
WELSH STATUTORY INSTRUMENTS

2002 No. 921 (W.109)

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

The Registration of Social Care and Independent
Healthcare (Fees) (Wales) Regulations 2002

Made - - - - 28th March 2002

Coming into force - - 1st April 2002

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 12(2), 15(3), 16(3) and 118 (5) to (7) of the Care Standards Act 2000⁽¹⁾ and section 79F and 104(4) of, and paragraph 7 of Schedule 9A to the Children Act 1989⁽²⁾ hereby makes the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Registration of Social Care and Independent Healthcare (Fees) (Wales) Regulations 2002 and shall come into force on 1st April 2002.

(2) These Regulations apply in relation to Wales.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Care Standards Act 2000;

“the 1984 Act” means the Registered Homes Act 1984⁽³⁾;

“the 1989 Act” means the Children Act 1989⁽⁴⁾;

(1) 2000 c. 14. The powers are exercisable by the appropriate Minister. The “appropriate Minister” is defined in s.121(1) of the 2000 Act. It means the Assembly in relation to Wales: s.5(b) of the Act defines “the Assembly” as the National Assembly for Wales. It means the Secretary of State in relation to Scotland, England and Northern Ireland. See section 121(1) for the definition of “prescribed” and “regulations”.

(2) Section 79F and Schedule 9A were inserted into the Children Act 1989 (c. 41) by section 79 of and Schedule 3 to the Care Standards Act 2000 (c.14). See section 79B(7) of the Children Act 1989 as inserted by section 79(1) of the 2000 Act for the definition of “regulations” and section 105(1) of the 1989 Act for the definition of “prescribed”.

(3) 1984 c. 23.

(4) 1989 c. 41.

“annual fee” means an amount prescribed for the purposes of section 16(3) of the Act, or (as the case may be) paragraph 7 of Schedule 9A to the 1989 Act;

“approved place” means in relation to an establishment, a bed which is available, in accordance with any condition placed upon the registration of any person in respect of the establishment, for the use of a service user at night;

“establishment” means a care home, children’s home, independent hospital or independent clinic;

“existing provider” means—

- (a) a person who is registered under Part I of the 1984 Act in respect of a residential care home;
- (b) a person who is registered under Part II of the 1984 Act in respect of a nursing home or mental nursing home;
- (c) a person who carries on a home that is registered in a register kept for the purposes of section 60 of the 1989 Act; or
- (d) a person who carries on a home that is registered under Part VIII of the 1989 Act.

“existing undertaking” means—

- (a) a residential care home in respect of which a person is registered immediately before 1st April 2002 under Part I of the 1984 Act;
- (b) a nursing home or mental nursing home in respect of which a person is registered immediately before 1st April 2002 under Part II of the 1984 Act;
- (c) a home that is registered immediately before 1st April 2002 in a register kept for the purposes of section 60 of the 1989 Act; or
- (d) a home that is registered immediately before 1st April 2002 under Part VIII of the 1989 Act;

“new provider” means a person who carries on an establishment for the first time after 1st April 2002;

“the No. 8 Commencement Order” means the Care Standards Act 2000 (Commencement No. 8 (Wales) and Transitional, Savings and Consequential Provisions) Order 2002(5);

“previously exempt provider” means a provider who immediately before 1st April 2002 carries on an establishment other than

- (a) a residential care home, nursing home or mental nursing home in respect of which a person is required to be registered under Part I or II of the 1984 Act; or
- (b) a home that is required to be registered in a register kept for the purposes of section 60 of the 1989 Act or under Part VIII of that Act;

“registered” means registered under Part II of the Act or (as the case may be) Part XA of the 1989 Act;

“registration fee” means the fee prescribed for the purposes of section 12(2) of the Act or (as the case may be) section 79F(2)(b) of the 1989 Act;

“registered manager” in relation to an establishment means a person who is registered under Part II of the Act as the manager of the establishment;

“registered provider” in relation to an establishment means a person who is registered under Part II of the Act as the person carrying on the establishment;

“registration” means registration under Part II of the Act or (as the case may be) Part XA of the 1989 Act;

“service user” means any person who is to be provided with accommodation or services in an establishment but excludes registered persons or persons employed or intended to be employed in an establishment and their relatives;

“small care home” means a care home that has three or fewer approved places;

“small independent hospital or clinic” means an independent hospital or clinic—

- (a) in which beds are available for the use of service users at night; and
- (b) where there are three or fewer such beds.

