
WELSH STATUTORY INSTRUMENTS

2010 No. 2574 (W.214)

SOCIAL CARE, WALES

CHILDREN AND YOUNG PERSONS, WALES

The Child Minding and Day Care (Wales) Regulations 2010

<i>Made</i>	- - - -	<i>20 October 2010</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>22 October 2010</i>
<i>Coming into force</i>	- -	<i>1 April 2011</i>

The Welsh Ministers, in exercise of the powers conferred by sections 24(2) and (3), 25, 26(2) and (3), 27, 28(3), 30, 32(1) – (4), 56 and 74(2) of the Children and Families (Wales) Measure 2010⁽¹⁾, make the following Regulations:

PART 1

INTRODUCTORY

Title, commencement and application

1.—(1) The title of these Regulations is the Child Minding and Day Care (Wales) Regulations 2010 and they come into force on 1 April 2011.

(2) These Regulations apply in relation to Wales.

Interpretation

2.—(1) In these Regulations—

“the 2002 Regulations” (“*Rheoliadau 2002*”) means the Registration of Social Care and Independent Health Care (Wales) Regulations 2002⁽²⁾;

“the 2004 Regulations” (“*Rheoliadau 2004*”) means the Suspension of Day Care Providers and Child Minders (Wales) Regulations 2004⁽³⁾;

“the Measure” (“*y Mesur*”) means the Children and Families (Wales) Measure 2010;

(1) 2010 nawm 1 (“the Measure”). See section 71 of the Measure for the definitions of “prescribed” and “regulations”.
(2) S.I. 2002/919 (W.107); S.I. 2009/3265 (W.286) is a relevant amending instrument.
(3) S.I. 2004/3282 (W.285).

“acts as a child minder” (“*yn gweithredu fel gwarchodwr plant*”) has the same meaning as in section 19 of the Measure⁽⁴⁾;

“applicant” (“*ceisydd*”) means a person who applies to the Welsh Ministers for registration as a child minder or a day care provider in accordance with Part 2;

“appropriate office” (“*swyddfa briodol*”) means—

- (a) if an office has been specified under paragraph (2) in relation to any premises, that office;
- (b) in any other case, any office controlled by the Welsh Ministers;

“child protection enquiries” (“*ymholiadau amddiffyn plant*”) means any enquiries carried out by a local authority in the exercise of any of its functions conferred by or under the Children Act 1989⁽⁵⁾ relating to the protection of children;

“disqualified” (“*wedi ei anghymhwysu*”) means that—

- (a) a person is disqualified from registration as a child minder or provider of day care under Part 2 of the Measure in accordance with the Child Minding and Day Care (Disqualification) (Wales) Regulations 2010⁽⁶⁾; or
- (b) a person is a member of the same household or is employed in the same household as a person who is disqualified in accordance with paragraph (a);

“enhanced criminal record certificate” (“*tystysgrif cofnod troseddol fanylach*”) means an enhanced criminal record certificate issued under section 113B of the Police Act 1997⁽⁷⁾, which includes suitability information relating to children (within the meaning of section 113BA(2) of that Act), in respect of which less than three years have elapsed since it was issued;

“First-tier Tribunal” (“*Tribiwnlys Haen Cyntaf*”) has the same meaning as in the Tribunals, Courts and Enforcement Act 2007⁽⁸⁾;

“ISA” (“*ADA*”) means the Independent Safeguarding Authority⁽⁹⁾;

“national minimum standards” (“*safonau gofynnol cenedlaethol*”) means the standards set out in the National Minimum Standards for Regulated Child Care published by the Welsh Ministers in accordance with section 30(3) of the Measure ⁽¹⁰⁾;

“open access play provision” (“*darpariaeth chwarae mynediad agored*”) means the provision of day care that does not require—

- (a) a prior arrangement with 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” (“*sefydliad*”) means a body corporate or an unincorporated association;

“person in charge” (“*person â chyfrifoldeb*”) means in relation to day care, the individual appointed by the registered person as the person to be in full day to day charge of the provision of day care on the premises;

(4) Section 19(4) of the Measure gives the Welsh Ministers power to provide by order the circumstances in which a person is not acting as a child minder for the purposes of Part 2 of the Measure. See the Child Minding and Day Care Exceptions (Wales) Order 2010.

(5) 1989 c. 41.

(6) S.I. 2010/1703 (W.163).

(7) 1997 c. 50.

(8) 2007 c. 15.

(9) The Independent Safeguarding Authority is the operational name the Independent Barring Board, it is a non-departmental public body established in accordance with the Safeguarding Vulnerable Groups Act 2006 (2006 c. 47).

(10) Copies of the National Minimum Standards for Regulated Child Care may be obtained from the Welsh Assembly Government, Cathays Park, Cardiff, CF10 3NQ.

“provides day care for children” (“*Darparu gofal dydd i blant*”) has the same meaning as in section 19 of the Measure⁽¹¹⁾;

“registered person” (“*person cofrestredig*”) means a person registered under Part 2 of the Measure 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 child minder or, as the case may be, to whom day care is provided by a registered person;

“relevant date” (“*dyddiad perthnasol*”) means the date upon which these Regulations come into force;

“relevant premises” (“*mangre perthnasol*”) means premises on which a registered person acts as a child minder or, as the case may be, day care is provided by a registered person;

“responsible individual” (“*unigolyn cyfrifol*”) means, in relation to the provision of day care by an organisation, which is—

(a) a body corporate—

- (i) a director;
- (ii) a manager;
- (iii) a secretary; or
- (iv) other officer;

or

(b) an unincorporated association—

- (i) an officer; or
- (ii) a member of the governing body,

of that organisation, who is responsible for the supervision of the provision of day care;

“statement of purpose” (“*datganiad o ddiben*”) means the statement compiled in accordance with regulation 15(1).

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

(3) 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 references to an employee or to a person being employed are to be construed accordingly.

PART 2

APPLICATION FOR REGISTRATION UNDER PART 2 OF THE MEASURE

Prescribed requirements for registration

3.—(1) An applicant for registration as a child minder must—

- (a) satisfy and be likely to continue to satisfy the requirements prescribed in Part 1 of Schedule 1, which contains the requirements prescribed for the purposes of section 24(3) (b) of the Measure (*applications for registration: child minding*); and
- (b) be likely to comply with the relevant requirements in Parts 3, 4 and 5 .

⁽¹¹⁾ Section 19(4) of the Measure gives the Welsh Ministers power to provide by order the circumstances in which a person is not acting as a child minder for the purposes of Part 2 of the Measure. *See* the Child Minding and Day Care Exceptions (Wales) Order 2010.

- (2) An applicant for registration as a provider of day care for children must—
- (a) satisfy and be likely to continue to satisfy the requirements prescribed in Part 2 of Schedule 1, which contains the requirements prescribed for the purposes of section 26(3) (b) of the Measure (*Applications for registration: day care for children*); and
 - (b) be likely to comply with the relevant requirements in Parts 3, 4 and 5.

Information and documentation to accompany application for registration

- 4.—(1) An application under section 24(1) of the Measure must—
- (a) be in writing on a form approved by the Welsh Ministers;
 - (b) be sent or delivered to the appropriate office; and
 - (c) include the information and documentation referred to in Part 1 of Schedule 2 in respect of the matters mentioned therein.
- (2) An application under section 26(1) of the Measure must—
- (a) be in writing on a form approved by the Welsh Ministers;
 - (b) be sent or delivered to the appropriate office; and
 - (c) include the information and documentation referred to in Part 2 of Schedule 2 in respect of the matters mentioned therein.

Certificate of registration

5. A certificate of registration given to an applicant under section 28(2)(b) of the Measure (*Entry on the register and certificates*) must contain the following particulars—
- (a) the name, address and telephone number of the appropriate office;
 - (b) the name of the person who has been registered;
 - (c) in the case of a person registered as a provider of day care, the address at which the day care is to be provided;
 - (d) the name of the person in charge, where one has been appointed;
 - (e) where the registration is subject to any conditions, details of the conditions;
 - (f) the date of registration;
 - (g) a statement that if the child minding or day care, as the case may be, is not provided in accordance with the conditions imposed the registration may be cancelled by the Welsh Ministers;
 - (h) a statement that the certificate relates only to the person to whom it is issued by the Welsh Ministers and is not capable of being transferred to another person.

PART 3

REGISTERED PERSONS

Registered person: suitability

- 6.—(1) A person must 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 or, who provides day care alone or in partnership with one or more persons, and each such individual satisfies the requirements set out in paragraph (3); or
- (b) in the case where a person providing day care, is an organisation and—
 - (i) the organisation has given notice to the appropriate office of the name, address and position in the organisation of the responsible individual; and
 - (ii) the responsible individual satisfies the requirements set out in paragraph (3).
- (3) The requirements are that —
 - (a) in relation to child minding —
 - (i) the person who acts as child minder satisfies the requirements prescribed in paragraphs 2 to 7 of Part 1 of Schedule 1; and
 - (ii) there is full and satisfactory information or documentation available in relation to that individual in relation to each of the matters specified in paragraphs 2, 16 and 17 of Part 1 of Schedule 2;
 - (b) in relation to the provision of day care—
 - (i) where the person is an individual and paragraph (4) does not apply—
 - (aa) that person satisfies the requirements prescribed in paragraphs 15 – 20 of Part 2 of Schedule 1, and
 - (bb) there is full and satisfactory information or documentation in relation to that person in respect of each of the matters specified in paragraphs 22, 39 and 40 of Part 2 of Schedule 2;
 - (ii) where the person is an individual and paragraph (4) applies—
 - (aa) that person satisfies the requirements prescribed in paragraphs 15 – 20 of Part 2 of Schedule 1; and
 - (bb) there is full and satisfactory information or documentation in relation to that person in respect of each of the matters specified in paragraphs 22(5)(b) and 39 of Part 2 of Schedule 2;
 - (iii) where the person is the responsible individual and paragraph (4) does not apply—
 - (aa) that person satisfies the requirements prescribed in paragraphs 21 – 25 of Part 2 of Schedule 1; and
 - (bb) there is full and satisfactory information or documentation in relation to that person in respect of each of the matters specified in paragraphs 24(2), (3) (a), and (4), 39 and 40 of Part 2 of Schedule 2;
 - (iv) where the person is the responsible individual and paragraph (4) applies—
 - (aa) that person satisfies the requirements prescribed in paragraphs 21 – 25 of Part 2 of Schedule 1; and
 - (bb) there is full and satisfactory information or documentation in relation to that person in respect of each of the matters specified in paragraphs 24(2) and (3)(b), and 39 of Part 2 of Schedule 2.
 - (4) This paragraph applies where a person in charge has been appointed.

