WELSH STATUTORY INSTRUMENTS

2002 No. 919 (W.107)

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

The Registration of Social Care and Independent Health Care (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), 14(1)(d), 15(3), 16(1), 25(1) and 118(5) to (7) of the Care Standards Act 2000(**1**) and sections 79E(2) and 104(4) of, and paragraph 6(2) of Schedule 9A to, the Children Act 1989(**2**) hereby makes the following Regulations:—

PART I—
GENERAL

Citation, commencement and application

1.—(1) These Regulations may be cited as the Registration of Social Care and Independent Health Care (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, unless the context otherwise requires—

"the Act" means the Care Standards Act 2000;

(**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 England, Scotland and Northern Ireland.

(**2**) 1989 c. 41. Section 79E and Schedule 9A were inserted into the Children Act 1989 by section 79 of the Care Standards Act 2000. For the meaning of "prescribed" see section 105(1) of the 1989 Act and for the meaning of "regulations" see section 79B(7) of that Act (inserted by section 79 of the 2000 Act).

"the 1989 Act" means the Children Act 1989;

"applicant" means a person seeking to be registered;

"appropriate office of the National Assembly" means—

(a) in relation to a care home—

(i) if an office has been specified under regulation 48 of the Care Homes (Wales) Regulations 2002(**3**) for the area in which the care home is situated, that office;

(ii) in any other case, any office of the National Assembly;

(b) in relation to a children's home—

(i) if an office has been specified under regulation 42 of the Children's Homes (Wales) Regulations 2002(**4**) for the area in which the children's home is situated, that office;

(ii) in any other case, any office of the National Assembly;

(c) in relation to an independent hospital or independent clinic—

(i) if an office has been specified under regulation 2(2) of the Private and Voluntary Health Care (Wales) Regulations 2002(**5**) for the area in which the independent hospital or independent clinic, as the case may be, is situated, that office;

(ii) in any other case, any office of the National Assembly;

(d) in relation to premises on which a person acts as a child minder or seeks to so act or a person provides day care or seeks to do so—

(i) if an office has been specified under regulation 2(2) of the Part XA Regulations 2002(**6**) for the area in which the premises are situated, that office;

(ii) in any other case, any office of the National Assembly.

"holding company" has the meaning given to it by section 736 of the Companies Act 1985(**7**);

"National Assembly" means the National Assembly for Wales;

"organisation" means a body corporate;

"the Part XA Regulations" means the Child Minding and Day Care (Wales) Regulations 2002(**8**);

"placement plan" has the meaning given to it in regulation 12 (child's placement plan) of the Children's Homes (Wales) Regulations 2002;

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

"registered manager" means a person who is registered as the manager of an establishment;

"registered person" means a person who is the registered provider or registered manager in respect of an establishment;

"registered provider" means a person who is registered as a person carrying on an establishment;

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

"relative", in relation to any person, means—

(**3**) S.I.2002/324
(**4**) S.I. 2002/327
(**5**) S.I. 2002/325
(**6**) S.I. 2002/812
(**7**) 1985 c. 6; section 736 was substituted by section 144(1) of the Companies Act 1989 (c. 40).
(**8**) S.I. 2002/ 812

(a) the person's spouse;

(b) any parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece of the person or the person's spouse;

(c) the spouse of any relative within sub-paragraph (b) of this definition;

and for the purpose of determining any such relationship a person's step-child shall be treated as the person's child, and references to "spouse" in relation to any person include a former spouse and a person who is living with the person as husband or wife;

"representative" means, in relation to a service user, a person, other than the registered person or a person employed at or for the purposes of the establishment, who with the service user's express or implied consent takes an interest in the service user's health and welfare;

"responsible individual" means an individual who is a director, manager, secretary or other officer of an organisation and is responsible for supervising the management of an establishment;

"responsible person" means—

(a) where the applicant is an individual, the applicant;

(b) where the applicant is an organisation, the responsible individual;

"service user" means any person who is to be provided with accommodation or services in an establishment;

"statement of purpose" means—

(a) in relation to a care home, the written statement required to be compiled in relation to the care home in accordance with regulation 4(1) of the Care Homes (Wales) Regulations 2002;

(b) in relation to a children's home, the written statement required to be compiled in relation to the children's home in accordance with regulation 4(1) of the Children's Homes (Wales) Regulations 2002;

(c) in relation to an independent hospital or independent clinic, the written statement required to be compiled in relation to the independent hospital or independent clinic in accordance with regulation 5(1) of the Private and Voluntary Health Care (Wales) Regulations 2002;

(d) in relation to the child minding or provision of day care for which a person applies for registration, the written statement required to be compiled in accordance with reg 3(1) of the Part XA Regulations;

"subsidiary" has the meaning given to it by section 736 of the Companies Act 1985.

