WELSH STATUTORY INSTRUMENTS

2003 No. 896 (W.116)

SOCIAL CARE, WALES

The Fostering Services (Wales) (Amendment) Regulations 2003

Made - - - -	*26th March 2003*
Coming into force - -	*1st April 2003*

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 16(2), 22(1), (2)(a) to (c), (e) to (j), (6), (7)(a) to (h), (j), 25(1), 34(1), 35(1), 48(1), 118(5), (6) and (7) of the Care Standards Act 2000(**1**) and sections 23(2)(a) and (9), 59(2) and 62(3) of, and paragraph 12 of Schedule 2 to, the Children Act 1989(**2**)), hereby makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Fostering Services (Wales) (Amendment) Regulations 2003 and shall come into force on 1st April 2003 immediately after the coming into force of the Fostering Services (Wales) Regulations 2003(**3**).

(2) These Regulations apply to Wales only.

Amendment of the Fostering Services (Wales) Regulations 2003

2.—(1) The Fostering Services (Wales) Regulations 2003 are amended in accordance with this regulation.

(2) For regulation 52 (transitional provisions) substitute the following regulation—

"**52.**—(1) This paragraph applies to any person who immediately prior to the coming into force of these Regulations either carried on or managed and continues to either carry on or manage a fostering agency.

(2) Section 11(1), (5) and (6) of the 2000 Act will not apply to a person to whom paragraph (1) applies ("unregistered person") —

(a) if an application for registration is duly made before 1st July 2003 under Part II of the 2000 Act, until such time as the application for registration is granted, either

(**1**) 2000 c. 14. The powers are exercisable by the appropriate Minister. The "appropriate Minister" is defined in S. section 121(1). It means the National Assembly for Wales, in relation to Wales, it means the Secretary of State in relation to England, Scotland and Northern Ireland.
(**2**) 1989 c. 41.
(**3**) S.I.2003/237 (W.35)

unconditionally or subject only to conditions which have been agreed in writing between that person and the National Assembly; or

(b) if an application duly made in accordance with sub paragraph (a) is granted subject to conditions which have not been so agreed, or refused—

(i) if no appeal is brought, until the expiration of the period of 28 days after service on that person of notice of the National Assembly's decision; or

(ii) if an appeal is brought, until it is determined or abandoned; or

(c) until 1st July 2003 in the case of an unregistered person who does not make an application in accordance with sub paragraph (a).

(3) This paragraph applies where —

(a) the National Assembly applies to a justice of the peace for an order that section 11(1), (5) and (6) of the 2000 Act is to apply to an unregistered person and that paragraph (2) of this regulation should cease to apply to that unregistered person; and

(b) it appears to the justice that, unless the order is made, there will be a serious risk to a person's life, health or well-being.

(4) Where paragraph (3) applies—

(a) the justice may make the order referred to in that paragraph;

(b) section 11 of the 2000 Act will apply to the unregistered person, and paragraph (2) of this regulation is to cease to apply to the unregistered person, from the time when the order is made.

(5) Section 20(2), (4) and (5) of the 2000 Act will apply to any application made to a justice under paragraph (3), and to any order made under paragraph (4), as if the application or order (as the case may be) were made under section 20(1) of the 2000 Act and applied to the unregistered person.

(6) This paragraph applies to a fostering agency falling within section 4(4)(b) of the 2000 Act (a voluntary organisation which places children with foster parents under section 59(1) of the 1989 Act) which is in existence immediately prior to the coming into force of these Regulations.

(7) These Regulations are to apply to a fostering agency to which paragraph (6) applies, as if any reference in them to a registered person is a reference to the person who carries on the agency(**4**) —

(a) if an application for registration is duly made before 1st July 2003 under Part II of the 2000 Act, until such time as the application for registration is granted, either unconditionally or subject only to conditions which have been agreed in writing between that person and the National Assembly; or

(b) if an application duly made in accordance with sub paragraph (a) is granted subject to conditions which have not been so agreed, or if it is refused—

(i) if no appeal is brought, until the expiration of the period of 28 days after service on that person of notice of the National Assembly's decision; or

(ii) if an appeal is brought, until it is determined or abandoned; or

(c) until 1st July 2003, if an application is not duly made in accordance with sub paragraph (a).

(**4**) *See* Section 121(4) of the Care Standards Act