(2) In these Regulations, unless the context otherwise requires, references to an establishment are to be construed as references—

- (a) in the case of an application for registration, to the establishment in respect of which the application is made; and
- (b) in the case of a registered person, to the establishment in respect of which the person is registered.

(3) In these Regulations, a reference—

- (a) to a numbered regulation is to the regulation in these Regulations bearing that number;
- (b) in a regulation to a numbered paragraph is to the paragraph in that regulation bearing that number; and
- (c) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

Registration fees

3.—(1) Subject to paragraphs (2) to (5), the registration fee shall be—

- (a) in the case of an application for registration by a person who is seeking to be registered as a person who carries on an establishment, £1,100; and
- (b) in the case of an application for registration by a person who is seeking to be registered as a person who manages an establishment, £300.

(2) In the case of an application for registration in respect of a small care home—

- (a) by a person mentioned in paragraph (1)(a), the registration fee shall be £300; and
- (b) by a person mentioned in paragraph (1)(b), the registration fee shall be £150.

(3) In the case of an application for registration in respect of a small independent hospital or clinic by a person mentioned in paragraph (1)(a), the registration fee shall be £300.

(4) Where an application for registration is made by any person who immediately before 1st April 2002 manages an existing undertaking, other than a residential care home in respect of which a person is registered before 31st March 2002 under Part I of the 1984 Act, no registration fee shall be payable.

(5) Where pursuant to paragraph 6 of Schedule 1 to the No. 8 Commencement Order an existing provider is treated as having applied for, and been granted, registration in respect of an existing undertaking for the purposes of Part II of the Act, no registration fee shall be payable in respect of that treatment.

(6) Where an application is made by any person for registration under Part XA of the 1989 Act for providing day care for a continuous period of four hours or more in any day, the registration fee shall be £125.

(7) Where, pursuant to paragraph 3 of Schedule 2 to the No. 8 Commencement Order a person is treated as having applied for, and been granted, registration under Part XA of the 1989 Act, no registration fee shall be payable in respect of that treatment.

Fees in respect of applications to vary or remove a condition to which a registration is subject

4.—(1) Subject to paragraphs (2) and (3), the fee to accompany an application under section 15(1)(a) of the Act shall be £550.

(2) In the case of an application mentioned in paragraph (1) in respect of a small care home the fee to accompany the application shall be £150.

(3) In the case of an application mentioned in paragraph (1) or (2) in respect of which the National Assembly will not require, for the purposes of determining the application, a person authorised by it to inspect, under section 31(2) of the Act, the establishment to which the application relates, the fee to accompany the application shall be £50.

Annual fee — care homes

5.—(1) The annual fee in respect of a care home shall be calculated in accordance with paragraph (3).

(2) The annual fee in respect of a care home shall be first payable by the registered provider on the date specified in respect of him or her in paragraph (4) (“the first date”), and thereafter on the anniversary of the first date.

(3) The fee is the sum of the amounts identified in sub-paragraphs (a) and (b)—

- (a) £30 multiplied by the number of approved places, up to and including the third approved place;
- (b) £50 multiplied by the number of approved places that were not counted for the purposes of sub-paragraph (a).

(4) The specified date is—

- (a) in the case of the registered provider of a care home that is an existing undertaking—
 - (i) in a case where an annual fee was payable under the 1984 or (as the case may be) the 1989 Act in respect of the undertaking, the anniversary of the date on which the fee was last payable;
 - (ii) in a case where an annual fee would have been payable in respect of the undertaking if it were not for the exercise of a discretion under the 1984 or (as the case may be) the 1989 Act, the anniversary of the date the fee would have last been payable if the discretion had not been exercised;
 - (iii) in any other case, 1st April 2003;
- (b) in the case of a registered provider who is a previously exempt provider, 1st April 2003;
- (c) in the case of a registered provider who is a new provider, the date on which a certificate of registration was first issued under Part II of the Act in respect of a registered provider of the home.

Annual fee — children’s homes

6.—(1) The annual fee in respect of a children’s home shall be calculated in accordance with paragraph (3).

(2) The annual fee in respect of a children’s home shall be first payable by the registered provider on the date specified in respect of him or her in paragraph (5) (“the first date”), and thereafter on the anniversary of the first date.

