WELSH STATUTORY INSTRUMENTS

2007 No. 226 (W.20)

TAX CREDITS, WALES

Tax Credits (Approval of Child Care Providers) (Wales) Scheme 2007

Made - - - -	*30 January 2007*
Coming into force - -	*1 February 2007*

The National Assembly for Wales, being the appropriate national authority under section 12(6) of the Tax Credits Act 2002(**1**) and in exercise of the powers conferred on the National Assembly for Wales by sections 12(5), (7) and (8) and 65(3) and (9) of that Act, and after consultation with the Council of Tribunals in accordance with section 8(1) of the Tribunals and Inquiries Act 1992(**2**), makes the following Scheme:

Title, commencement and application

1.—(1) The title of this Scheme is the Tax Credits (Approval of Child Care Providers) (Wales) Scheme 2007 and it will come into force on 1 February 2007.

(2) This Scheme applies in relation to Wales.

Definitions

2. In this Scheme—

"the 1989 Act " ("*Deddf 1989*") means the Children Act 1989(**3**);

"approval body" ("*corff cymeradwyo*") means the body referred to in article 3;

"approval criteria" ("*meini prawf cymeradwyo*") has the meaning given to it in article 7;

"child" ("*plentyn*") has the meaning attributed to it by the Child Tax Credit Regulations 2002(**4**);

"child's home" has the meaning attributed to it by the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002(**5**);

"parent" ("*rhiant*") includes a person who—

(**1**) Tax Credits Act 2002 (c. 21)
(**2**) Tribunals and Inquiries Act 1992 (c. 53)
(**3**) Children Act 1989 (c. 41)
(**4**) Child Tax Credit Regulations 2002 (S.I. 2002/2007)
(**5**) Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (S.I. 2002/2005)

(a) has parental responsibility for a child;

(b) a local authority foster parent in relation to a child;

(c) a foster parent with whom a child has been placed by a voluntary organisation; or

(d) a person who fosters a child privately;

"parental responsibility" and "fosters a child privately" have the meanings attributed to those respective expressions by sections 3 and 66 of the 1989 Act;

"qualifying child care" ("*gofal plant cymwys*") has the meaning ascribed to it in article 5;

"relative" ("*perthynas*") in relation to a child means, a grandparent, aunt, uncle, brother or sister (whether by blood, half blood, marriage, civil partnership or affinity) or a step-parent;

"relevant first-aid certificate" ("*tystysgrif cymorth cyntaf berthnasol*") means a certificate in respect of a course of first-aid training—

(a) which is suitable to the care of babies and children;

(b) which includes training in the following areas; dealing with emergencies; resuscitation; shock; choking; anaphylactic shock; and

(c) which has been undertaken by the applicant not more than three years before the date upon which the application for approval is made;

"the Tribunal" ("*y Tribiwnlys*") means the tribunal established by section 9 of the Protection of Children Act 1999(**6**);

"the Tribunal Regulations" ("*y Rheoliadau Tribiwnlys*") means the Protection of Children and Vulnerable Adults and Care Standards Tribunal Regulations 2002(**7**).

Specified body

3. The body specified for the purpose of giving approvals under this Scheme is Nestor Primecare Services Limited, trading as Nestor Criminal Records Agency(**8**).

Requirements of the Scheme

4. For the purposes of regulations made under section 12 of the Tax Credits Act 2002, a person is a child care provider approved in accordance with this Scheme only—

(a) if he or she is for the time being approved by the approval body; and

(b) in respect of the provision by him or her of qualifying child care.

Qualifying Child Care

5.—(1) Subject to paragraph (2), qualifying child care means care provided for a child by an individual for reward wholly or mainly in the child's home.

(2) Where the care referred to in paragraph (1) is provided for a number of children from different homes at the same time, it is qualifying child care if it is provided wholly or mainly in the home of one or more of the children for whom the care is provided.

(3) Qualifying child care does not include—

(a) childminding which is subject to registration pursuant to Part 10A of the 1989 Act;

(b) care provided for reward by any person for a child aged eight years or more other than in accordance with paragraph (1) or (2);

(**6**) Protection of Children Act 1999 (c. 14)
(**7**) Protection of Children and Vulnerable Adults and Care Standards Tribunal Regulations 2002 (SI 2002/816)
(**8**) Registered in England No.1963820.

(c) child care provided wholly or mainly in the child's home in respect of a child to whom the provider is a parent or relative ; or

(d) child care provided wholly or mainly in the home of a relative of the child where such care is usually provided solely in respect of one or more children to whom the provider is a parent or relative.

Approved person

6.—(1) Subject to article 13, a person must be given approval as a child care provider under this Scheme if the approval body is satisfied that the approval criteria are met in relation to that person.

(2) A person who has been given approval under paragraph (1) ceases to be so approved if that approval is withdrawn by the approval body.

(3) The approval body may withdraw an approval if satisfied that the approval criteria are no longer met in relation to that person.

Approval criteria

7. In relation to an application for approval as a child care provider the approval criteria are—

(a) that the applicant is 18 years of age or over;

(b) that the applicant has obtained one of the qualifications specified from time to time in a list maintained by the National Assembly for Wales for the purpose of this article;

(c) that the applicant has obtained a relevant first-aid certificate; and

(d) that the applicant is not considered unsuitable to work with or have unsupervised access to children.

Approval system

8.—(1) The approval body must operate a system for the determination of applications for approval made to it under this scheme and must make adequate arrangements to publicise the details of that system.

(2) Without prejudice to the generality of paragraph (1), the approval system referred to in that paragraph must in particular—

(a) provide for a procedure by which an applicant may apply for approval;

(b) set out requirements relating to the provision by an applicant of documentary or other evidence necessary to demonstrate that the approval criteria are met;

(c) provide for a procedure whereby approvals may be withdrawn;

(d) provide for the applicant to be given notice in writing in respect of a determination to grant, refuse or withdraw an approval;

(e) provide for a procedure whereby it may be ascertained whether an individual is for the time being approved under the scheme; and

(f) provide for the keeping of appropriate records relating to applications for approvals and to the grant, refusal or withdrawal of such approvals.

(3) The approval body must maintain a record of those persons to whom an approval is granted for the time being under this Scheme.

(4) The records referred to in sub-paragraphs (2) and (3) may be kept by means of a computer.