Appointment of a person in charge

7.—(1) The registered person must appoint an individual to be the person in charge of the provision of day care if—

- (a) the registered person is an organisation and the responsible individual is not or does not intend to be in full day to day charge of the provision of day care; or
 - (b) the registered person is an individual and he or she is not or does not intend to be in full day to day charge of the provision of day care.
- (2) Where the registered person appoints an individual to be the person in charge, the registered person must—
- (a) ensure that the person in charge is suitable to be the person in charge of the provision of day care; and
 - (b) forthwith give notice to the appropriate office of the date on which the person in charge will take charge of the provision of day care.

Person in charge: suitability

- 8.—(1) A person must not act as the person in charge of the provision of day care unless he or she is suitable to do so.
- (2) A person is not so suitable unless the person satisfies the requirements set out in paragraph (3).
- (3) The requirements are that the person—
- (a) satisfies the requirements prescribed in paragraphs 27 to 31 of Part 2 of Schedule 1; and
 - (b) that there is full and satisfactory information or documentation available in relation to the person in respect of each of the matters specified in paragraphs 25, 39 and 40 of Part 2 of Schedule 2.

Registered person: general requirements

- 9.—(1) The registered person must, 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 person in charge has been appointed, the registered person must ensure that the person in charge fulfils the requirements set out in paragraph (1).
- (3) Where a registered person acts as a child minder or is an individual providing day care, the registered person must undertake from time to time such training as is appropriate to ensure that he or she has the experience and skills necessary for acting as a child minder or providing day care, as the case may be.
- (4) Where the registered person is an organisation providing day care it must 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 or, where a person in charge has been appointed, for supervising the provision of day care.
- (5) Where a person in charge has been appointed the registered person must ensure that the person in charge undertakes such training as is appropriate to ensure that he or she has the skills necessary for providing day care.

Notification of offences

10.—(1) Where the registered person, the person in charge or the responsible individual is convicted of any criminal offence whether in Wales or elsewhere, the registered person must forthwith give notice in writing to the appropriate office 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 or the person in charge 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⁽¹²⁾ the registered person must forthwith give notice in writing to the appropriate office of the offence charged and the date and place of charge.

Death of registered person

11.—(1) If more than one person is registered in respect of the provision of day care, and a registered person dies, a surviving registered person must within 14 days of the death provide the appropriate office with written notification of the death.

(2) If only one person is registered in respect of the provision of day care, and that person, dies, his or her personal representatives must notify the appropriate office in writing—

- (a) within 14 days of the death of the registered person, of that death; and
- (b) within 28 days of the death of the registered person, of their intentions regarding the future running of the provision of day care.

(3) Subject to paragraph (5), the personal representatives of a deceased person who is registered to provide day care may carry on the provision of day care without being registered in respect of it—

- (a) for a period not exceeding 28 days from the death of the registered person; and
- (b) for any further period as may be determined in accordance with paragraph (4).

(4) The Welsh Ministers may determine a period, not exceeding one year from the date of the death of the registered person, for the purposes of paragraph (3)(b) and must notify any such determination to the personal representatives in writing.

(5) The personal representatives must appoint a person in charge to manage the provision of day care during the period in which, in accordance with paragraph (3), they carry on the provision of day care without being registered in respect of it.

(6) If a person is registered in respect of child minding, and that person dies, his or her personal representatives must notify the appropriate office in writing within 14 days of the death of the registered person.

PART 4

GENERAL REQUIREMENTS AND ENFORCEMENT

Requirement to comply with regulations

12.—(1) A registered person must—

- (a) meet the requirements set out in Part 5 as they apply to that person; and

(12) 2000 c. 43.

- (b) in the provision of the care provided by that person, have regard to the needs of each child for whom child minding or day care is provided.

(2) Any failure by the registered person—

- (a) to meet any relevant requirement set out in Part 5; or
- (b) to have regard to the matter specified in paragraph (1)(b),

may be taken into account in the exercise by the Welsh Ministers of their functions under Part 2 of the Measure and in any proceedings under that Part of the Measure.

Compliance with regulations – more than one registered person

13. Where there is more than one registered person in respect of the provision of day care for relevant children on the same premises anything which is required under these Regulations to be done by the registered person will, if done by one of the registered persons, not be required to be done by any of the other registered persons.

National minimum standards

14.—(1) The registered person must have regard to the national minimum standards which relate to the type of care provided by the registered person.

(2) Any allegation that the registered person has failed to comply with paragraph (1) may taken into account in the exercise by the Welsh Ministers of their functions under Part 2 of the Measure and in any proceedings under that Part of the Measure.

Statement of purpose

15.—(1) The registered person must 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 must 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 must ensure that he or she acts as a child minder or that 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 37 requires or authorises the registered person to contravene or not to 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 2 of the Measure.

(4) The registered person must—

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

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

Review of quality of care

16.—(1) The registered person must make suitable arrangements to establish and maintain a system for monitoring, reviewing and improving the quality of care given to children.

(2) The system established under paragraph (1) must make provision for—

- (a) the quality of care to be reviewed at least annually; and
- (b) the registered person to obtain the views of—
 - (i) relevant children;
 - (ii) the parents of relevant children;
 - (iii) a local authority arranging for child minding or day care for a relevant child; and
 - (iv) persons employed to look after relevant children,

on the quality of care provided, as part of any review undertaken.

(3) Following a review of the quality of care, the registered person must within 28 days prepare a report of that review and make a copy of that report available in an appropriate format when requested by—

- (a) the parents of relevant children;
- (b) a local authority arranging for child minding or day care for a relevant child;
- (c) persons employed to look after relevant children; and
- (d) the Welsh Ministers.

Assessment of service

17.—(1) The Welsh Ministers may at any time request the registered person to undertake an assessment of the service provided by that person to relevant children.

(2) Within 28 days of receiving a request under paragraph (1), the registered person must supply to the appropriate office the assessment in the form required by the Welsh Ministers.

(3) The registered person must take reasonable steps to ensure that the assessment is not misleading nor inaccurate.

Compliance notification

18.—(1) The Welsh Ministers may at any time notify the registered person of the action that in the view of the Welsh Ministers the registered person must take to ensure compliance with Part 2 of the Measure and any regulations made under that Part.

(2) The Welsh Ministers may specify the timescale within which the registered person must take the action required under paragraph (1).

(3) The registered person must advise the appropriate office of the completion of any action required under paragraph (1).

Offences

19. A registered person who, without reasonable excuse, contravenes or otherwise fails to comply with the requirements of—

- (a) Regulations 15 to 18; and

(b) Parts 3 and 5,

is guilty of an offence and will be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

PART 5

ACTIVITIES OF PERSONS REGISTERED UNDER PART 2 OF THE MEASURE

Safeguarding and promotion of welfare

20.—(1) The registered person must 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 must ensure that every person who has attained the age of 16 and who—

- (a) lives on the relevant premises;
- (b) works on the relevant premises (other than a person mentioned in regulation 28); or
- (c) is otherwise present on the relevant premises and has or is likely to have regular contact with relevant children,

is suitable to have such contact.

(3) For the purposes of paragraph (2), a person who works on the relevant premises includes a person who works on a voluntary basis.

(4) The registered person must confirm to the Welsh Ministers that in respect of each person mentioned in paragraph (2) —

- (a) an enhanced criminal record certificate has been issued; and
- (b) where appropriate⁽¹³⁾, the person is registered with the ISA and that the person has provided their ISA registration number to the registered person.

(5) If the registered person is not entitled to receive, in respect of a person referred to in paragraph (2) the information or documentation upon which to base the confirmation required by paragraph (4), the registered person must ensure that any such person is appropriately supervised at all times when he or she is in contact with a relevant child or children.

(6) The registered person must, 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.

(7) The registered person must make suitable arrangements to ensure that while relevant children are in the care of the registered 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.

⁽¹³⁾ The requirement for persons undertaking regulated activity in child care settings to register with the ISA under the Vetting and Barring Scheme is being introduced incrementally in accordance with Regulations made under the Safeguarding Vulnerable Groups Act 2006 (c. 47). In this respect the term “where appropriate” is to be interpreted in accordance with a person’s requirement to register with the ISA explained in the *Vetting and Barring Scheme Guidance* issued by the Home Office in March 2010 (ISBN - 978 - 1 - 84987 - 2020 7).

Food provided for children

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

Arrangements for the protection of children

22.—(1) The registered person must 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) must 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;
- (d) consideration to be given in each case to the measures which may be necessary to protect relevant children following an allegation of abuse or neglect;
- (e) a requirement for any person working with relevant children to report any concerns about the welfare or safety of a child to one of the following—
 - (i) the registered person;
 - (ii) a constable;
 - (iii) a person responsible for exercising the functions of the Welsh Ministers under Part 2 of the Measure;
 - (iv) an officer of the local authority for the area in which the relevant premises are situated; or
 - (v) an officer of the National Society for the Prevention of Cruelty to Children;
- (f) arrangements giving persons working with relevant children, access at all times and in an appropriate form, to information which would enable them to contact the local authority for the area in which the relevant premises are situated, or the appropriate office concerning the welfare or safety of such children.

Behaviour management, discipline and restraint

23.—(1) No measure of control, restraint or discipline which is excessive, unreasonable or contrary to paragraph (5) may be used at any time on relevant children.

(2) The registered person must, in accordance with this regulation, draw up and implement a written behaviour management policy setting out—

- (a) the measures of control, restraint and discipline which may be used on the relevant premises; and
- (b) the means whereby appropriate behaviour is to be promoted on those premises.

(3) Subject to paragraphs (5) and (6), only such measures of control, restraint and discipline as are provided for in the said behaviour management policy may be used on relevant children.

(4) The registered person must keep under review and where appropriate revise the behaviour management policy and notify the appropriate office of any such revision within 28 days of the revision having been made.

