WELSH STATUTORY INSTRUMENTS

2002 No. 2935 (W.277)

CHILDREN AND YOUNG PERSONS, WALES SOCIAL CARE, WALES

The Children Act 1989 and the Care Standards Act 2000 (Miscellaneous Regulations) (Amendment) (Wales) (No. 2) Regulations 2002

Made - - - -	*27th November 2002*
Coming into force - -	*31st December 2002*

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 23(2)(a) and (f), (5) and (9), 23A(3), 25(2) and (7), 26(1), (2), (5) and (6), 51(4), 59(2) to (5) and 104(4) of, and paragraphs 13 and 14 of Schedule 2, paragraph 4(1)(a) of Schedule 4, paragraph 7(1)(a) of Schedule 5, and paragraph 10(1)(a) and (2)(l) of Schedule 6 to, the Children Act 1989(**1**) and sections 3(3), 12(2)(a), 16(1)(a) and (3), 22(1) and 118(6) of the Care Standards Act(**2**) being of the opinion that these Regulations do not effect any substantial change in the provision made by other regulations made under section 22 of the 2000 Act(**3**) hereby makes the following Regulations:

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the Children Act 1989 and the Care Standards Act 2000 (Miscellaneous Regulations) (Amendment) (Wales) (No. 2) Regulations 2002, and shall come into force on 31st December 2002.

(2) These Regulations apply in relation to Wales.

(3) In these Regulations—

(**1**) 1989 c. 41. The powers are conferred upon the Secretary of State. They are exercisable by the National Assembly for Wales in relation to Wales by virtue of section 22(1) of the Government of Wales Act 1998 (c. 38), and article 2 of, and the entry in respect of the Children Act 1989 in Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and, in respect of the power under section 23A of the 1989 Act, by section 8(7) of the Children (Leaving Care) Act 2000 (c. 35). *See* section 105(1) of the 1989 Act for the definition of "prescribed".

(**2**) 2000 c. 14. The powers are conferred upon the "appropriate Minister". "appropriate Minister" means the Assembly in relation to Wales: s.121(1) of the 2000 Act. "Assembly" means the National Assembly for Wales: section 5(b) of the 2000 Act. In relation to England, Scotland and Northern Ireland "appropriate Minister" means the Secretary of State: section 121(1) of the 2000 Act. *See* section 121(1) of the 2000 Act for the definitions of "regulations" and "prescribed".

(**3**) Under section 22(9) of the 2000 Act the appropriate Minister shall consult any person he considers appropriate before making any regulations under section 22, unless the regulations amend other regulations made under that section and in his opinion the regulations do not effect any substantial change in the provision made by those regulations. These Regulations amend other regulations made under section 22: *see* regulation 2.

"1984 Act" ("*Deddf 1984*") means the Registered Homes Act 1984(**4**);

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

"2000 Act" ("*Deddf 2000*") means the Care Standards Act 2000;

"home" ("*cartref*") means—

(a) a community home within the meaning of section 53 of the 1989 Act;

(b) a home that was registered under Part VIII of the 1989 Act(**5**);

(c) a home that was registered in a register kept for the purposes of section 60 of the 1989 Act(**6**);

(d) a home referred to in article 3(9) of the No. 8 Commencement Order(**7**);

(e) a residential care home within the meaning of section 1(1) of the 1984 Act, a nursing home within the meaning of section 21 of the 1984 Act, and a mental nursing home within the meaning of section 22 of the 1984 Act(**8**).

"the No. 8 Commencement Order" ("*Gorchymyn Cychwyn Rhif 8*") means the Care Standards Act 2000 (Commencement No. 8 (Wales) and Transitional, Savings and Consequential Provisions) Order 2002(**9**).

Amendment of the Care Homes (Wales) Regulations 2002

2.—(1) In regulation 2(1) of the Care Homes (Wales) Regulations 2002(**10**) the definition of "relative" is amended in accordance with paragraph (2) of this regulation.

(2) For the words "(d) any individual with whom the person was accommodated for more than 28 days between the ages of sixteen and eighteen under fostering arrangements, or the individual's spouse" substitute "(d) any individual who was provided with accommodation for more than 28 days between the ages of sixteen and eighteen under fostering arrangements made with the person, or the individual's spouse".

Amendment of the Registration of Social Care and Independent Health Care (Wales) Regulations 2002

3. In paragraph 3 of Schedule 1 to the Registration of Social Care and Independent Health Care (Wales) Regulations 2002(**11**) at the beginning of sub-paragraph (a) insert the words "except where the applicant is a local authority or NHS Trust,".

