WELSH STATUTORY INSTRUMENTS

2002 No. 896 (W.102)

CHILDREN AND YOUNG PERSONS, WALES

The Disqualification from Caring for Children (Wales) Regulations 2002

Made - - - -	*26th March 2002*
Coming into force - -	*1 April 2002*

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 68(1) and (2) and 104(4) of and paragraph 4 of Schedule 9A to the Children Act 1989(**1**) hereby makes the following Regulations:

Citation, commencement, interpretation and application

1.—(1) These Regulations may be cited as the Disqualification from Caring for Children (Wales) Regulations 2002 and shall come into force on 1st April 2002.

(2) In these Regulations—

"the Act" ("*y Ddeddf*") means the Children Act 1989;

"the 2000 Act" ("*Deddf 2000*") means the Care Standards Act 2000(**2**);

"the Schedule" ("*yr Atodlen*") means the Schedule to these Regulations.

(3) These Regulations apply in relation to Wales.

Disqualification from fostering a child privately

2. For the purpose of section 68 of the Act (persons disqualified from being private foster parents) a person is disqualified from fostering a child privately if—

(a) the person has been convicted of any offence specified in Part I of the Schedule; or

(b) the person is a relevant person mentioned in Part II of the Schedule.

(**1**) 1989 c. 41. The functions under section 68 are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2(a) of the National Assembly for Wales (Transfer of Functions) Order 1999, S.I.1999/672. Schedule 9A was inserted into the Children Act 1989 by section 79(2) of and Schedule 3 to the Care Standards Act 2000 (c. 14). 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 Care Standards Act 2000.

(**2**) 2000 c. 14.

Disqualification for registration for child minding and providing day care

3.—(1) For the purpose of paragraph 4 of Schedule 9A to the Act (disqualification for registration) a person is, subject to regulation 4, disqualified for registration under Part XA of the Act for child minding or providing day care if—

(a) the person has been convicted of any offence mentioned in Part I of the Schedule; or

(b) the person is a relevant person mentioned in Parts II or III of the Schedule; or

(c) the person has at any time been disqualified from fostering a child privately.

(2) Subject to regulation 4, a person who lives—

(a) in the same household as a person who is disqualified under paragraph (1); or

(b) in a household at which any such person is employed,

is disqualified for registration under Part XA of the Act for child minding or providing day care.

Local authority waivers

4. A person shall not be regarded as disqualified under regulation 3 if, prior to the coming into force of these Regulations, the person—

(a) disclosed facts to an appropriate local authority under paragraph 2 of Schedule 9 to the Act which would disqualify the person under regulation 3; and

(b) obtained the written consent of that local authority.

Revocation

5. The Disqualification for Caring for Children Regulations 1991(**3**) are revoked in so far as they apply to Wales.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(**4**).

Rhodri Morgan
The First Minister of the National Assembly for Wales

26th March 2002

(**3**) S.I. 1991/2094 as amended by S.I. 1997/2308. The Regulations are revoked in relation to England by S.I. 2002/635.
(**4**) 1998 c. 38.

SCHEDULE

Regulations 2 and 3

PART I

Offences in England and Wales

1. Murder.

2. Manslaughter.

3. Kidnapping.

4. False imprisonment.

5. An offence under section 16 of the Offences against the Person Act 1861 (threats to kill)(**5**).

6. An offence under section 18, 20 or 47 of that Act (wounding and causing bodily harm).

7. An offence under section 1 of the Children and Young Persons Act 1933 (cruelty to children)(**6**).

8. An offence under section 1 of the Infanticide Act 1938 (infanticide)(**7**).

9. An offence under section 1 of the Sexual Offences Act 1956 (rape)(**8**).

10. An offence under section 2 or 3 of that Act (procurement of woman by threats or false pretences).

11. An offence under section 4 of that Act (administering drugs to obtain or facilitate intercourse).

12. An offence under section 5 of that Act (intercourse with a girl under 13).

13. An offence under section 6 of that Act (intercourse with a girl under 16).

14. An offence under section 7 of that Act (intercourse with defective)(**9**).

15. An offence under section 9 of that Act (procurement of defective).

16. An offence under section 10 of that Act (incest by a man).

17. An offence under section 11 of that Act (incest by a woman).

18. An offence under section 12 of that Act by committing buggery with a child under the age of 16.

19. An offence under section 13 of that Act by committing an act of gross indecency with a child.

20. An offence under section 14 or 15 of that Act (indecent assault).

21. An offence under section 16 of that Act (assault with intent to commit buggery).

22. An offence under section 17 of that Act (abduction of woman by force or for the sake of her property).

23. An offence under section 19 or 20 of that Act (abduction of girl under 18 or 16).

24. An offence under section 21 of that Act (abduction of defective from parent or guardian) by taking a child out of the possession of the child's parent or guardian.

(**5**) 1861 c. 100. Section 16 was substituted by the Criminal Law Act 1977 (c. 45).
(**6**) 1933 c. 12.
(**7**) 1938 c. 36.
(**8**) 1956 c. 69. Section 1 was substituted by the Criminal Justice and Public Order Act 1994 (c. 33).
(**9**) Section 7 was substituted by the Mental Health Act 1959 (c. 72).

