WELSH STATUTORY INSTRUMENTS

2002 No. 812 (W.92)

SOCIAL CARE, WALES
CHILDREN AND YOUNG PERSONS, WALES

The Child Minding and Day Care (Wales) Regulations 2002

Made - - - -	*16.00 on 21 March 2002*
Coming into force - -	*1st April 2002*

The National Assembly for Wales makes the following Regulations in exercise of the power conferred on it by sections 79C and 104(4) of the Children Act 1989(**1**):

PART I —
GENERAL

Citation, commencement and application

1.—(1) These Regulations may be cited as the Child Minding and Day Care (Wales) Regulations 2002 and shall come into force on 1st April 2002.

(2) These Regulations apply in relation to persons who act as child minders or provide day care on relevant premises in Wales.

Interpretation

2.—(1) In these Regulations unless the context otherwise requires—

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

"appropriate office"("*swyddfa briodol*") means—

(a) if an office has been specified under paragraph (2) in relation to any relevant premises, that office;

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

"the National Assembly" ("*y Cynulliad Cenedlaethol*") means the National Assembly for Wales;

(**1**) 1989 c. 41; section 79C was inserted by section 79 of the Care Standards Act 2000 (c. 14).

"national minimum standards" ("*safonau gofynnol cenedlaethol*") means the standards set out in the statements of national minimum standards;

"open access play provision" ("*darpariaeth chwarae mynediad agored*") means the provision of day care which does not require

(a) a prior arrangement by the registered person to provide such care; or

(b) that children are escorted by a parent or other responsible person to and from the relevant premises;

"organisation"("*corff*") means a body corporate;

"person in charge" ("*person sy'n gyfrifol*") means in relation to day care the individual appointed by the registered person as the person in charge of providing actual day care on the premises;

"registered person" ("*person cofrestredig*") means a person registered under Part XA of the Act as a child minder or a provider of day care;

"relevant child" ("*plentyn perthnasol*") means a child in relation to whom a registered person acts as a child minder or, as the case may be, to whom day care is provided by a registered person;

"relevant premises" ("*safle perthnasol*") means premises on which a registered person acts as a childminder or, as the case may be, day care is provided by a registered person;

"responsible individual" ("*unigolyn cyfrifol*") has the meaning given to it in regulation 4;

"statements of national minimum standards" ("*datganiadau safonau gofynnol cenedlaethol*") means the statements of national minimum standards described in Schedule 1 which were made by the National Assembly on the date of making of these Regulations;

"statement of purpose" ("*datganiad o ddiben*") means the statement compiled in accordance with regulation 3(1).

(2) The National Assembly may specify an office controlled by it as the appropriate office in relation to relevant premises situated in a particular area of Wales.

(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.

(4) In these regulations, unless the contrary intention appears, references to employing a person include employing a person whether or not for payment, and whether under a contract of service, a contract for services or otherwise than under a contract, and allowing a person to work as a volunteer, and references to an employee or to a person being employed shall be construed accordingly.

Statement of purpose

3.—(1) The registered person shall compile in relation to the child minding or provision of day care for which the person is registered, a statement on paper ("the statement of purpose") which shall consist of—

(a) a statement of aims and objectives;

(b) a statement as to the age-range, sex and number of children for whom care is intended to be provided by the registered person and as to the range of needs that the person intends to meet;

(c) a statement as to the facilities and services to be provided or made available to relevant children;

(d) a statement as to the activities to be provided and as to the language or languages through which the activities will be provided; and

(e) a statement of the terms and conditions upon which care is provided to relevant children when the registered person acts as a child minder or provides day care, as the case may be.

(2) Subject to paragraph (3) the registered person shall ensure that he or she acts as a child minder or day care is provided, as the case may be, in a manner which is consistent with the statement of purpose.

(3) Nothing in paragraph (2) or in regulation 20 shall require or authorise the registered person to contravene or not comply with—

(a) any other provision of these Regulations; or

(b) the conditions for the time being in force in relation to the registration of the registered person under Part XA of the Act.

(4) The registered person shall—

(a) keep under review, and, where appropriate, revise the statement of purpose; and

(b) whenever practicable notify the appropriate office of the National Assembly of any such revision at least 28 days before it is to take effect.

PART II —

REGISTERED PERSONS

Registered person — suitability

4.—(1) A person shall not act as a child minder or provide day care unless the person is suitable to look after children under the age of eight.