(**4**) 1984 c. 24.
(**5**) The provisions of Part VIII of the 1989 Act about the registration of certain children's homes were repealed by section 117(2) of, and Schedule 6 to, the 2000 Act, subject to the transitional provisions in article 3 of the No. 8 Commencement Order.
(**6**) The provisions of section 60 of the 1989 Act about the registration of voluntary children's homes were repealed by section 117(2) of, and Schedule 6 to, the 2000 Act, subject to the transitional provisions in article 3 of the No. 8 Commencement Order.
(**7**) Article 3(9) applies to certain children's homes that at 1st April 2002 were not registered under Part VIII of the 1989 Act, but in respect of which, by virtue of article 3(1) of the Care Standards Act 2000 (Commencement No. 2 and Transitional Provisions) (Wales) Order 2001 (S.I. 2001/139), the person carrying on the home was protected from committing the offence under section 63(10) of the 1989 Act of carrying on an unregistered children's home. S.I. 2001/139 enacted transitional provisions in association with its commencement of section 40 of the 2000 Act, which amended section 63 of the 1989 Act so as to remove the exemption from the requirement to register under that section in respect of children's homes that accommodated three or fewer children.
(**8**) The 1984 Act was repealed by section 117(2) of, and Schedule 6 to, the 2000 Act, subject to the transitional provisions in article 3 of the No. 8 Commencement Order.
(**9**) S.I. 2002/920.
(**10**) S.I. 2002/324.
(**11**) S.I. 2002/919.

Amendment of the Registration of Social Care and Independent Health Care (Fees) (Wales) Regulations 2002

4. In regulation 7(5)(c) of the Registration of Social Care and Independent Health Care (Fees) (Wales) Regulations 2002(**12**) for the word "home" substitute "independent hospital or clinic".

Amendment of the Arrangements for Placement of Children (General) Regulations 1991

5.—(1) The Arrangements for the Placement of Children (General) Regulations 1991(**13**) are amended in accordance with the following provisions of this regulation.

(2) In regulations 1(2), 2(1), 5(1), 6, 10(2) and (3) and 11, and in paragraph 5 of Schedule 4, in each place in which they occur, for the words "registered children's home" substitute "private children's home".

(3) In regulation 1(2) (interpretation), in the definition of "placement", in both paragraph (a) and (b), for "(b), (c), (d)" substitute "(aa)"(**14**).

(4) In regulation 2(2) (application of regulations) for the words after "voluntary organisation", substitute ", in a school which is a children's home within the meaning of section 1(6) of the Care Standards Act 2000.".

(5) In regulation 11 (access by guardians ad litem to records and register), and in the heading to that regulation, for "guardian ad litem" substitute "officer of the service"(**15**).

(6) In Schedule 3 (educational considerations to which responsible authorities are to have regard), in paragraph 4—

(a) for "Education Act 1981" substitute "Education Act 1996"(**16**); and

(b) for "section 7" substitute "section 324".

Amendment of the Placement of Children with Parents etc. Regulations 1991

6.—(1) The Placement of Children with Parents etc. Regulations 1991(**17**) are amended in accordance with the following provisions of this regulation.

(2) In regulation 1(2) (interpretation), the definition of "guardian ad litem" is omitted.

(3) In paragraph 1 of Schedule 1 (particulars to be taken into account)—

(a) in sub-paragraph (f), for the words from "under" to "Act" substitute "for child minding or day care"; and

(b) for sub-paragraph (k) substitute—

"(k) details of any criminal offences of which he has been convicted, or in respect of which, at the time the caution was given, he admitted.".

Amendment of the Review of Children's Cases Regulations 1991

7.—(1) The Review of Children's Cases Regulations 1991(**18**) are amended in accordance with the following provisions of this regulation.

(**12**) S.I. 2002/921.
(**13**) S.I. 1991/890, as amended by S.I. 1991/2033, S.I. 1993/3069, S.I. 1995/2015 and S.I. 1997/649.
(**14**) The provisions substituted are references to provisions of the Children Act 1989 that were themselves substituted by section 116 of, and paragraph 14(1), (3) and (8) of Schedule 4 to, the Care Standards Act 2000.
(**15**) Section 105(1) of the Children Act 1989 provides that "officer of the service" has the same meaning as in the Criminal Justice and Court Services Act 2000 (c. 43). *See* section 11(3) of that Act.
(**16**) 1996 c. 56.
(**17**) S.I. 1991/893, as amended by S.I. 1995/2015.
(**18**) S.I. 1991/895, as amended by S.I. 1991/2033, S.I. 1993/3069, S.I. 1995/2015, and S.I. 1997/649.