisions	Commencement date
Act. 2009-01 s. 2		15.1.2009

English sources

None cited

EU Legislation/International Agreements involved:

Directive 2003/9/EC

Directive 2004/83/EC

ARRANGEMENT OF SECTIONS.

Section

1. Title and commencement.
2. Definitions.
3. General duties of the Director in relation to fostering.
4. Identification of a child in need of care.
5. Continuation of Fostering.
6. Private Fostering.
7. Regulations etc.

AN ACT TO PROVIDE FOR THE FOSTERING OF CHILDREN.

Title and commencement.

1. This Act may be cited as the Fostering Act 2002 and comes into operation on the day appointed by the Minister for Social Affairs by notice in the Gazette.

Definitions.

2. In this Act—

“child in need of care” means—

- (a) a child under 16 in respect of whom the court has made an order under section 4(3); or
- (b) a child under 18 who is an “unaccompanied minor” as defined in the Asylum Regulations 2008 in respect of whom the court has made an order under section 4(3);

“Director” means the person carrying out the duties of Chief Executive of the Social Services Agency or such other person as the Minister may appoint to administer the provisions of this Act;

“foster carer” means a person approved by the Director for the purposes of fostering;

“fostering” means looking after a child in need of care by a person who is not a parent, adoptive parent, relative or who otherwise has parental responsibility in respect of that child;

“looking after a child” means caring for that child as if he were part of the family on a continuous basis; but does not include occasional visits to friends or relatives or arrangements with a member of the family;

“the Minister” means the Minister with responsibility for Social Services.

General duties of the Director in relation to fostering.

3. In consultation with the Social Services Agency, the Director—

- (a) may safeguard and promote the interests of the child in need of care;

- (b) may identify appropriate foster carers;
- (c) may prescribe appropriate sums as maintenance for the child in need of care;
- (d) may place a child in need of care with suitable foster carers;
- (e) shall keep under review any placement made under paragraph (d); and
- (f) shall keep a register of all children placed with foster carers and persons approved as foster carers.

Identification of a child in need of care.

4.(1) On receipt of a report by the Social Services Agency, the Royal Gibraltar Police, a health or educational professional, or any person or organisation concerned with the welfare of children, that a child is in need of care, because his parents or persons currently looking after the child are unable or unsuitable to look after the child, the Director may apply to the Juvenile court for an order declaring that child to be in need of care.

(2) Subject to subsection (4), the application shall be served within 14 days on the parents of the child or the person or persons looking after the child at the time the application is made.

(3) The court may make an order declaring that the child is in need of care, either indefinitely or for a specific period.

(4) If, on receipt of a report under subsection (1), the Director considers that the child is—

- (a) in immediate need of care; or
- (b) that giving notice of the application would materially affect the welfare of the child;

he may apply to the Juvenile court for an order under subsection (3) without the notice required under subsection (2) and the court may make an order on such terms, including an interim order pending a full hearing of the application, as it thinks fit.

Continuation of Fostering.

5.(1) The parent of the child in need of care (or other person or persons who were looking after the child before the order under section 4 was made) may apply to the Juvenile Court to have the child returned to them when

their circumstances have changed and they can show that they are now able and suitable to look after the child.

(2) If the Director believes, at or before the end of any period specified in the order under section 4, that the order should be continued, he may apply to the Juvenile court for a further order under section 4.

Private Fostering.

6.(1) If, under an arrangement made by the parents or other person or persons having parental responsibility for a child, that child is being looked after by another person or persons, whether for reward or otherwise, that person or persons shall notify the Director, who shall keep the arrangement under review.

(2) If the person or persons looking after a child as described in subsection (1) do not notify the Director of the arrangement they are guilty of an offence and liable on summary conviction to a fine at level 1 on the standard scale.

Regulations etc.

7. The Minister may make regulations for the proper operation of this Act.