WELSH STATUTORY INSTRUMENTS

2002 No. 921 (W.109)

SOCIAL CARE, WALES
CHILDREN AND YOUNG PERSONS, WALES
PUBLIC HEALTH, WALES

The Registration of Social Care and Independent Healthcare (Fees) (Wales) Regulations 2002

Made - - - -	*28th March 2002*
Coming into force - -	*1st April 2002*

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 12(2), 15(3), 16(3) and 118 (5) to (7) of the Care Standards Act 2000(**1**) and section 79F and 104(4) of, and paragraph 7 of Schedule 9A to the Children Act 1989(**2**) hereby makes the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Registration of Social Care and Independent Healthcare (Fees) (Wales) Regulations 2002 and shall come into force on 1st April 2002.

(2) These Regulations apply in relation to Wales.

Interpretation

2.—(1) In these Regulations—

"the Act" means the Care Standards Act 2000;

"the 1984 Act" means the Registered Homes Act 1984(**3**);

"the 1989 Act" means the Children Act 1989(**4**);

(**1**) 2000 c. 14. The powers are exercisable by the appropriate Minister. The "appropriate Minister" is defined in s.121(1) of the 2000 Act. It means the Assembly in relation to Wales: s.5(b) of the Act defines "the Assembly" as the National Assembly for Wales. It means the Secretary of State in relation to Scotland, England and Northern Ireland. *See* section 121(1) for the definition of "*prescribed*" and "regulations".

(**2**) Section 79F and Schedule 9A were inserted into the Children Act 1989 (c. 41) by section 79 of and Schedule 3 to the Care Standards Act 2000 (c14). *See* section 79B(7) of the Children Act 1989 as inserted by section 79(1) of the 2000 Act for the definition of "regulations" and section 105(1) of the 1989 Act for the definition of "prescribed".

(**3**) 1984 c. 23.

(**4**) 1989 c. 41.

"annual fee" means an amount prescribed for the purposes of section 16(3) of the Act, or (as the case may be) paragraph 7 of Schedule 9A to the 1989 Act;

"approved place" means in relation to an establishment, a bed which is available, in accordance with any condition placed upon the registration of any person in respect of the establishment, for the use of a service user at night;

"establishment" means a care home, children's home, independent hospital or independent clinic;

"existing provider" means—

(a) a person who is registered under Part I of the 1984 Act in respect of a residential care home;

(b) a person who is registered under Part II of the 1984 Act in respect of a nursing home or mental nursing home;

(c) a person who carries on a home that is registered in a register kept for the purposes of section 60 of the 1989 Act; or

(d) a person who carries on a home that is registered under Part VIII of the 1989 Act.

"existing undertaking" means—

(a) a residential care home in respect of which a person is registered immediately before 1st April 2002 under Part I of the 1984 Act;

(b) a nursing home or mental nursing home in respect of which a person is registered immediately before 1st April 2002 under Part II of the 1984 Act;

(c) a home that is registered immediately before 1st April 2002 in a register kept for the purposes of section 60 of the 1989 Act; or

(d) a home that is registered immediately before 1st April 2002 under Part VIII of the 1989 Act;

"new provider" means a person who carries on an establishment for the first time after 1st April 2002;

"the No. 8 Commencement Order" means the Care Standards Act 2000 (Commencement No. 8 (Wales) and Transitional, Savings and Consequential Provisions) Order 2002(**5**);

"previously exempt provider" means a provider who immediately before 1st April 2002 carries on an establishment other than

(a) a residential care home, nursing home or mental nursing home in respect of which a person is required to be registered under Part I or II of the 1984 Act; or

(b) a home that is required to be registered in a register kept for the purposes of section 60 of the 1989 Act or under Part VIII of that Act;

"registered" means registered under Part II of the Act or (as the case may be) Part XA of the 1989 Act;

"registration fee" means the fee prescribed for the purposes of section 12(2) of the Act or (as the case may be) section 79F(2)(b) of the 1989 Act;

"registered manager" in relation to an establishment means a person who is registered under Part II of the Act as the manager of the establishment;

"registered provider" in relation to an establishment means a person who is registered under Part II of the Act as the person carrying on the establishment;

"registration" means registration under Part II of the Act or (as the case may be) Part XA of the 1989 Act;

(**5**) S.I.2002/920.

"service user" means any person who is to be provided with accommodation or services in an establishment but excludes registered persons or persons employed or intended to be employed in an establishment and their relatives;

"small care home" means a care home that has three or fewer approved places;

"small independent hospital or clinic" means an independent hospital or clinic—

(a) in which beds are available for the use of service users at night; and

(b) where there are three or fewer such beds.

(2) In these Regulations, unless the context otherwise requires, references to an establishment are to be construed as references—

(a) in the case of an application for registration, to the establishment in respect of which the application is made; and

(b) in the case of a registered person, to the establishment in respect of which the person is registered.

(3) In these Regulations, a reference—

(a) to a numbered regulation is to the regulation in these Regulations bearing that number;

(b) in a regulation to a numbered paragraph is to the paragraph in that regulation bearing that number; and

(c) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

Registration fees

3.—(1) Subject to paragraphs (2) to (5), the registration fee shall be—

(a) in the case of an application for registration by a person who is seeking to be registered as a person who carries on an establishment, £1,100; and

(b) in the case of an application for registration by a person who is seeking to be registered as a person who manages an establishment, £300.

(2) In the case of an application for registration in respect of a small care home—

(a) by a person mentioned in paragraph (1)(a), the registration fee shall be £300; and

(b) by a person mentioned in paragraph (1)(b), the registration fee shall be £150.

(3) In the case of an application for registration in respect of a small independent hospital or clinic by a person mentioned in paragraph (1)(a), the registration fee shall be £300.

(4) Where an application for registration is made by any person who immediately before 1st April 2002 manages an existing undertaking, other than a residential care home in respect of which a person is registered before 31st March 2002 under Part I of the 1984 Act, no registration fee shall be payable.

(5) Where pursuant to paragraph 6 of Schedule 1 to the No. 8 Commencement Order an existing provider is treated as having applied for, and been granted, registration in respect of an existing undertaking for the purposes of Part II of the Act, no registration fee shall be payable in respect of that treatment.

(6) Where an application is made by any person for registration under Part XA of the 1989 Act for providing day care for a continuous period of four hours or more in any day, the registration fee shall be £125.

(7) Where, pursuant to paragraph 3 of Schedule 2 to the No. 8 Commencement Order a person is treated as having applied for, and been granted, registration under Part XA of the 1989 Act, no registration fee shall be payable in respect of that treatment.