WELSH STATUTORY INSTRUMENTS

2010 No. 2574 (W.214)

SOCIAL CARE, WALES

CHILDREN AND YOUNG PERSONS, WALES

The Child Minding and Day Care (Wales) Regulations 2010

Made - - - -	*20 October 2010*
Laid before the National Assembly for Wales - -	*22 October 2010*
Coming into force - -	*1 April 2011*

The Welsh Ministers, in exercise of the powers conferred by sections 24(2) and (3), 25, 26(2) and (3), 27, 28(3), 30, 32(1) – (4), 56 and 74(2) of the Children and Families (Wales) Measure 2010 [F1], make the following Regulations:

F1 2010 nawm 1 ("the Measure"). *See* section 71 of the Measure for the definitions of "prescribed" and "regulations".

Modifications etc. (not altering text)

C1 Regulations: power to modify conferred (temp.) (25.3.2020) by Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 17 para. 7** (with ss. 88-90)

PART 1

INTRODUCTORY

Title, commencement and application

1.—(1) The title of these Regulations is the Child Minding and Day Care (Wales) Regulations 2010 and they come into force on 1 April 2011.

(2) These Regulations apply in relation to Wales.

Interpretation

2.—(1) In these Regulations—

"the 2002 Regulations" ("*Rheoliadau 2002*") means the Registration of Social Care and Independent Health Care (Wales) Regulations 2002 [F2];

"the 2004 Regulations" ("*Rheoliadau 2004*") means the Suspension of Day Care Providers and Child Minders (Wales) Regulations 2004 [F3];

"the Measure" ("*y Mesur*") means the Children and Families (Wales) Measure 2010;

"acts as a child minder" ("*yn gweithredu fel gwarchodwr plant*") has the same meaning as in section 19 of the Measure [F4];

"applicant" ("*ceisydd*") means a person who applies to the Welsh Ministers for registration as a child minder or a day care provider in accordance with Part 2;

"appropriate office" ("*swyddfa briodol*") means—

(a) if an office has been specified under paragraph (2) in relation to any premises, that office;

(b) in any other case, any office controlled by the Welsh Ministers;

"child protection enquiries" ("*ymholiadau amddiffyn plant*") means any enquiries carried out by a local authority in the exercise of any of its functions conferred by or under the Children Act 1989 [F5] relating to the protection of children;

"disqualified" ("*wedi ei anghymhwyso*") means that—

(a) a person is disqualified from registration as a child minder or provider of day care under Part 2 of the Measure in accordance with the Child Minding and Day Care (Disqualification) (Wales) Regulations 2010 [F6]; or

(b) a person is a member of the same household or is employed in the same household as a person who is disqualified in accordance with paragraph (a);

"enhanced criminal record certificate" ("*tystysgrif cofnod troseddol fanylach*") means an enhanced criminal record certificate issued under section 113B of the Police Act 1997 [F7], which includes suitability information relating to children (within the meaning of section 113BA(2) of that Act), in respect of which less than three years have elapsed since it was issued;

"First-tier Tribunal" ("*Tribiwnlys Haen Cyntaf*") has the same meaning as in the Tribunals, Courts and Enforcement Act 2007 [F8];

"ISA" ("*ADA*") means the Independent Safeguarding Authority [F9];

"national minimum standards" ("*safonau gofynnol cenedlaethol*) means the standards set out in the National Minimum Standards for Regulated Child Care published by the Welsh Ministers in accordance with section 30(3) of the Measure [F10];

"open access play provision" ("*darpariaeth chwarae mynediad agored*") means the provision of day care that does not require—

(a) a prior arrangement with the registered person to provide such care; or

(b) that children are escorted by a parent or other responsible person to and from the relevant premises;

"organisation" ("*sefydliad*") means a body corporate or an unincorporated association;

"person in charge" ("*person â chyfrifoldeb*") means in relation to day care, the individual appointed by the registered person as the person to be in full day to day charge of the provision of day care on the premises;

[[F11]"premises" ("*mangre*") has the meaning in section 71 of the Children and Families (Wales) Measure 2010;**]**

"provides day care for children" ("*Darparu gofal dydd i blant*") has the same meaning as in section 19 of the Measure [F12];

"registered person" ("*person cofrestredig*") means a person registered under Part 2 of the Measure as a child minder or a provider of day care;

"relevant child" ("*plentyn perthnasol*") means a child in relation to whom a registered person acts as child minder or, as the case may be, to whom day care is provided by a registered person;

"relevant date" ("*dyddiad perthnasol*") means the date upon which these Regulations come into force;

"relevant premises" ("*mangre perthnasol*") means premises on which a registered person acts a child minder or, as the case may be, day care is provided by a registered person;

"responsible individual" ("*unigolyn cyfrifol*") means, in relation to the provision of day care by an organisation, which is—

(a) a body corporate—

(i) a director;

(ii) a manager;

(iii) a secretary; or

(iv) other officer;

or

(b) an unincorporated association—

(i) an officer; or

(ii) a member of the governing body,

of that organisation, who is responsible for the supervision of the provision of day care;

"statement of purpose" ("*datganiad o ddiben*") means the statement compiled in accordance with regulation 15(1).

(2) The Welsh Ministers may specify an office controlled by them as the appropriate office in relation to relevant premises situated in a particular area of Wales.

(3) In these Regulations, unless the contrary intention appears, references to employing a person include employing a person whether or not for payment, and whether under a contract of service, a contract for services or otherwise than under a contract and references to an employee or to a person being employed are to be construed accordingly.