(5) Subject to paragraph (6), neither the following measures nor a threat to use one or more of them may be used on relevant children—

- (a) any form of corporal punishment;
- (b) subject to the provision of any court order relating to contact between the child and any person, any restriction on a child's contact or communication with his or her parents;
- (c) any punishment relating to the consumption or deprivation of food or drink;
- (d) any requirement that a child wear distinctive or inappropriate clothes;
- (e) the use or withholding of medication or medical or dental treatment as a disciplinary measure;
- (f) the intentional deprivation of sleep;
- (g) any intimate physical examination of a child;
- (h) the withholding of any aids or equipment needed by a disabled child;
- (i) any measure which involves—
 - (i) any child in the imposition of any measure against any other child; or
 - (ii) the punishment of a group of children for the behaviour of an individual child.

(6) Nothing in this regulation prohibits—

- (a) the taking of any action by, or in accordance with the instructions of, a registered medical or dental practitioner which is necessary to protect the health of a child;
- (b) the taking of any action immediately necessary to prevent injury to any person or serious damage to property.

Health needs of children

24.—(1) The registered person must promote and protect the health of relevant children.

(2) In particular the registered person must ensure that—

- (a) each child is provided with such individual support as may be required in the light of any particular health needs or disability of the child; and
- (b) at all times, at least one person caring for relevant children has a suitable first aid qualification.

Hazards and safety

25. The registered person must ensure that—

- (a) all parts of the relevant premises to which relevant children have access are so far as reasonably practicable free from hazards to their safety;

- (b) any activities in which relevant children participate are so far as reasonably practicable free from avoidable risks; and
- (c) unnecessary risks to the health or safety of relevant children are identified and so far as possible eliminated.

Use and storage of medicines

26.—(1) The registered person must make suitable arrangements for the safekeeping of any medicine on relevant premises.

- (2) In particular the registered person must ensure, subject to paragraph (3), that—
 - (a) relevant children are prevented from having unsupervised access to any medicine;
 - (b) any medicine that is prescribed for a relevant child is administered as prescribed, to the child for whom it is prescribed, and to no other child; and
 - (c) a written record is kept of the administration of any medicine to a relevant child.
- (3) In this regulation, “prescribed” means—
 - (a) ordered for a patient for provision to that patient under or by virtue of section 80 of the National Health Service (Wales) Act 2006 (*arrangements for pharmaceutical services*)(**14**); or
 - (b) in a case not falling within sub-paragraph (a), prescribed for a patient under section 58 of the Medicines Act 1968 (*medicinal products on prescription only*)(**15**).

Staffing

- 27.** The registered person must ensure that there is at all times, having regard to—
- (a) the statement of purpose and the number and needs (including any needs arising from any disability) of the relevant children, and
 - (b) the need to safeguard and promote their health and welfare,

a sufficient number of suitably qualified, skilled and experienced persons looking after the relevant children.

Suitability of workers

- 28.**—(1) Subject to paragraphs (5) and (6), the registered person must not—
- (a) employ under a contract of employment a person to look after relevant children unless that person is suitable to do so;
 - (b) allow a volunteer to look after relevant children unless that person is suitable to do so.
- (2) For the purposes of paragraph (1), a person is not suitable to look after relevant children unless—
- (a) where that person works for a child minder—
 - (i) the person satisfies the requirements prescribed in paragraphs 8 to 12 of Part 1 of Schedule 1; and
 - (ii) there is full and satisfactory information or documentation available in relation to the person in respect of each of the matters specified in paragraph 11 (e) to (g) and (j) to (1) of Part 1 of Schedule 2;

(14) 2006 c. 42.

(15) 1968 c. 67.

- (b) where that person works for a provider of day care—
 - (i) the person satisfies the requirements prescribed in paragraphs 32 to 36 of Part 2 of Schedule 1; and
 - (ii) there is full and satisfactory information or documentation available in relation to the person in respect of each of the matters specified in paragraph 34 (e) to (g) and (j) to (l) of Part 2 of Schedule 2.
- (3) This paragraph applies where an individual has applied for an enhanced criminal record certificate but the certificate has not been issued.
- (4) The registered person must ensure that—
 - (a) any offer of employment to, or other arrangement about working in the relevant premises made with or in respect of a person described in paragraph (1), is subject to the relevant requirements of paragraph (2) being complied with in relation to that person; and
 - (b) unless paragraph (5) or (6) applies, no such person starts work in the relevant premises until such time as the relevant requirements of paragraph (2) have been complied with in relation to that person.
- (5) Where the following conditions apply, the registered person may permit a person to start work in or for the purposes of the relevant premises notwithstanding the provision in paragraphs (1) and (4)(b)—
 - (a) the registered person has taken all reasonable steps to obtain full information in respect of each of the matters listed in paragraph (2) as it applies to that person, but the enquiries in relation to any of the matters listed in—
 - (i) paragraph 11 (e), (f) and (l) of Part 1 of Schedule 2, in respect of a person who is to work or works for a child minder, or
 - (ii) paragraph 34 (e), (f) and (l) of Part 2 of Schedule 2, in respect of a person who is to work or works for a provider of day care,are incomplete;
 - (b) full and satisfactory information in relation to that person has been obtained in respect of the matters specified in—
 - (i) paragraph 11 of Part 1 of Schedule 1 and paragraph 11 (j) and (k) of Part 1 of Schedule 2, in respect of a person who is to work or works for a child minder; or
 - (ii) paragraph 35 of Part 2 of Schedule 1 and paragraph 34 (j) and (k) of Part 2 of Schedule 2, in respect of a person who is to work or works for a provider of day care;
 - (c) in the reasonable opinion of the registered person the circumstances are exceptional; and
 - (d) pending receipt of, and being satisfied with regard to, any outstanding information, the registered person ensures that the person is appropriately supervised while carrying out his or her duties.
- (6) Where the following conditions apply, the registered person may permit a person to start work in or for the purposes of the relevant premises notwithstanding paragraphs (1) and (4)(b)—
 - (a) paragraph (3) of this regulation applies;
 - (b) full and satisfactory information in relation to that person has been obtained in respect of the matters specified in—
 - (i) paragraphs 8 to 10 and 12 of Part 1 of Schedule 1 and paragraph 11 (e) to (g) and (j) to (l) of Part 1 of Schedule 2, in respect of a person who is to work or works for a child minder; or

- (ii) paragraph 32 to 34 and 36 of Part 2 of Schedule 1 and paragraph 34 (e) to (g) and (j) to (l) of Part 2 of Schedule 2, in respect of a person who is to work or works for a provider of day care;
- (c) the person has provided a written declaration of the details of any criminal offences of which that person her or she has been convicted, including details of any convictions which are spent within the meaning of section 1 of the Rehabilitation of Offenders Act 1974⁽¹⁶⁾ and which may be disclosed by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975⁽¹⁷⁾ or in respect of which he or she has been cautioned;
- (d) in the reasonable view of the registered person the interests of the service will not be met unless the person can be appointed; and
- (e) pending receipt of, and satisfying himself or herself with regard to, the certificate referred to in paragraph (3), the registered person ensures that the person is appropriately supervised while carrying out his or her duties.

Employment of staff

- 29.**—(1) The registered person must operate a disciplinary procedure which, in particular—
- (a) provides for the suspension, and the taking of other action short of suspension, in relation to an employee where appropriate in the interests of the safety or welfare of relevant children; and
 - (b) provides that the failure on the part of an employee to report an incident of abuse, or suspected abuse of a relevant child to an appropriate person is a ground on which disciplinary proceedings may be instituted.
- (2) For the purposes of paragraph (1)(b), an appropriate person is—
- (a) the registered person,
 - (b) a person responsible for the exercise of functions of the Welsh Ministers under Part 2 of the Measure,
 - (c) an officer of the local authority for the area in which the relevant premises are situated,
 - (d) a constable, or
 - (e) an officer of the National Society for the Prevention of Cruelty to Children.
- (3) The registered person must ensure that all employees who look after relevant children—
- (a) receive appropriate training, supervision and appraisal; and
 - (b) have an opportunity from time to time to obtain further qualifications appropriate to the work they perform.

Keeping of records

- 30.**—(1) Subject to paragraph (2), the registered person must—
- (a) maintain and, whilst relevant children are being cared for by the registered person, keep at the relevant premises, records in relation to the matters specified in Schedule 3;
 - (b) preserve every entry in the records specified in paragraphs 1 to 9 of that Schedule for a period of three years from the date on which the last entry was made; and
 - (c) make the records available for inspection by the Welsh Ministers at their request.

⁽¹⁶⁾ 1974 c. 53.

⁽¹⁷⁾ S.I. 1975/1023.

(2) A registered person who provides day care by means of open access play provision is not required to keep the records specified in paragraphs 5, 6 (in so far as hours of attendance are concerned) and 9 of that Schedule.

(3) Where a registered person ceases to act as a child minder or to provide day care, the registered person must ensure that the records maintained in accordance with paragraph (1) are kept securely and must make them available for inspection by the Welsh Ministers at their request.

Provision of information

31.—(1) A registered person must notify the appropriate office of the occurrence of any of the events set out in Schedule 4 and must at the same time provide the Welsh Ministers with any information specified in that Schedule in respect of that event.

(2) Notification must be made—

- (a) where it is reasonably practicable to do so, in advance of the event occurring; and
- (b) in all other cases as soon as reasonably practicable, but not later than 14 days after the event has occurred.

(3) The registered person must without delay notify the parent of a relevant child of any significant incident affecting the child's welfare and must make the records maintained in accordance with regulation 30, in so far as they relate to a relevant child, available for inspection by that child's parent unless to do so is not reasonably practicable or would place the child's welfare at risk.

(4) The registered person must provide the Welsh Ministers upon their request with such information as they may require about the provision of care to relevant children, including financial information and confirmation of insurance cover in respect of liability which may be incurred by the registered person in respect of death, injury, public liability, damage or other loss.

Complaints

32.—(1) The registered person must prepare and follow a written procedure ("the complaints procedure") for considering complaints made to the registered person by or on behalf of relevant children.

(2) The complaints procedure must be appropriate to the needs of children.

(3) The complaints procedure must include provision for the consideration of complaints made about the registered person.

(4) The registered person must ensure that the following persons are aware of the existence of the complaints procedure and take all reasonable steps to give a copy of the complaints procedure in an appropriate format or such format as may be requested to—

- (a) relevant children;
- (b) their parents; and
- (c) a local authority arranging for child minding or day care for a relevant child.

(5) The registered person must ensure that the staff employed to look after relevant children are informed about, given a copy of, and appropriately trained in the operation of the complaints procedure.

(6) The complaints procedure must include—

- (a) the name, address and telephone number of the appropriate office; and
- (b) the procedure, (if any), that has been notified to the registered person by the Welsh Ministers, for the making of complaints to the Welsh Ministers.