(3) The fee is the sum of the amounts identified in sub-paragraphs (a) and (b)—

- (a) £500;

- (b) £50 multiplied by the relevant number, except that if the product of that multiplication is a negative number the product of the multiplication shall instead be deemed to be zero for the purposes of the summation performed under this paragraph.
- (4) The relevant number for the purposes of paragraph (3) in respect of a home is the number of approved places at the home, minus the number three.
- (5) The specified date is—
 - (a) in the case of the registered provider of a children’s home that is an existing undertaking—
 - (i) in a case where an annual fee was payable under the 1984 or (as the case may be) the 1989 Act in respect of the undertaking, the anniversary of the date on which the fee was last payable;
 - (ii) in a case where an annual fee would have been payable in respect of the undertaking if it were not for the exercise of a discretion under the 1984 or (as the case may be) the 1989 Act, the anniversary of the date on which the fee would have been payable if the discretion had not been exercised;
 - (iii) in any other case, 1st April 2003;
 - (c) in the case of a registered provider who is a previously exempt provider, 1st April 2003;
 - (d) in the case of a registered provider who is a new provider, the date on which a certificate of registration was first issued under Part II of the Act in respect of a registered provider of the home.

Annual fee — independent hospitals and clinics with approved places

7.—(1) The annual fee in respect of an independent hospital or clinic with approved places shall be calculated in accordance with paragraph (3).

(2) The annual fee in respect of a independent hospital or clinic with approved places shall be first payable by the registered provider on the date specified in respect of him or her in paragraph (5) (“the first date”), and thereafter on the anniversary of the first date.

- (3) The fee is the sum of the amounts identified in sub-paragraphs (a) to (c)—
 - (a) £2,500;
 - (b) £100 multiplied by the relevant number except that if the product of that multiplication is a negative number the product of the multiplication shall instead be deemed to be zero for the purposes of the summation performed under this paragraph.
 - (c) the number of approved places not counted in the calculation of the relevant number, multiplied by £50.
- (4) The relevant number for the purposes of paragraph (3) in respect of an independent hospital or clinic is the number of approved places at the hospital or clinic up to and including the twenty ninth place, minus the number three.
- (5) The specified date is—
 - (a) in the case of the registered provider of an independent hospital or clinic that is an existing undertaking—
 - (i) in a case where an annual fee was payable under the 1984 or (as the case may be) the 1989 Act in respect of the undertaking, the anniversary of the date on which the fee was last payable;
 - (ii) in a case where an annual fee would have been payable in respect of the undertaking if it were not for the exercise of a discretion under the 1984 or (as the case may be) the 1989 Act, the anniversary of the date on which the fee would have last been payable if the discretion had not been exercised;

- (iii) in any other case, 1st April 2003;
- (b) in the case of a registered provider who is a previously exempt provider, the 1st April 2003;
- (c) in the case of a registered provider who is a new provider, the date on which a certificate of registration was first issued under Part II of the Act in respect of a registered provider of the home.

Annual fee — independent hospitals and clinics without approved places

8.—(1) The annual fee in respect of an independent hospital or clinic without approved places is £1,000.

(2) The annual fee in respect of a independent hospital or clinic without approved places shall be first payable by the registered provider on the date specified in respect of him or her in paragraph (3) (“the first date”), and thereafter on the anniversary of the first date.

(3) The specified date is—

- (a) in the case of the registered provider of an independent hospital or clinic that is an existing undertaking the anniversary of the date on which the fee was last payable under the 1984 Act;
- (b) in the case of a registered provider who is a previously exempt provider, the 1st April 2003;
- (c) in the case of a registered provider who is a new provider, the date on which a certificate of registration was first issued under Part II of the Act in respect of a registered provider of the home.

Annual fee — day care

9.—(1) Unless paragraph (2) applies, in the case of a provider of day care under Part XA of the 1989 Act where care is provided for a continuous period of four hours or more in any day the prescribed fee for the purposes of section 79F(2)(b) of the 1989 Act shall be £95, payable annually on the anniversary of registration under Part XA of the 1989 Act.

(2) This paragraph applies where a provider of day care under Part XA provides such care wholly or mainly for children who are not required to be in full-time education by virtue of their being on holiday.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(6)

28th March 2002

Rhodri Morgan
Assembly First Minister

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the fees that are payable by certain establishments under Part II of the Care Standards Act 2000 (“the Act”)

- (1) on an application for registration (regulation 3); and
- (2) on an application for the variation or removal of any condition in force in relation to a registration (regulation 4).

Regulation 3 also prescribes the fee for applications for registration in relation to certain providers of day care under Part XA of the Children Act 1989.

In addition, regulations 5 to 9 prescribe the annual fee that is to be paid by certain establishments and providers of day care.