(2) A person is not so suitable unless the person—

(a) is an individual who acts as a child minder alone or who provides day care alone or in partnership with one or more persons, and satisfies the requirements set out in paragraph (3); or

(b) in the case of a person providing day care, is an organisation and—

(i) the organisation has given notice to the appropriate office of the National Assembly of the name, address and position in the organisation of an individual (in these Regulations referred to as "the responsible individual") who is a director, manager, secretary or other officer of the organisation and is responsible for supervising the provision of such day care; and

(ii) that individual satisfies the requirements set out in paragraph (3).

(3) The requirements are that the person—

(a) is of suitable integrity and good character to look after children under the age of eight;

(b) is physically and mentally fit to look after children under the age of eight; and

(c) full and satisfactory information or documentation, as the case may be, is available in relation to the person—

(i) except where paragraph (4) applies, in respect of each of the matters specified in paragraphs 1 to 6 of Schedule 2;

(ii) where paragraph (4) applies, in respect of each of the matters specified in paragraphs 1 and 3 to 7 of Schedule 2.

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

(5) A person is not suitable to act as a child minder or provide day care if—

(a) the person has been adjudged bankrupt or sequestration of the person's estate has been awarded and (in either case) the person has not been discharged and the bankruptcy order has not been annulled or rescinded; or

(b) the person has made a composition or arrangement with the person's creditors and has not been discharged in respect of it.

Registered person — general requirements

5.—(1) The registered person shall, having regard to

(a) the statement of purpose, the number and needs (including any needs arising from disability) of the relevant children, and

(b) the need to safeguard and promote their welfare,

act as a child minder or provide day care (as the case may be) with sufficient care, competence and skill.

(2) Where a registered person acts as a child minder or is an individual providing day care, the registered person shall undertake from time to time such training as is appropriate to ensure that he or she, as the case may be, has the experience and skills necessary for acting as a child minder or providing day care, as the case may be.

(3) Where the registered person is an organisation providing day care it shall ensure that the responsible individual undertakes such training as is appropriate to ensure that he or she has the skills necessary for providing day care.

Notification of offences

6.—(1) Where the registered person or the responsible individual is convicted of any criminal offence whether in Wales or elsewhere, the person convicted shall forthwith give notice in writing to the appropriate office of the National Assembly of—

(a) the date and place of the conviction,

(b) the offence of which the person was convicted, and

(c) the penalty imposed on the person in respect of the offence.

(2) Where the registered person is charged with any offence in respect of which an order may be made under Part II of the Criminal Justice and Court Services Act 2000(**3**) the person shall forthwith give notice in writing to the appropriate office of the National Assembly of the offence charged and the date and place of charge.

(**2**) 1997 c. 50. Sections 113 and 115, as amended have not yet been brought into force. *See* further the footnotes to paragraph 2 of Schedule 2 to these Regulations.
(**3**) 2000 c. 50.

PART III —

WELFARE AND DEVELOPMENT OF RELEVANT CHILDREN

Promotion of welfare

7.—(1) The registered person shall act as a child minder or provide day care, as the case may be, in such a way as to—

(a) promote and make proper provision for the welfare of relevant children; and

(b) make proper provision for the care, education, supervision and, where appropriate, treatment, of relevant children.

(2) The registered person shall, for the purpose of providing care to relevant children and making proper provision for their welfare, so far as practicable, ascertain and take into account their wishes and feelings.

(3) The registered person shall make suitable arrangements to ensure that while relevant children are under the care of the person—

(a) their privacy and dignity is respected;

(b) due regard is paid to their sex, religious persuasion, racial origin, cultural and linguistic background and any disability affecting them.

Food provided for children

8.—(1) The registered person shall ensure, where food is provided to relevant children by the registered person, that

(a) they are provided with food which—

(i) is served in adequate quantities and at appropriate intervals;

(ii) is properly prepared, wholesome and nutritious;

(iii) is suitable for their needs and meets their reasonable preferences; and

(iv) is sufficiently varied; and

(b) any special dietary need of a relevant child which is due to the child's health, religious persuasion, racial origin or cultural background is met.

(2) The registered person shall ensure that relevant children are provided with access to fresh drinking water at all times while they are under the care of the person.

Arrangements for the protection of children

9.—(1) The registered person shall draw up and implement a written policy which—

(a) is intended to safeguard relevant children from abuse or neglect; and

(b) sets out the procedure to be followed in the event of any allegation of abuse or neglect.

(2) The procedure under paragraph (1)(b) shall in particular provide for—

(a) liaison and co-operation with any local authority which is, or may be, making child protection enquiries in relation to a relevant child;

(b) the prompt referral to the local authority for the area in which the relevant premises are situated, of any allegations of abuse or neglect affecting a relevant child;

(c) written records to be kept of any allegation of abuse or neglect, and of the action taken in response;