(7) The complaints procedure must include provision for the local resolution of complaints at an early stage where appropriate.

(8) Where the complaints procedure includes provision for a formal consideration, this provision must be approved by the Welsh Ministers.

(9) The approval of the Welsh Ministers under paragraph (8) will only be given where the complaints procedure includes provision for the formal consideration to be undertaken by a person who is independent of the provision of care to relevant children.

Handling complaints

33.—(1) The complaints procedure prepared in accordance with regulation 32 must be operated in accordance with the principle that the welfare of the child is safeguarded and promoted and account must be taken of the ascertainable wishes and feelings of the child.

(2) When a complaint is made, the registered person must advise the complainant of their right at any time to complain to the Welsh Ministers or, where relevant, to the local authority which has arranged for the provision of child minding or day care for a relevant child.

(3) The registered person must inform the complainant of the availability of any advocacy services that the registered person believes may be of assistance to the complainant. Where relevant and the complainant is a child, the registered person must advise the complainant that a local authority receiving a complaint must provide information and assistance for complainants, and that it must in particular offer help in obtaining an advocate.

(4) The registered person may in any case where it is appropriate to do so, and with the agreement of the complainant, make arrangements for conciliation, mediation or other assistance for the purposes of resolving the complaint.

(5) The registered person must keep a written record of any complaint, the outcome of the investigation and any action taken in response.

(6) The registered person must supply to the appropriate office at the request of the Welsh Ministers a statement containing a summary of the complaints made during the preceding twelve months and the action taken in response to each complaint.

Local resolution

34.—(1) Complaints that are dealt with locally⁽¹⁸⁾ must be resolved by the registered person as soon as reasonably practicable and in any event within 14 days.

(2) Where the complaint is resolved under paragraph (1), the registered person must confirm in writing to the complainant the agreed resolution.

(3) The registered person must, at the request of the Welsh Ministers or any local authority which has arranged for the provision of child minding or day care for a relevant child, confirm the local resolution of a complaint.

(4) The time limit in paragraph (1) may be extended for up to a further 14 days with the agreement of the complainant.

⁽¹⁸⁾ The terms “locally” and “Local resolution” are to be construed in accordance with the principles set out in *Listening and Learning: A guide to handling complaints and representations in local authority social services in Wales* (ISBN 0 - 11- 091240 - 3) published by the Welsh Assembly Government in 2005.

Formal consideration

35.—(1) Complaints that are dealt with by way of formal consideration⁽¹⁹⁾ must be resolved as soon as reasonably practicable and in any event within 35 working days of the request for formal consideration.

(2) The outcome of a formal consideration must be confirmed in writing by the registered person to the complainant and must summarise the nature and substance of the complaint, the conclusions and the action to be taken as a result.

(3) The registered person must send a copy of a written response to a complaint to the appropriate office and to any local authority which has arranged for the provision of child minding or day care for a relevant child.

(4) The time limit in paragraph (1) may be extended with the agreement of the complainant.

(5) If the complaint has not been resolved within 35 days of the request for formal consideration, the registered person must notify the appropriate office of the complaint and reasons for the delay in resolution.

Complaints subject to concurrent consideration

36.—(1) Where a complaint relates to any matter—

- (a) about which the complainant has stated in writing that he or she intends to take proceedings in any court or tribunal, or
- (b) about which the registered person is taking or is proposing to take disciplinary proceedings, or
- (c) about which the registered person has been notified that an investigation is being conducted by any person or body in contemplation of criminal proceedings, or
- (d) about which a meeting involving other bodies including the police has been convened to discuss issues relating to the protection of children or vulnerable adults, or
- (e) about which the registered person has been notified that there are current investigations in contemplation of proceedings under section 59 of the Care Standards Act 2000 (*removal etc. from register*)⁽²⁰⁾, or
- (f) about which the registered person has been notified that a local authority has or is instigating child protection enquiries,

the registered person must consider, in consultation with the complainant and any other person or body which they consider appropriate to consult, how the complaint should be handled. Such complaints are referred to for the purposes of this regulation as “complaints subject to concurrent consideration”.

(2) The consideration of complaints subject to concurrent consideration may be discontinued if at any time it appears to the registered person that to continue would compromise or prejudice the other consideration.

(3) Where the registered person decides to discontinue the consideration of a complaint under paragraph (2) the registered person must give notice of that decision to the complainant.

(4) Where the registered person discontinues the consideration of any complaint under paragraph (2), consideration can be resumed at any time.

⁽¹⁹⁾ “Formal consideration” is to be construed in accordance with the principles set out in *Listening and Learning: A guide to handling complaints and representations in local authority social services in Wales* (ISBN 0 - 11- 091240 - 3) published by the Welsh Assembly Government in 2005.

⁽²⁰⁾ 2000 c. 14.

(5) Where the consideration of a complaint has been discontinued under paragraph (2) the registered person must ascertain the progress of the concurrent consideration and notify the complainant when it has been concluded.

(6) The registered person must resume consideration of any complaint where the concurrent consideration is discontinued or completed and the complainant requests that the complaint be considered under these Regulations.

Fitness of premises

37.—(1) The registered person must not use premises for child minding or the provision of day care, as the case may be, unless they are in a location and of a physical design and layout, which are suitable for the purpose of achieving the aims and objectives set out in the statement of purpose.

(2) The registered person must ensure that all parts of the relevant premises used by relevant children are—

- (a) adequately lit, heated and ventilated;
- (b) secure from unauthorised access;
- (c) suitably furnished and equipped;
- (d) of sound construction and kept in good structural repair externally and internally;
- (e) clean and reasonably decorated and maintained; and
- (f) equipped with what is reasonably necessary, and adapted as necessary, in order to meet the needs arising from the disability of any relevant child.

(3) The registered person must ensure that the relevant premises are kept free from offensive odours and must make suitable arrangements for the disposal of general and clinical waste.

(4) The registered person must ensure that when care is provided in indoor premises there are available on the relevant premises for use by relevant children in conditions of appropriate privacy—

- (a) a sufficient number of wash basins supplied with hot and cold running water, and
- (b) a sufficient number of lavatories which are suitable for relevant children,

for the number and sex of relevant children.

(5) The registered person must ensure that where food is provided in indoor premises there are suitable and sufficient facilities and equipment for the preparation storage and consumption of food on the relevant premises.

Fire precautions

38.—(1) Subject to paragraph (2) the registered person must, in relation to relevant premises—

- (a) take adequate precautions against the risk of fire, including the provision of fire prevention and detection equipment;
- (b) provide adequate means of escape in the event of a fire;
- (c) make adequate arrangements—
 - (i) for detecting, containing and extinguishing fires;
 - (ii) for giving warnings of fires;
 - (iii) for evacuation in the event of a fire;
 - (iv) for the maintenance of all fire prevention and detection equipment; and
 - (v) for reviewing fire precautions, and testing fire prevention and detection equipment, at suitable intervals;

- (d) make arrangements for persons working with relevant children on relevant premises to receive suitable training in fire prevention;
 - (e) ensure by means of fire drills and practices at suitable intervals, that the persons working with relevant children, and, so far as practicable, the relevant children, are aware of the procedure to be followed in case of fire; and
 - (f) consult with the fire and rescue authority about the matters described in sub-paragraphs (a) to (e).
- (2) Where the Regulatory Reform (Fire Safety) Order 2005⁽²¹⁾ applies to the relevant premises—
- (a) paragraph (1) does not apply; and
 - (b) the registered person must ensure that the requirements of that Order and any regulations made under it, except for article 23 (duties of employees), are complied with in respect of the premises.
- (3) In this regulation “fire and rescue authority” (“*awdurdod tân ac achub*”) means the fire and rescue authority under the Fire and Rescue Services Act 2004⁽²²⁾ for the area in which the relevant premises are situated.

PART 6

SUSPENSION OF A PERSON'S REGISTRATION UNDER PART 2 OF THE MEASURE

Interpretation

39. In this Part—

“grounds” (“*seiliau*”) means the reasons or circumstances that cause the Welsh Ministers to believe that the continued provision of child minding or day care for children by a registered person exposes or may expose one or more of the children to whom such care is or may be provided to the risk of harm;

“suspension” (“*ataliad dros dro*”) means the suspension by the Welsh Ministers of a person’s registration on the child minding register or, as the case may be, the day care for children register maintained under Part 2 of the Measure, in accordance with these Regulations. It does not include a voluntary suspension under regulation 46, and “suspend” (“*atal dros dro*”) and “suspended” (“*ataliwyd dros dro*”) are to be interpreted accordingly.

Power to suspend registration

40.—(1) The Welsh Ministers may, in accordance with regulations 41, 42, 43, 44 and 46(8), suspend the registration of any person acting as a child minder or providing day care for children if—

- (a) they have reasonable cause to believe that the continued provision of such care by that person exposes, or may expose, one or more of the children cared for by that person to the risk of harm; and
 - (b) the purpose of the suspension is for one or both of the purposes set out in paragraph (2).
- (2) The purposes of the suspension are—
- (a) to allow time for the circumstances giving rise to the belief of the Welsh Ministers to be investigated; and

⁽²¹⁾ S.I. 2005/1541.

⁽²²⁾ 2004 c. 21.

- (b) to allow time for steps to be taken to reduce or eliminate the risk of harm.

Period of suspension

41.—(1) Where the Welsh Ministers exercise their power to suspend the registration of any person in accordance with these Regulations, the suspension begins and ends on such dates as are specified in the notification of suspension given to the registered person in accordance with regulations 42 and 43.

(2) The date specified as the date on which the suspension ends must not be more than 6 weeks after the date on which it begins.

(3) Subject to paragraph (4), the exercise by the Welsh Ministers of their power to suspend a person's registration does not prevent them from further exercising that power, at any time, whether during an existing period of suspension or after it has ended, on the same or different grounds.

(4) The Welsh Ministers may not exercise their power to suspend a person's registration so as to give rise to a period of suspension on the same or substantially the same grounds that exceeds 12 weeks in aggregate within any period of 12 months unless—

- (a) it has not been reasonably practicable (for reasons beyond the control of the Welsh Ministers) to complete the investigation or carry out the steps under sub-paragraphs (2)(a) or (2)(b) respectively of regulation 40; or
- (b) the Welsh Ministers have issued proceedings against the registered person under section 34 of the Measure (protection of children in an emergency: cancellation of registration) but the application has not yet been determined by the court.

