



# Children and Families (Wales) Measure 2010

## 2010 nawm 1

### PART 2

#### CHILD MINDING AND DAY CARE FOR CHILDREN

##### *Offences, criminal proceedings and fixed penalties*

#### **46 Offence of making false or misleading statement**

- (1) A person commits an offence if, in an application for registration under this Part, that person knowingly makes a statement which is false or misleading in a material particular.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### **47 Penalty notices**

- (1) Where the Welsh Ministers are satisfied that a person has committed a fixed penalty offence, they may give the person a penalty notice in respect of the offence.
- (2) A fixed penalty offence is any relevant offence which is prescribed for the purposes of this section.
- (3) A relevant offence is an offence under this Part or under regulations made under this Part.
- (4) A penalty notice is a notice offering the person the opportunity of discharging any liability to conviction for the offence to which the notice relates by payment of a penalty in accordance with the notice.
- (5) Where a person is given a penalty notice, proceedings for the offence to which the notice relates may not be instituted before the end of such period as may be prescribed.

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*Status: This is the original version (as it was originally enacted).*

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- (6) Where a person is given a penalty notice, the person cannot be convicted of the offence to which the notice relates if the person pays the penalty in accordance with the notice.
- (7) Penalties under this section are payable to the Welsh Ministers.

#### **48 Penalty notices: supplementary provisions**

- (1) The Welsh Ministers may by regulations make provision about any of the following—
  - (a) the form and content of penalty notices;
  - (b) the monetary amount of the penalty and the time by which it is to be paid;
  - (c) determination of the methods by which penalties may be paid;
  - (d) the records to be kept in relation to penalty notices;
  - (e) the withdrawal, in prescribed circumstances, of a penalty notice, including—
    - (i) repayment of any amount paid by way of penalty under a penalty notice which is withdrawn, and
    - (ii) prohibition of the institution or continuation of proceedings for the offence to which the withdrawn notice relates;
  - (f) certificates to be received in evidence—
    - (i) purporting to be signed by or on behalf of a prescribed person, and
    - (ii) stating that payment of any amount paid by way of penalty was or, as the case may be, was not received on or before a date specified in the certificate;
  - (g) action to be taken if a penalty is not paid in accordance with a penalty notice;
  - (h) anything else in relation to penalties or penalty notices as the Welsh Ministers think necessary or expedient.
- (2) Regulations under subsection (1)(b)—
  - (a) may make provision for penalties of different amounts to be payable in different cases, including provision for the penalty payable under a penalty notice to differ according to the time by which it is paid, but
  - (b) must secure that the amount of any penalty payable in respect of any offence does not exceed one half of the maximum amount of the fine to which a person committing the offence would be liable on summary conviction.
- (3) In this section—
  - “penalty” means a penalty under a penalty notice;
  - “penalty notice” has the meaning given by section 47.

#### **49 Time limit for proceedings**

- (1) Proceedings for an offence under this Part or regulations made under it may be brought within a period of one year from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings comes to the prosecutor’s knowledge.
- (2) No such proceedings may be brought by virtue of subsection (1) more than three years after the commission of the offence.

## **50 Offences by bodies corporate**

- (1) This section applies where any offence under this Part is committed by a body corporate.
- (2) If the offence is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of, any director, manager or other similar officer of the body corporate, or of any person who was purporting to act in any such capacity, he or she (as well as the body corporate) is guilty of the offence and liable to be proceeded against and punished accordingly.

## **51 Unincorporated associations**

- (1) Proceedings for an offence under this Part which is alleged to have been committed by an unincorporated association must be brought in the name of the association (and not in the name of any of its members).
- (2) For the purpose of any such proceedings, rules of court relating to the service of documents are to have effect as if the association were a body corporate.
- (3) In proceedings for an offence under this Part brought against an unincorporated association, section 33 of the Criminal Justice Act 1925 (c. 86) and Schedule 3 to the Magistrates' Courts Act 1980 (c. 43) apply as they do in relation to a body corporate.
- (4) A fine imposed on an unincorporated association on its conviction of an offence under this Part is to be paid out of the funds of the association.
- (5) If an offence under this Part by an unincorporated association is shown—
  - (a) to have been committed with the consent or connivance of an officer of the association or a member of its governing body, or
  - (b) to be attributable to any neglect on the part of such an officer or member,the officer or member as well as the association is guilty of the offence and liable to be proceeded against and punished accordingly.