25. An offence under section 22 of that Act (causing prostitution of women).

26. An offence under section 23 of that Act (procuration of girl under 21).

27. An offence under section 24 of that Act (detention of woman in brothel or other premises).

28. An offence under section 25 or 26 of that Act (permitting girl under 13, or between 13 and 16, to use premises for intercourse).

29. An offence under section 27 of that Act (permitting defective to use premises for intercourse).

30. An offence under section 28 of that Act (causing or encouraging prostitution of, intercourse with or indecent assault on, girl under 16).

31. An offence under section 29 of that Act (causing or encouraging prostitution of defective).

32. An offence under section 30 of that Act (man living on earnings of prostitution).

33. An offence under section 31 of that Act (woman exercising control over prostitute).

34. An offence under section 128 of the Mental Health Act 1959 (sexual intercourse with patients)(**10**).

35. An offence under section 1 of the Indecency with Children Act 1960 (indecent conduct towards young child)(**11**).

36. An offence under section 4 of the Sexual Offences Act 1967 (procuring others to commit homosexual acts)(**12**) by—

(a) procuring a child to commit an act of buggery with any person, or

(b) procuring any person to commit an act of buggery with a child.

37. An offence under section 5 of that Act (living on earnings of male prostitution).

38. An offence under section 9(1)(a) of the Theft Act 1968 (burglary)(**13**) by entering a building or part of a building with intent to rape a child.

39. An offence under section 4(3) of the Misuse of Drugs Act 1971(**14**).

40. An offence under section 54 of the Criminal Law Act 1977 (inciting girl under sixteen to incest)(**15**).

41. An offence under section 1 of the Protection of Children Act 1978 (indecent photographs of children)(**16**).

42. An offence under section 170 of the Customs and Excise Management Act 1979(**17**) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (prohibitions and restrictions relating to pornography)(**18**) where the prohibited goods included indecent photographs of children under the age of 16.

43. An offence under section 1 of the Child Abduction Act 1984 (abduction of child by parent)(**19**) or section 32(3) of the Children and Young Persons Act 1969 (incitement etc. of absentees)(**20**).

(**10**) 1959 c. 72.
(**11**) 1960 c. 33.
(**12**) 1967 c. 60. Section 4(2) was repealed by the Criminal Law Act 1977.
(**13**) 1968 c. 60.
(**14**) 1971 c. 38.
(**15**) 1977 c. 45.
(**16**) 1978 c. 37.
(**17**) 1979 c. 2.
(**18**) 1876 c. 36.
(**19**) 1984 c. 37.
(**20**) 1969 c. 54.

44. An offence under section 160 of the Criminal Justice Act 1988 (possession of indecent photograph of child)(**21**).

45. An offence under section 14 of the Children Act 1958(**22**), section 16 of the Foster Children Act 1980(**23**) or section 70 of the Act (offences relating to private fostering).

46. An offence under section 44(15), 49 or 50(9) of the Act (offences of obstruction and relating to the abduction of a child in care).

47. An offence under section 63(10) of, paragraph 1(5) of Schedule 5 to, or paragraph 2(3) of Schedule 6 to, the Act (offences relating to voluntary homes and children's homes)(**24**).

48. An offence under section 78, 79D or 79F(6) of the Act (offences relating to child minding and daycare)(**25**).

49. An offence under section 3 of the Sexual Offences (Amendment) Act 2000 (abuse of trust)(**26**).

50. An offence in relation to a children's home under or by virtue of the following provisions of the 2000 Act—

(a) section 11(1) (failure to register);

(b) section 24 (failure to comply with conditions);

(c) section 25 (contravention of regulations);

(d) section 26 (false descriptions of establishments and agencies); or

(e) section 27 (false statements in applications).

51. An offence of—

(a) aiding, abetting, counselling, procuring or inciting the commission of an offence specified in paragraphs 1 to 50 of this Schedule; or

(b) conspiring or attempting to commit such an offence.

Offences in Scotland

52. An offence of rape.

53. Murder.

54. Culpable homicide.

55. An offence under or by virtue of section 60(3), 61(3) or 62(6) of the Social Work (Scotland) Act 1968 (offences relating to residential and other establishments)(**27**).

56. An offence under section 32(3) of the Children and Young Persons Act 1969 (inciting etc. of absentee).

57. An offence specified in Schedule 1 to the Criminal Procedure (Scotland) Act 1995(**28**).

58. The common law offence in Scotland of plagium (theft of a child below the age of puberty).

(**21**) 1988 c. 33.
(**22**) 1958 c. 65.
(**23**) 1980 c. 86
(**24**) Provision for the repeal of these provisions is contained in the Care Standards Act 2000.
(**25**) Sections 79D and 79F are inserted into the 1989 Act by the Care Standards Act 2000.
(**26**) 2000 c. 44.
(**27**) 1968 c. 49.
(**28**) 1995 c. 46.