Notification of suspension, etc

42. The Welsh Ministers must, in accordance with regulation 43, give the registered person written notice of any suspension, and any such notice must—

- (a) include the reasons for the decision;
- (b) include details of the registered person's right of appeal against suspension; and
- (c) where regulation 41(4) applies, state that fact and identify which of the circumstances identified in that regulation applies.

Notice provisions

43.—(1) A notice under these Regulations may be given to the registered person—

- (a) by delivering it to the registered person;
- (b) by sending it by post; or
- (c) subject to paragraph (3), by transmitting it electronically.

(2) A notice to a registered person under these Regulations will be deemed to be properly addressed if it is addressed to the registered person at the last address notified by the registered person to the Welsh Ministers upon the registered person's application for registration or subsequently.

(3) If the notice is transmitted electronically for the purposes of paragraph (1)—

- (a) the registered person must have stated to the Welsh Ministers their willingness to receive notices transmitted by electronic means and provided an address suitable for that purpose;
- (b) the notice must be sent to the address provided by the registered person; and
- (c) any notice sent in accordance with this paragraph will be deemed to have been received by the registered person on the next working day after the day on which it is sent.

Lifting of suspension

44.—(1) Without prejudice to regulation 41(2), where the Welsh Ministers have suspended a person’s registration, they must, whether or not a written request has been made under paragraph (2), lift the suspension at any time, if they no longer have reasonable cause to believe that the grounds for suspension apply.

(2) A person whose registration has been suspended under these Regulations may, at any time, make a written request to the appropriate office of the Welsh Ministers that the suspension be lifted.

(3) Where the Welsh Ministers make a decision to lift or to refuse to lift the suspension of a person’s registration, they must within 2 working days and in accordance with regulation 43, send a notice of the decision to the registered person.

(4) Where the Welsh Ministers decide not to lift the suspension of a person’s registration, the notice issued in accordance with paragraph (3) must include the reasons for the decision and details of the registered person’s right of appeal against the decision.

(5) Any decision by the Welsh Ministers to lift a suspension takes effect as from a specified date, which must be included in the notice referred to in paragraph (3).

Rights of appeal

45.—(1) Save where the person’s registration has been suspended voluntarily under regulation 46, a person whose registration has been suspended under these Regulations may appeal to the First-tier Tribunal against the decision of the Welsh Ministers—

- (a) to suspend that person’s registration;
- (b) to refuse to lift that suspension when requested to do so in accordance with regulation 44(2).

(2) Subject to paragraph (3), when determining an appeal under paragraph (1), the First-tier Tribunal may—

- (a) confirm the decision of the Welsh Ministers to suspend or, as the case may be, to refuse to lift the suspension;
- (b) direct that the suspension is to cease to have effect, and

for the avoidance of doubt, in any case in which the First-tier Tribunal exercises its power under (a) it may also exercise its power under (b) if at the time of making its determination it is satisfied that the conditions for suspension are no longer met.

(3) If the suspension of a person’s registration against which an appeal has been made under paragraph (1) is no longer in effect, the First-tier Tribunal must dismiss the appeal.

Voluntary suspension

46.—(1) A registered person may give notice to the Welsh Ministers to suspend their registration on the child minding register or, as the case may be, the day care for children register maintained under Part 2 of the Measure (“a voluntary suspension notice”) (“*hysbysiad o ataliad gwirfoddol*”).

(2) A voluntary suspension notice must —

- (a) be made in writing;
- (b) contain the following information—
 - (i) the date upon which the period of voluntary suspension begins (“the effective date”) (“*y dyddiad dod i rym*”),
 - (ii) where it is known, the date upon which the period of voluntary suspension is to end (“the termination date”) (“*y dyddiad terfynu*”),

- (iii) the reason why the period of voluntary suspension is requested;
 - (c) be sent or delivered to the appropriate office not less than five working days before the effective date, or such shorter period before that date as the Welsh Ministers may agree.
- (3) A registered person must provide such other information or documents as the Welsh Ministers may reasonably require in relation to the voluntary suspension notice.
- (4) If a registered person—
- (a) gives notice in accordance with paragraphs (1) or (8)(b); and
 - (b) that voluntary suspension notice complies with the requirements in paragraph (2),
- unless paragraph (5) applies, the Welsh Ministers must suspend, or extend the period of suspension in respect of, that person’s registration on the child minding register or, as the case may be, the day care for children register (“voluntary suspension”) (“*ataliad gwirfoddol*”).
- (5) The Welsh Ministers may not act in accordance with paragraph (4) if—
- (a) the Welsh Ministers have sent, or have given the registered person notice of their decision to suspend that person from the register in accordance with regulation 40; or
 - (b) in the case of a person whose registration has been suspended by the Welsh Ministers in accordance with regulation 40 and the person has—
 - (i) made a written request to the Welsh Ministers that the suspension be lifted and that request has not yet been determined; or
 - (ii) appealed to the First-tier Tribunal in accordance with regulation 45 and that appeal has not yet been determined.
- (6) Where the Welsh Ministers have acted in accordance with paragraph (4), they must send the registered person written confirmation that their registration on the child minding register or, as the case may be, on the day care for children register has been suspended in accordance with the voluntary suspension notice
- (7) There is no right of appeal to the First-tier Tribunal against a decision of the Welsh Ministers to refuse to take action in respect of a notice for voluntary suspension given by the registered person.
- (8) A registered person whose registration has been suspended voluntarily may, at any time before the termination date, give notice in writing, which complies, where relevant with the requirements of paragraph (2), to the Welsh Ministers that they require—
- (a) the voluntary suspension to be lifted in advance of the termination date; or requiring
 - (b) the period of voluntary suspension to be extended for such further period as the person specifies in the notice.
- (9) The fact that a person’s registration has been suspended voluntarily in accordance with this regulation does not prevent the Welsh Ministers from exercising their power to suspend that person’s registration in accordance with regulation 40.

PART 7

AMENDMENT, REVOCATION AND SAVING

Amendment of the 2002 Regulations

47. The 2002 Regulations are amended in accordance with Schedule 5.

Revocation

48. The instruments listed in column (1) of the table in Schedule 6 (which have the references listed in column (2)) are revoked to the extent indicated in column (3).

Saving

49.—(1) Subject to paragraph (2), the revocation of the 2004 Regulations will not affect—

- (a) any decision made;
- (b) any notification of suspension;
- (c) any period of suspension or limitation or time; or
- (d) any decision made by the First-tier Tribunal,
- (e) under or in accordance with the 2004 Regulations.

(2) In relation to the revocation of the 2004 Regulations, legal proceedings may be brought, or continued and remedies or penalties may be imposed and enforced in relation to acts done under, in relation to, or in contravention of any provision made by the 2004 Regulations before the relevant date, as if the revocation in regulation 48 had not been made.

20 October 2010

Huw Lewis
Deputy Minister for Children, under authority
of the Minister for Children, Education and
Lifelong Learning, one of the Welsh Ministers

SCHEDULE 1

Regulations 3, 6, 8, 20 and 28

PRESCRIBED REQUIREMENTS FOR REGISTRATION UNDER PART 2 OF THE MEASURE

Interpretation

1. In this Schedule “applicant” means—
 - (a) a person who is applying for registration as a child minder or a provider of day care under Part 2 of the Measure; and
 - (b) where the context requires, a person who is registered under Part 2 of the Measure as a child minder or provider of day care.

PART 1

Prescribed requirements for registration: child minding

Requirements relating to the applicant

2. The applicant is of suitable integrity and good character to look after children under the age of eight.
3. The applicant is not disqualified.
4. The applicant has the qualifications, skills and experience necessary to look after children under the age of eight.
5. The applicant is physically and mentally fit to look after children under the age of eight.
6. The applicant has provided to the Welsh Ministers—
 - (a) an enhanced criminal record certificate ; and
 - (b) the application for that certificate, which was countersigned by the Welsh Ministers.
7. Where appropriate⁽²³⁾, the applicant is registered with the ISA and the applicant has supplied their ISA registration number to the Welsh Ministers.

Requirements relating to other persons : staff

8. Every person (other than the applicant) who looks after or is to look after relevant children is of suitable integrity and good character to look after children under the age of eight.
9. Every person mentioned in paragraph 8 has the qualifications, skills and experience necessary to look after children under the age of eight.
10. Every person mentioned in paragraph 8 is physically and mentally fit to look after children under the age of eight.
11. An enhanced criminal record certificate has been obtained in respect of every person mentioned in paragraph 8.

(23) The requirement for persons undertaking regulated activity in child care settings to register with the ISA under the Vetting and Barring Scheme is being introduced incrementally in accordance with Regulations made under the Safeguarding Vulnerable Groups Act 2006 (c. 47). In this respect the term “where appropriate” is to be interpreted in accordance with a person’s requirement to register with the ISA explained in the *Vetting and Barring Scheme Guidance* issued by the Home Office in March 2010 (ISBN - 978 - 1 - 84987 - 2020 7).

12. Where appropriate, each person mentioned in paragraph 8 is registered with the ISA and each such person has provided their ISA registration number to the applicant.

Requirements relating to other persons: all other persons

13.—(1) Every person (other than the applicant or a person mentioned in paragraph 8) who has attained the age of 16 years and who—

- (a) lives on the relevant premises,
- (b) works on the relevant premises, or
- (c) is otherwise present on the relevant premises, and

has, or is likely to have, regular contact with relevant children, is of suitable integrity and good character to be in regular contact with children.

(2) For the purposes of sub-paragraph (1)(b) a person who works on the relevant premises includes a person who works on a voluntary basis.

(3) Where appropriate, an enhanced criminal record certificate has been obtained in respect of every person mentioned in sub-paragraph (1).

(4) Where appropriate, each person mentioned in sub-paragraph (1) is registered with the ISA and each such person has provided their ISA registration number to the applicant.

PART 2

Prescribed requirements for registration: providers of day care

Requirements relating to the applicant: an individual

14. This paragraph and paragraphs 15 to 20 apply, where the applicant is an individual.

15. The applicant is of suitable integrity and good character to look after children under the age of eight.

16. The applicant is not disqualified.

17. The applicant has the qualifications, skills and experience necessary to look after children under the age of eight.

18. The applicant is physically and mentally fit to look after children under the age of eight.

19. The applicant has provided to the Welsh Ministers—

- (a) an enhanced criminal record certificate; and
- (b) the application for that certificate, which was countersigned by the Welsh Ministers.