F2 S.I. 2002/919 (W.107); S.I. 2009/3265 (W.286) is a relevant amending instrument.

F3 S.I. 2004/3282 (W.285).

F4 Section 19(4) of the Measure gives the Welsh Ministers power to provide by order the circumstances in which a person is not acting as a child minder for the purposes of Part 2 of the Measure. *See* the Child Minding and Day Care Exceptions (Wales) Order 2010.

F5 1989 c. 41.

F6 S.I. 2010/1703 (W.163).

F7 1997 c. 50.

F8 2007 c. 15.

F9 The Independent Safeguarding Authority is the operational name the Independent Barring Board, it is a non-departmental public body established in accordance with the Safeguarding Vulnerable Groups Act 2006 (2006 c. 47).

F10 Copies of the National Minimum Standards for Regulated Child Care may be obtained from the Welsh Assembly Government, Cathays Park, Cardiff, CF10 3NQ.

F11 Words in reg. 2 inserted (1.4.2016) by The Child Minding and Day Care (Wales) (Amendment) Regulations 2016 (S.I. 2016/87), regs. 1(2), **3**

F12 Section 19(4) of the Measure gives the Welsh Ministers power to provide by order the circumstances in which a person is not acting as a child minder for the purposes of Part 2 of the Measure. *See* the Child Minding and Day Care Exceptions (Wales) Order 2010.

PART 2

APPLICATION FOR REGISTRATION UNDER PART 2 OF THE MEASURE

Prescribed requirements for registration

3.—(1) An applicant for registration as a child minder must—

(a) satisfy and be likely to continue to satisfy the requirements prescribed in Part 1 of Schedule 1, which contains the requirements prescribed for the purposes of section 24(3)(b) of the Measure (*applications for registration: child minding*) ; and

(b) be likely to comply with the relevant requirements in Parts 3, 4 and 5 .

(2) An applicant for registration as a provider of day care for children must—

(a) satisfy and be likely to continue to satisfy the requirements prescribed in Part 2 of Schedule 1, which contains the requirements prescribed for the purposes of section 26(3)(b) of the Measure (*Applications for registration: day care for children*) ; and

(b) be likely to comply with the relevant requirements in Parts 3, 4 and 5 .

Information and documentation to accompany application for registration

4.—(1) An application under section 24(1) of the Measure must—

(a) be in writing on a form approved by the Welsh Ministers;

(b) be sent or delivered to the appropriate office; and

(c) include the information and documentation referred to in Part 1 of Schedule 2 in respect of the matters mentioned therein.

(2) An application under section 26(1) of the Measure must—

(a) be in writing on a form approved by the Welsh Ministers;

(b) be sent or delivered to the appropriate office; and

(c) include the information and documentation referred to in Part 2 of Schedule 2 in respect of the matters mentioned therein.

Certificate of registration

5. A certificate of registration given to an applicant under section 28(2)(b) of the Measure (*Entry on the register and certificates*) must contain the following particulars—

(a) the name, address and telephone number of the appropriate office;

(b) the name of the person who has been registered;

(c) in the case of a person registered as a provider of day care, the address at which the day care is to be provided;

F13(d) . . . . . .

(e) where the registration is subject to any conditions, details of the conditions;

(f) the date of registration;

(g) a statement that if the child minding or day care, as the case may be, is not provided in accordance with the conditions imposed the registration may be cancelled by the Welsh Ministers;

(h) a statement that the certificate relates only to the person to whom it is issued by the Welsh Ministers and is not capable of being transferred to another person.

F13 Reg. 5(d) omitted (1.4.2016) by virtue of The Child Minding and Day Care (Wales) (Amendment) Regulations 2016 (S.I. 2016/87), regs. 1(2), **4**

PART 3

REGISTERED PERSONS

Registered person: suitability

6.—(1) A person must not act as a child minder or provide day care unless the person is suitable to look after children **[**[F14]under the age of twelve**]**.

(2) A person is not so suitable unless the person–

(a) is an individual who acts as a child minder or, who provides day care alone or in partnership with one or more persons, and each such individual satisfies the requirements set out in paragraph (3); or

(b) in the case where a person providing day care, is an organisation and—

(i) the organisation has given notice to the appropriate office of the name, address and position in the organisation of the responsible individual; and

(ii) the responsible individual satisfies the requirements set out in paragraph (3).

(3) The requirements are that —

(a) in relation to child minding —

(i) the person who acts as child minder satisfies the requirements prescribed in paragraphs 2 to 7 of Part 1 of Schedule 1; and

(ii) there is full and satisfactory information or documentation available in relation to that individual in relation to each of the matters specified in paragraphs 2, 16 and 17 of Part 1 of Schedule 2;

(b) in relation to the provision of day care—

(i) where the person is an individual and paragraph (4) does not apply—

(aa) that person satisfies the requirements prescribed in paragraphs 15 – 20 of Part 2 of Schedule 1, and

(bb) there is full and satisfactory information or documentation in relation to that person in respect of each of the matters specified in paragraphs 22, 39 and 40 of Part 2 of Schedule 2;

(ii) where the person is an individual and paragraph (4) applies—

(aa) that person satisfies the requirements prescribed in paragraphs 15 – 20 of Part 2 of Schedule 1; and

(bb) there is full and satisfactory information or documentation in relation to that person in respect of each of the matters specified in paragraphs 22(5)(b) and 39 of Part 2 of Schedule 2;

(iii) where the person is the responsible individual and paragraph (4) does not apply—

(aa) that person satisfies the requirements prescribed in paragraphs 21 – 25 of Part 2 of Schedule 1; and