WELSH STATUTORY INSTRUMENTS

2012 No. 1674 (W.215)

CHILDREN AND YOUNG PERSONS, WALES

The Breaks for Carers of Disabled Children (Wales) Regulations 2012

Made - - - -	*26 June 2012*
Coming into force - -	*28 June 2012*

The Welsh Ministers make the following Regulations in exercise of the powers conferred by paragraph 6(2) of Schedule 2 to the Children Act 1989(**1**).

These are the first regulations to be made under paragraph 6(2) of Schedule 2 to that Act, prescribing for the purposes of paragraph 6(1)(c) of Schedule 2, how the duty is to be exercised.

In accordance with section 104A(3)(**2**) of that Act, a draft of these Regulations was laid before, and approved by resolution of, the National Assembly for Wales.

Title, commencement and application

1.—(1) The title of these Regulations is the Breaks for Carers of Disabled Children (Wales) Regulations 2012.

(2) These Regulations come into force on 28 June 2012.

(3) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations—

"the 1989 Act" ("*Deddf 1989*") means the Children Act 1989;

"carer" ("*gofalwr*") means a person who provides care for a disabled child and who is—

(a) the child's parent, or

(b) a person who is not the child's parent but who has parental responsibility(**3**) for that child; and

(**1**) 1989 c. 41. Paragraph 6(2) was inserted by section 25 of the Children and Young Persons Act 2008 (c. 23) ("the 2008 Act"). The power in paragraph 6(2) is expressed to be exercisable by the "appropriate national authority". The "appropriate national authority" is defined by section 30A of the Children Act 1989 as meaning, in relation to Wales, the Welsh Ministers. Section 30A was inserted by section 39 of and paragraphs 1 and 22 of Schedule 3 to the 2008 Act.

(**2**) Section 104A(3) was inserted by section 39 of and paragraphs 1 and 26 of Schedule 3 to the 2008 Act.

(**3**) "parental responsibility" is defined in section 3 of the Children Act 1989 (c. 41).

"disabled" ("*anabl*") has the meaning given in section 17(11) of the 1989 Act(**4**).

Duty to make provision

3. In performing its duty under paragraph 6(1)(c) of Schedule 2 to the 1989 Act(**5**), a local authority must have regard to the needs of those carers—

(a) who would be unable to continue to provide care for the disabled child unless breaks from caring were given to them; and

(b) who would be able to provide care for the disabled child more effectively if breaks from caring were given to them to allow them to—

(i) undertake education, training or any regular leisure activity,

(ii) meet the needs of other children in the family more effectively, or

(iii) carry out day to day tasks which they must perform in order to run their household.

Types of services which must be provided

4.—(1) In performing its duty under paragraph 6(1)(c) of Schedule 2 to the 1989 Act, a local authority must provide, so far as it is reasonably practicable, a range of services which is sufficient to assist carers to continue to provide care or to do so more effectively.

(2) The provision that a local authority must provide in accordance with paragraph (1) must include, as appropriate, a range of—

(a) day-time care in the homes of disabled children or elsewhere,

(b) overnight care in the homes of disabled children or elsewhere,

(c) educational or leisure activities for disabled children outside their homes, and

(d) services available to assist carers in the evenings, at weekends and during the school holidays.

5.—(1) A local authority must by, 27 September 2012, prepare a statement for carers in its area (a "short breaks services statement") setting out details of—

(a) the range of services provided in accordance with regulation 4,

(b) any criteria by which eligibility for those services will be assessed, and

(c) how the range of services is designed to meet the needs of carers in its area.

(2) The local authority must publish its short breaks services statement, including by placing a copy of the statement on its website.

(3) The local authority must keep its short breaks services statement under review and, where appropriate, revise the statement.

(4) In preparing and revising its short breaks services statement, the local authority must have regard to the views of carers in its area.

(**4**) That is, that a child is disabled "if he is blind, deaf or dumb or suffers from mental disorder of any kind or is substantially and permanently handicapped by illness, injury or congenital deformity or such other disability as may be prescribed".

(**5**) Paragraph 6(1)(c) (inserted by section 25 of the 2008 Act) requires local authorities to provide services designed to assist individuals who provide care for disabled children to continue to do so, or to do so more effectively, by giving them breaks from caring.