20. Where appropriate, the applicant has registered with the ISA and the applicant has supplied their ISA registration number to the Welsh Ministers.

Requirements relating to the responsible individual where the applicant is an organisation

21. Where the applicant is an organisation and has nominated an individual to be the responsible individual—

- (a) the responsible individual is of suitable integrity and good character to look after children under the age of eight; or
- (b) where a person in charge has been appointed, the person in charge is of suitable integrity and good character to be in regular contact with children under the age of eight.

22. The responsible individual has the qualifications, skills and experience necessary for the role they perform in relation to the looking after of children under the age of eight.

23. The responsible individual is physically and mentally fit to undertake his or her role in relation to the looking after of children under the age of eight.

24. The applicant has provided to the Welsh Ministers—

- (a) an enhanced criminal record certificate, in respect of the responsible individual; and
- (b) the application for that certificate, which was countersigned by the Welsh Ministers.

25. Where appropriate, the responsible individual has registered with the ISA and the applicant has supplied to the Welsh Ministers that person's ISA registration number.

Requirements relating to the person in charge

26. This paragraph and paragraphs 27 to 31 apply where an applicant has appointed or intends to appoint a person to be in full day to day charge of the provision of day care on the premises ("the person in charge").

27. The person in charge is of suitable integrity and good character to look after children under the age of eight.

28. The person in charge has the qualifications, skills and experience necessary to look after children under the age of eight.

29. The person in charge is physically and mentally fit to look after children under the age of eight.

30. The applicant has provided to the Welsh Ministers—

- (a) an enhanced criminal record certificate, in respect of the person in charge; and
- (b) the application for that certificate, which was countersigned by the Welsh Ministers.

31. Where appropriate, the person in charge has registered with the ISA and the applicant has supplied to the Welsh Ministers that person's ISA registration number.

Requirements relating to other persons: staff

32. Every person (other than the applicant or a person mentioned in paragraphs 21 or 26) who is looking after or is to look after relevant children is of suitable integrity and good character to look after children under the age of eight.

33. Every person mentioned in paragraph 32 has the qualifications, skills and experience necessary to look after children under the age of eight.

34. Every person mentioned in paragraph 32 is physically and mentally fit to look after children under the age of eight.

35. An enhanced criminal record certificate has been obtained in respect of every person mentioned in paragraph 32.

36. Where appropriate, every person mentioned in paragraph 32 has registered with the ISA and each such person has supplied their ISA registration number to the applicant.

Requirements relating to other persons: all other persons

37.—(1) Every person (other than the applicant or a person mentioned in paragraph 21, 26 or 32) who has attained the age of 16 years and who—

- (a) lives on the relevant premises,

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- (b) works on the relevant premises, or
- (c) is otherwise present on the relevant premises, and

has, or is likely to have, regular contact with relevant children, is of suitable integrity and good character to be in regular contact with children.

(2) For the purposes of sub-paragraph (1)(b) person who works on the relevant premises includes a person who works on a voluntary basis.

(3) Where appropriate, an enhanced criminal record certificate has been obtained in respect of every person mentioned sub-paragraph (1).

(4) Where appropriate, each person mentioned in sub-paragraph (1) is registered with the ISA and each such person has provided their ISA registration number to the applicant.

SCHEDULE 2

Regulations 4, 6, 8, 20 and 28

INFORMATION AND DOCUMENTATION REQUIRED FOR REGISTRATION UNDER PART 2 OF THE MEASURE

Interpretation

1. In this Schedule “applicant” means—
 - (a) a person who is applying for registration as a child minder or a provider of day care under Part 2 of the Measure; and
 - (b) where the context requires, a person who is registered under Part 2 of the Measure as a child minder or provider of day care.

PART 1

Information and documentation required for registration: child minder

- 2.—(1) This paragraph applies to an individual who is applying for registration as a child minder.
 - (2) The applicant’s full name (and any alias or any former name), date of birth, address and telephone number.
 - (3) Details of the applicant’s professional or technical qualifications and experience, so far as such qualifications and experience are relevant to looking after children under the age of eight.
 - (4) Details of the applicant’s employment history, including—
 - (a) a full employment history, together with a satisfactory written explanation of any gaps in employment;
 - (b) where any previous employment or position has involved work with children, so far as reasonably practicable verification of the reason why the employment or position ended;
 - (c) the name and address of any present employer and, where relevant, of any previous employers.
 - (5) The name and address of two referees—
 - (a) who are not relatives of the applicant;
 - (b) each of whom is able to provide a reference as to the applicant’s competence to look after children under the age of eight; and

- (c) where possible, one of whom is the applicant's most recent employer.
- (6) Details of any business that the applicant carries on or has carried on.

Information about the care provided

- 3. The name, address, telephone number, facsimile number (if any), electronic mail address (if any) of the premises at which the children are to be looked after ("the premises"), together with a description of the premises and the facilities provided or to be provided for relevant children.
- 4. The statement of purpose.
- 5. The proposed hours for which the applicant wishes to register as a child minder.
- 6. A description of the area in which the premises are located and details as to the access to the premises.
- 7. A statement as to the security arrangements, including arrangements for the purposes of—
 - (a) safeguarding access to information held at the premises; and
 - (b) restricting access from adjacent premises, or when the premises form part of a building, from other parts of the building.
- 8. Whether any other business or activity is, or will be, carried on in the premises at the same time as children are looked after there under the proposed registration and, if so, details of such business or activity.
- 9. The number of children who will be looked after, and their ages.

Information about other persons: staff

- 10. In respect of any person, other than the applicant, who looks after or is to look after a relevant child or children—
 - (a) the person's name (and any alias and former name) and date of birth;
 - (b) the person's duties and responsibilities in relation to that person's work.
- 11. In respect of any person, other than the applicant, who looks after or is to look after relevant children —
 - (a) whether the person is, or is intended to be, resident in the premises;
 - (b) if the person is a relative of the applicant, his or her relationship to the applicant;
 - (c) whether the person works or is intended to work, on a full-time or on a part-time basis and, if on a part-time basis, the number of hours per week for which it is intended that the person will work;
 - (d) the date on which the person commenced, or is intended to commence, work;
 - (e) information as to that person's qualifications, experience and skills in so far as it is relevant to the work that the person is to perform;
 - (f) a statement by the applicant that he or she is satisfied as to the authenticity of the qualifications, and has verified the experience and skills referred to in sub-paragraph (e);
 - (g) a statement by the applicant as to—
 - (i) the suitability as to the person's qualifications for the work that the person is to perform,
 - (ii) whether the person has the skills necessary for such work, and
 - (iii) the person's fitness to work and have regular contact with children under the age of eight;

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- (h) a statement by the person as to the state of his or her physical and mental health;
- (i) a statement by the applicant that the person is physically and mentally fit for the purposes of the work which that person is to perform;
- (j) a statement by the applicant as to whether he or she is satisfied as to the person's identity, the means by which the applicant has satisfied himself or herself and whether the applicant has obtained a copy of the person's birth certificate;
- (k) confirmation by the applicant that he or she has a recent photograph of the person;
- (l) a statement by the applicant that he or she has obtained—
 - (i) two references relating to the person and that the applicant is satisfied as to the authenticity of those references,
 - (ii) a full employment history, together with a satisfactory written explanation of any gaps in the person's employment, and
 - (iii) where the person's previous employment or position has involved work with children, so far as reasonably practicable, verification of the reason why the employment or position ended.

Information about other persons: all other persons

12.—(1) The full name (and any alias and former name), date of birth and address of every person (other than the applicant and a person mentioned in paragraphs 10 and 11) who has attained the age of 16 and who works on the relevant premises and who has, or is likely to have, regular contact with relevant children.

(2) For the purposes of sub-paragraph (1), a person who works on the relevant premises includes a person who works on a voluntary basis.

13. The full name (and any alias and former name) and date of birth of every person who has attained the age of 16 years and who lives on the relevant premises and has, or is likely to have, regular contact with relevant children.

14. The full name (and any alias and former name) and date of birth and address of every person who has attained the age of 16 and who is otherwise present on the relevant premises and who has, or is likely to have, regular contact with relevant children.

Documents to be supplied

15. The applicant's birth certificate.

16. Proof of the applicant's identity, including a recent photograph.

17. Certificates or other suitable evidence relating to the applicant's professional or technical qualifications, so far as such qualifications are relevant to looking after children under the age of eight.

18. A certificate of insurance of the applicant in respect of liability which may be incurred by that person in respect of death, injury, public liability, damage or other loss occurring in relation to the proposed child minding.

19.—(1) A written statement made by the applicant confirming—

- (a) in respect of every person, other than the applicant, who looks after or is intended to look after the children for whom the child minding is provided, that—
 - (i) an enhanced criminal record certificate has been issued; and

- (ii) where appropriate⁽²⁴⁾, registration with the ISA has been completed and that the applicant has that person's ISA registration number; and
 - (b) that the applicant will make the certificates so issued and the registration numbers assigned available for inspection by the Welsh Ministers, if the Welsh Ministers so require.
- (2) Subject to paragraph (3), a written statement made by the applicant confirming—
- (a) in respect of every person who is mentioned in paragraphs 12 to 14 that—
 - (i) an enhanced criminal record certificate has been issued; and
 - (ii) where appropriate, registration with the ISA has been completed and that the applicant has that person's ISA registration number, and
 - (b) that the applicant will make the certificates so issued and the registration numbers assigned available for inspection by the Welsh Ministers, if the Welsh Ministers so require.
- (3) Where regulation 20(5) applies and the applicant has no authority to obtain such information or document, a written statement by the applicant that those persons mentioned in paragraphs 12 to 14 will be appropriately supervised at all times when any such person is in contact with a relevant child or children.
- 20.**—(1) Subject to sub-paragraph (2), a report by a registered medical practitioner as to whether the applicant is physically and mentally fit to look after children under the age of eight.
- (2) Where the applicant is unable to obtain the report referred to in sub-paragraph (1), a statement by the applicant as to the state of his or her physical and mental health.

PART 2

Information and documentation required for registration: provider of day care

Interpretation

21. In this Part—

“relative” (*perthynas*) in relation to any person means—

- (a) the person's spouse or civil partner;
- (b) any parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece of the person or the person's spouse or civil partner;
- (c) the spouse or civil partner of any relative referred to in sub-paragraph (b),
- (d) and for the purposes of determining any such relationship a person's step-child is to be treated as the person's child, 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, and references to a “civil partner” include a former civil partner.