(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 applicant, to the establishment or proposed establishment in respect of which he or she is seeking to be registered;

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

(3) In these Regulations, a reference—

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

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

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

PART II—

APPLICATIONS FOR REGISTRATION UNDER PART II OF THE CARE STANDARDS ACT 2000

Application of regulations 4 to 15

3. Regulations 4 to 15 apply in relation to Part II of the Act.

Information and documents to be provided by an applicant

4.—(1) An application for registration shall—

(a) be in writing on a form approved by the National Assembly;

(b) be sent or delivered to the appropriate office of the National Assembly;

(c) be accompanied by a recent photograph of the responsible person, of whom the photograph shall be a true likeness;

(d) give the information that the applicant is required to provide in accordance with paragraphs (2) to (4).

(2) A person who is seeking to be registered as a person who carries on an establishment shall provide to the National Assembly—

(a) full information in respect of the matters listed in Parts I and II of Schedule 1;

(b) the documents listed in paragraphs 1 to 3 and 5 to 9 of Schedule 2;

(c) the documents listed in paragraphs 4 and 10 of Schedule 2, except where any certificate or information on any matters referred to in those paragraphs is not available to an individual because any provision of the Police Act 1997(**9**) has not been brought into force.

(3) A person who is seeking to be registered as a manager in respect of an establishment shall provide to the National Assembly—

(a) full information in respect of each of the matters listed in Part I of Schedule 3;

(b) the documents listed in paragraphs 9 to 11 of that Schedule;

(c) the documents listed in paragraphs 12 and 13 of that Schedule, except where any certificate or information on any matters referred to in those paragraphs is not available to the person because any provision of the Police Act 1997 has not been brought into force.

(4) A person who is seeking to be registered in respect of an establishment of a description specified in column (1) below shall additionally provide to the National Assembly full information in respect of each of the matters listed in the Schedule specified in the corresponding entry in column (2) below.

(1) Establishment	(2) Schedule
Care home	Schedule 4
Children's home	Schedule 5
Independent hospital or independent clinic	Schedule 6

(5) If the National Assembly so requests, the applicant shall provide full information to the National Assembly in respect of the matters listed in Part III of Schedule 1 in relation to any person

(**9**) 1997 c. 50.

specified for this purpose by the National Assembly who works, or is intended to work, at the establishment.

(6) The applicant shall provide to the National Assembly any other documents that it may reasonably require in relation to his or her application for registration.

Convictions

5. Where the National Assembly asks the responsible person for details of any criminal convictions which are spent within the meaning of section 1 of the Rehabilitation of Offenders Act 1974(**10**) and informs him or her at the time the question is asked that by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975(**11**) spent convictions are to be disclosed, the responsible person shall supply in writing to the National Assembly details of any spent convictions that he or she has.

Interview

6. The responsible person shall attend an interview for the purpose of enabling the National Assembly to determine whether the applicant is fit to carry on or manage the establishment in respect of which the applicant seeks to be registered.

Notice of changes

7. The applicant shall give notice in writing to the National Assembly of any change specified below which occurs after the application for registration is made and before it is determined—

(a) any change of the name or address of the applicant or any responsible person;

(b) where the applicant is an organisation, any change of director, manager, secretary or other person responsible for supervising the management of the organisation.

Information as to staff engaged after application made

8.—(1) Where an applicant applies for registration as a person who carries on an establishment, and before the application is determined, engages a person to work at the establishment, the applicant shall, in respect of each person so engaged—

(a) obtain the information specified in paragraphs 15 and 16 of Schedule 1 and, except where paragraph (2) applies, the documents specified in paragraph 10 of Schedule 2, in relation to the position in which the person is to work;

(b) provide to the National Assembly, if it so requests, any of the information or documents which the applicant is required to obtain under paragraph (a).

(2) This paragraph applies where any certificate or information on any matters referred to in paragraph 10 of Schedule 2 is not available to an individual because any provision of the Police Act 1997 has not been brought into force.

(**10**) 1974 c. 53.
(**11**) S.I.1975/1023. Relevant amendments have been made by S.I. 1986/1249, 1986/2268 and 2001/1192.