Information about the applicant: an individual

22.—(1) This paragraph applies where the applicant is an individual.

⁽²⁴⁾ The requirement for persons undertaking regulated activity in child care settings to register with the ISA under the Vetting and Barring Scheme is being introduced incrementally in accordance with Regulations made under the Safeguarding Vulnerable Groups Act 2006 (c. 47). In this respect the term “where appropriate” is to be interpreted in accordance with a person's requirement to register with the ISA explained in the *Vetting and Barring Scheme Guidance* issued by the Home Office in March 2010 (ISBN - 978 - 1 - 84987 - 2020 7).

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(2) The applicant’s full name (and any alias and former name), date of birth, address and telephone number.

(3) Details of the applicant’s professional or technical qualifications and experience, in so far as such qualifications and experience are relevant to the provision of day care for children under the age of eight.

(4) Details of any business the applicant carries on or has carried on.

(5) Details of the applicant’s employment history, including—

- (a) a full employment history, together with a satisfactory written explanation of any gaps in employment;
- (b) where any previous employment or position has involved work with children, so far as reasonably practicable, verification of the reason why the employment or position ended;
- (c) the name and address of any present employer and, where relevant, of any previous employers;
- (d) the name and address of two referees—
 - (i) who are not relatives of the applicant,
 - (ii) each of whom is able to provide a reference as to the applicant’s competence to look after children under the age of eight, and
 - (iii) where possible, one of whom is the applicant’s most recent employer.

Information about the applicant: an organisation

23.—(1) This paragraph applies where the applicant is an organisation.

(2) The name, address and telephone number of the applicant.

(3) In the case of an applicant organisation which is a company, its registered office or the principal office of the company, its registered number and, in the case of an applicant organisation which is a registered charity, its registered charity number.

(4) If the organisation is a subsidiary of a holding company, the name and address of the holding company, its registered or principal office and any other subsidiary of that holding company.

(5) In this Schedule the words “holding company” (“*cwmni daliannol*”) and “subsidiary” (“*is-gwmni*”) are to be interpreted in accordance with section 1159 of the Companies Act 2006⁽²⁵⁾.

Information about the responsible individual where the applicant is an organisation

24.—(1) This paragraph applies where the applicant is an organisation and as such has nominated a responsible individual.

(2) The full name (and any alias and former name), date of birth, address and telephone number of the responsible individual.

(3) Details of the professional or technical qualifications of the responsible individual and their experience, so far as such qualifications are relevant to—

- (a) the provision of day care for children under the age of eight, or
- (b) where paragraph 25 applies, the supervision of the provision of day care for children under the age of eight.

(4) Except where paragraph 25 applies, details of the responsible individual’s employment history, including—

(25) 2006 c. 46.

- (a) a full employment history, together with a satisfactory written explanation of any gaps in employment;
- (b) where any previous employment or position has involved work with children, so far as reasonably practicable, verification of the reason why the employment or position ended;
- (c) the name and address of any present employer and, where relevant, of any previous employers;
- (d) the name and address of two referees—
 - (i) who are not relatives of the responsible individual,
 - (ii) each of whom is able to provide a reference as to the responsible individual's competence to look after children under the age of eight, and
 - (iii) where possible, one of whom is the responsible individual's most recent employer.

Information about the person in charge

25.—(1) This paragraph applies where a person in charge has been appointed.

(2) The full name (and any alias and former name) of the person in charge and, except where that person is also either the applicant or the responsible individual, their date of birth, address and telephone number.

(3) Details of the person's professional or technical qualifications and experience, in so far as such qualifications and experience are relevant to the provision of day care for children under the age of eight.

(4) Details of the person's employment history, including—

- (a) a full employment history, together with a satisfactory written explanation of any gaps in employment;
- (b) where any previous employment or position has involved work with children, so far as reasonably practicable, verification of the reason why the employment or position ended;
- (c) the name and address of any present employer and, where relevant, of any previous employers;
- (d) the name and address of two referees—
 - (i) who are not relatives of the person,
 - (ii) each of whom is able to provide a reference as to the person's competence to look after children under the age of eight, and
 - (iii) where possible, one of whom is the person's most recent employer.

Information about the care provided

26. The name, address, telephone number, facsimile number (if any), electronic mail address (if any) of the premises at which the children are to be looked after ("the premises"), together with a description of the facilities provided or to be provided for children to be looked after, including a statement as to whether the premises are purpose-built or have been converted for use as premises at which children are to be looked after.

27. The statement of purpose.

28. The proposed hours for which the applicant wishes to register as a provider of day care for children.

29. A description of the area in which the premises are located and details as to the access to the premises.

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- 30.** A statement as to the security arrangements, including arrangements for the purposes of—
- (a) safeguarding access to information held at the premises; and
 - (b) restricting access from adjacent premises, or when the premises form part of a building, from other parts of the building.

31. Where any other business or activity is, or will be, carried on in the premises at the same time as children are looked after there under the proposed registration and, if so, details of such business or activity.

- 32.** The number of children for whom care is to be provided, and their ages.

Information about other persons: staff

33. In respect of any person, other than the responsible individual or, where relevant, the person in charge, who cares or is to care for the children for whom the day care is or is to be provided—

- (a) the person's name (and any alias and former name) and date of birth;
- (b) the person's duties and responsibilities in relation to that person's work.

34. In respect of any person, other than the responsible individual or, where relevant, the person in charge, who cares or is to care for the children for whom the day care is or is to be provided—

- (a) whether the person is, or is intended to be, resident in the premises;
- (b) if the person is a relative of the applicant, his or her relationship to the applicant;
- (c) whether the person works or is intended to work, on a full-time or on a part-time basis and, if on a part-time basis, the number of hours per week for which it is intended that the person will work;
- (d) the date on which the person commenced, or is intended to commence, work;
- (e) information as to that person's qualifications, experience and skills in so far as it is relevant to the work that the person is to perform;
- (f) a statement by the applicant that he or she is satisfied as to the authenticity of the qualifications, and has verified the experience and skills referred to in sub-paragraph (e);
- (g) a statement by the applicant as to—
 - (i) the suitability as to the person's qualifications for the work that the person is to perform,
 - (ii) whether the person has the skills necessary for such work,
 - (iii) the person's fitness to work and have regular contact with children under the age of eight;
- (h) a statement by the person as to the state of his or her physical and mental health;
- (i) a statement by the applicant that the person is physically and mentally fit for the purposes of the work which that person is to perform;
- (j) a statement by the applicant as to whether he or she is satisfied as to the person's identity, the means by which the applicant has satisfied himself or herself and whether the applicant has obtained a copy of the person's birth certificate;
- (k) confirmation by the applicant that he or she has a recent photograph of the person;
- (l) a statement by the applicant that he or she has obtained—
 - (i) two references relating to the person and that the applicant is satisfied as to the authenticity of those references,

- (ii) a full employment history, together with a satisfactory written explanation of any gaps in the person's employment,
- (iii) where the person's previous employment or position has involved work with children, so far as reasonably practicable, verification of the reason why the employment or position ended.

Information about other persons: all other persons

35. The full name (and any alias and former name), date of birth and address of every person (other than the applicant and a person mentioned in paragraphs 24, 25 and 33) who has attained the age of 16 and who works on the relevant premises and who has, or is likely to have regular contact with relevant children.

36. For the purposes of paragraph 35 person who works on the relevant premises includes a person who works on a voluntary basis.

37. The full name (and any alias and former name) and date of birth of every person who has attained the age of 16 years and who lives on the relevant premises and who has, or is likely to have regular contact with relevant children.

Documents to be supplied

38. The birth certificate of the applicant and, where appropriate, that of the responsible individual and the person in charge.

39. Proof of the identity of the applicant and, where appropriate, the responsible individual and the person in charge, including a recent photograph.

40. Certificates or other suitable evidence relating to the professional or technical qualifications of the applicant and, where appropriate, the responsible individual and the person in charge, so far as such qualifications are relevant to looking after children under the age of eight.

41. A certificate of insurance of the applicant in respect of liability which may be incurred by that person in respect of death, injury, public liability, damage or other loss occurring in relation to the proposed provision of day care.

42.—(1) A written statement made by the applicant confirming—

- (a) in respect of every person, other than the applicant, who looks after or is intended to look after the children for whom the day care is provided, that—
 - (i) an enhanced criminal record certificate has been issued; and
 - (ii) where appropriate, registration with the ISA has been completed and that the applicant has that person's ISA registration number, and
- (b) that the applicant will make the certificates so issued and the registration numbers assigned available for inspection by the Welsh Ministers, if the Welsh Ministers so require.

(2) Subject to paragraph (3), a written statement made by the applicant confirming—

- (a) in respect of every person who is mentioned in paragraphs 35 to 37 that—
 - (i) an enhanced criminal record certificate has been issued; and
 - (ii) where appropriate, registration with the ISA has been completed and that the applicant has that person's ISA registration number, and
- (b) that the applicant will make the certificates so issued and the registration numbers assigned available for inspection by the Welsh Ministers, if the Welsh Ministers so require.

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(3) Where regulation 20(5) applies and the applicant has no authority to obtain such information or document, a written statement by the applicant that those persons mentioned in paragraphs 35 to 37 will be appropriately supervised at all times when any such person is in contact with a relevant child or children.

43. Where the applicant is an organisation, copies of the last two annual reports it was required to produce.

44. Where the organisation is a subsidiary of a holding company, the last two annual reports (if any) of the holding company and of any other subsidiary of that holding company.

45. The last annual accounts of the organisation, if any.

46.—(1) Subject to sub-paragraph (2), a report by a registered medical practitioner as to whether the applicant and, where appropriate, the responsible individual and the person in charge, is physically and mentally fit to look after children under the age of eight.

(2) Where a person mentioned in sub-paragraph (1) is unable to obtain the report referred to in that sub-paragraph, a statement by that person as to the state of his or her physical and mental health.

SCHEDULE 3

Regulation 30

RECORDS TO BE MAINTAINED

1. The name, address and telephone number of the registered person, the responsible individual and every other person living, working or employed on the relevant premises.

2. The name, home address and telephone number of any other person who will regularly be in unsupervised contact with the relevant children.

3. The name, home address, date of birth and sex of each relevant child.

4. In respect of each relevant child, the name, address and telephone number of a parent.

5. In respect of each relevant child, the name and address of the registered medical practitioner with whom the child is registered.

6. A daily record of the names of the relevant children, their hours of attendance and the names of the persons who looked after them.

7. A record of accidents, serious illness and other significant events occurring on the relevant premises that affected the welfare of relevant children.

8. A record of any medicinal product administered to a relevant child on the relevant premises, including the date and circumstances of its administration, by whom it was administered, including medicinal products that the child is permitted to administer to himself or herself, together with a record of a parent's consent.

9. Any special dietary or health needs or allergy of any relevant child.

10. A statement of the procedure to be followed in the event of a fire or accident.

11. A statement of the procedure to be followed where a parent has a complaint about the service provided by the registered person.

12. A statement of the arrangements in place for the protection of relevant children, including arrangements to safeguard the children from abuse or neglect and procedures to be followed in the event of allegations of abuse or neglect.

13. A statement of the procedure to be followed in the event of a relevant child being lost or not collected.

14. The name, home address and telephone number of every current member of the committee or governing body, where the applicant is an unincorporated association.

SCHEDULE 4

Regulation 31

EVENTS TO BE NOTIFIED TO THE WELSH MINISTERS

1.—(1) In the case of child minding, a change of the following persons—

- (a) any person looking after children on the relevant premises, or
- (b) any person living or employed on those premises.

(2) The information to be provided is the new person's date of birth, full name and former names or aliases and home address.

2.—(1) In the case of day care, a change of the following persons—

- (a) any person in charge,
- (b) anyone looking after children on the relevant premises,
- (c) anyone living or working on those premises (provided that persons are not to be treated as working on the premises for the purposes of this paragraph if none of their work is done in the part of the premises in which children are looked after or if they do not work on the premises at times when children are looked after there), and
- (d) where the day care is provided by a committee or corporate or unincorporated body, the Chair, Secretary, Treasurer (or person holding a comparable position in the organisation).

(2) The information to be provided is the new person's date of birth, full name, any former names or aliases used by them and home address.

3. Any change—

- (a) in the name or home address of the registered person or those persons described in paragraph 1(1) or paragraph 2(1)(a) to (c); or
- (b) in the name or address of the registered or principal office, where the registered person is an organisation.

4. Any change in the type of care provided by a registered person.

5. In the case of day care, any change in the facilities to be used for day care on the relevant premises, including changes in the number of rooms, their functions, the numbers of lavatories and washbasins, any separate facilities for adult workers and access to the premises for cars.

6. Any change in the hours during which day care or child minding is provided.

7. The outbreak at the relevant premises of any infectious disease, which in the opinion of any registered medical practitioner attending a child or other person at the premises is sufficiently serious to be so notified, or of any serious injury to serious illness of, or the death of, any child or other person on the premises.

8. Any allegations of serious harm to a child committed by any person looking after relevant children at the premises, or by any person living, working or employed on the premises, or any abuse alleged to have taken place on the premises.

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9. Any other event which may affect the suitability of the registered person to look after children or the suitability of any person living, working or employed on the premises to be in regular contact with children.

10. Any other significant event which is likely to affect the welfare of any child on the premises.

SCHEDULE 5

Regulation 47

AMENDMENT OF THE 2002 REGULATIONS

1. In regulation 2(1) (interpretation) of the 2002 Regulations—
- (a) omit the definition of “the 1989 Act”;
 - (b) in the definition of “appropriate office of the National Assembly” omit paragraph (d);
 - (c) in the definition of “organisation” omit the words “and” to the end;
 - (d) omit the definition of “the Part XA Regulations”;
 - (e) omit the definition of “person in charge”;
 - (f) in the definition of “registration” omit the words “or Part XA” to the end;
 - (g) in the definition of “statement of purpose” omit paragraph (d).

SCHEDULE 6

Regulation 48

REVOCATIONS

<i>Column 1</i> <i>Instrument revoked</i>	<i>Column 2</i> <i>Reference</i>	<i>Column 3</i> <i>Extent of revocation</i>
The Child Minding and Day Care (Wales) Regulations 2002	SI 2002/812 (W.92)	The whole of the Regulations
Registration of Social Care and Independent Health Care (Wales) Regulations 2002	SI 2002/919 (W. 107)	Regulations –16, 17 and 18 and Schedules 7 and 8.
The Children Act 1989 and the Care Standards Act 2000 (Miscellaneous Regulations) (Amendment) (Wales) Regulations 2002	SI 2002/2622 (W.254)	Regulation 6
The Child Minding and Day Care (Amendment)(Wales) Regulations 2003	SI 2003/2708 (W.259)	The whole Regulations
The Suspension of Day Care Providers and Child Minders (Wales) Regulations 2004	SI 2004/3282 (W.285)	The whole Regulations (with savings)
The Care Standards Act 2000 and the Children Act 1989 (Amendment of	SI 2004/2414 (W.222)	Regulation 7

<i>Column 1</i> <i>Instrument revoked</i>	<i>Column 2</i> <i>Reference</i>	<i>Column 3</i> <i>Extent of revocation</i>
Miscellaneous Regulations) (Wales) Regulations 2004		
Day Care (Application to Schools) (Wales) Regulations 2005	SI 2005/118 (W. 10)	The whole Regulations
The Care Standards Act 2000 and the Children Act 1989 (Regulatory Reform and Complaints) (Wales) Regulations 2006	SI 2006/3251 (W.295)	Regulation 4
The Suspension of Day Care Providers and Child Mindors (Wales) (Amendment) Regulations 2008	SI 2008/2689 (W.238)	The whole Regulations
The Children Act 1989, Care Standards Act 2000 and Adoption and Children Act 2002 (Miscellaneous Amendments) (Wales) Regulations 2009	SI 2009/2541 (W.205)	Regulation 2
The Children Act 1989 (Amendment of Miscellaneous Regulations) (No.2) (Wales) Regulations 2009	SI 2009/3265 (W.286)	Regulation 2

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and re-enact with modifications the following Regulations—

- the Registration of Social Care and Independent Health Care (Wales) Regulations 2002, in so far as they relate to child minders and the providers of day care for children (“the 2002 Regulations”);
- the Child Minding and Day Care (Wales) Regulations 2002; and
- the Suspension of Day Care Providers and Child Mindors (Wales) Regulations 2004 (“the 2004 Regulations”),

which are all made under powers under Part XA of the Children Act 1989 (“the 1989 Act”). The powers under Part XA of the 1989 Act are repealed in a separate Order, which also makes savings and transitional provision.

These Regulations are made under Part 2 of the Children and Families (Wales) Measure 2010 (“the Measure”); the powers in Part 2 of the Measure are broadly in analogous terms to those within Part XA of the 1989 Act. Part 2 of the Measure provides for the registration and inspection of child minders and day care providers in Wales by the Welsh Ministers and it also contains powers enabling the Welsh Ministers to make regulations governing the activities of such persons. Section 30 of the Measure contains a new power that enables the Welsh Ministers to make regulations which will enable the carrying on of the provision of day care in prescribed circumstances upon the death of the registered person.

These Regulations apply to persons who act as child minders or who provide day care for children under the age of eight (“day care providers”) on premises situated in Wales.

Regulation 3 and Schedule 1 prescribe the requirements that must be satisfied for an application for registration to be granted by the Welsh Ministers. These include provision regarding the suitability of the provider and other persons who will be looking after or in regular contact with relevant children. Regulation 4 and Schedule 2 prescribe the information that must be included with an application for registration. Different requirements apply in respect of child minders and day care providers.

The 2002 Regulations currently make provision in relation to the registration of child minders and day care providers; they also make provision for the registration and inspection of a wide range of establishments and agencies involved in the provision of care in a range of settings. These Regulations are amended by Part 7 and Schedules 5 and 6 to reflect that provision for the registration of child minders and day care providers is now contained within these Regulations.

Part 3 (regulations 6 to 11) makes provision about the suitability of persons acting as child minders and day care providers and requires information to be available in relation to the matters specified in Schedule 1. Where a day care provider is an organisation it must nominate a responsible individual in respect of whom the prescribed information must be available. Regulation 9 imposes general requirements about the provision of care by registered persons and as to training. Regulation 10 contains a requirement for the Welsh Ministers to be notified about a person’s conviction of criminal offences and being charged with certain specified offences. Regulation 11 prescribes the circumstances in which personal representatives may carry on the provision of day care upon the death of the registered person.

Part 4 (regulations 12 to 19) makes provision for the general requirements that apply to persons registered under Part 2 of the Measure and for enforcement. In particular, regulations 12 and 14 require registered persons to comply with the requirements of Part 5 of these Regulations and to have regard to national minimum standards and provide respectively that any allegation that a registered person has failed to comply with the requirements of Part 5 or has failed have regard to the relevant standards may be taken into account by the Welsh Ministers in the exercise of their functions under Part 2 of the Measure and in proceedings under that Part. Regulation 15 provides for a statement of purpose to be compiled by registered persons consisting of the aims and objectives and other relevant matters about the service to be provided for children under the care of the registered person. Regulation 19 provides for offences for contravention of or non-compliance with Part 5.

Part 5 (regulations 20 to 38) makes provision about the activities of persons registered under Part 2 of the Measure. Regulations 20 to 26 make provision about the welfare and development of relevant children under the care of registered persons and in particular, about the promotion of the welfare of such children, the provision of food and the provision and implementation of child protection and behaviour management policies.

Regulations 27 to 29 make provision about the numbers, qualifications, experience and suitability of those working for registered persons including provision about the information that is required in relation to workers before they may work for child minders or day care providers.

Regulations 30 and 31 provide for the keeping of records and the provision of information to parents of relevant children under the care of child minders or day care providers and to the Welsh Ministers.

Regulations 32 to 36 make provision for a complaints procedure to be prepared and followed by registered persons.

Regulations 37 and 38 make provision about the fitness of premises on which care is provided, equipment and facilities provided at the premises and about fire precautions.

Part 6 sets out the circumstances in which a person's registration may be suspended by the Welsh Ministers and provides for a right of appeal to a First-tier Tribunal (established in accordance with the Tribunals, Courts and Enforcement Act 2007).

This Part also makes provision for the registered person to give notice to the Welsh Ministers requesting the voluntary suspension of their registration; there is no right of appeal to a First-tier Tribunal in the event that the Welsh Ministers refuse to take action upon receipt of a voluntary suspension notice.

Part 7 contains provision for amendment, revocation and savings. Regulation 47 and Schedule 5 make consequential amendments to the 2002 Regulations. Regulation 48 and Schedule 6 make provision for the revocation of specified regulations and regulation 49 contains savings provision.