

Draft Order laid before the National Assembly for Wales under section 74(5) of the Children and Families (Wales) Measure 2010, for approval by resolution of the National Assembly for Wales.

DRAFT WELSH STATUTORY
INSTRUMENTS

2016 No. (W.)

SOCIAL CARE, WALES

**The Regulation of Child Minding
and Day Care (Wales) Order 2016**

EXPLANATORY NOTE

(This note is not part of the Order)

Under Part 2 of the Children and Families (Wales) Measure 2010, a person who acts as a child minder or provides day care for children under the age of eight must be registered with the Welsh Ministers.

Article 3 of this Order, made under section 19(4) of the Measure, amends section 19 of the Measure to extend the registration requirement to persons who act as a child minder or provide day care for children under the age of twelve. It also makes consequential amendments.

Articles 7 and 11 of this Order provide that a person who is registered immediately before 1 April 2016 to provide care for children under the age of eight is to be treated on and after the 1 April 2016 as registered to provide care for children under the age of twelve.

Articles 8 and 12 of this Order apply where a child minder or day care provider is in breach of their conditions of registration as a result of the extension of the registration requirement.

Under articles 9 and 13 of this Order, applications for registration received by the Welsh Ministers before 1 April 2016 are to be treated as though received on 1 April 2016.

Article 14 provides that the extension of the registration requirement in article 3 does not affect the suspension of a person's registration.

This Order comes into force on 1 April 2016.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with this Order. A copy can be obtained from the Education and Public Services Group, Welsh Government, Cathays Park, Cardiff CF10 3NQ.

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2016 No. (W.)

SOCIAL CARE, WALES

**The Regulation of Child Minding
and Day Care (Wales) Order 2016**

Made *xxxx*

Coming into force *1 April 2016*

The Welsh Ministers make the following Order in exercise of the powers conferred upon them by sections 19(4) and 74(2) of the Children and Families (Wales) Measure 2010(1).

A draft of this Order has been laid before, and approved by resolution of, the National Assembly for Wales before being made, in accordance with section 74(5) of the Measure.

Title, commencement and application

1.—(1) The title of this Order is the Regulation of Child Minding and Day Care (Wales) Order 2016.

(2) This Order comes into force on 1 April 2016.

(3) This Order applies in relation to Wales.

Interpretation

2. In this Order—

“the 2010 Regulations” (“*Rheoliadau 2010*”) means the Child Minding and Day Care (Wales) Regulations 2010(2);

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

“the transfer date” (“*y dyddiad trosglwyddo*”) means 1 April 2016.

(1) 2010 nawm 1.
(2) S.I. 2010/2574.

Amendments to the Children and Families (Wales) Measure 2010

3. In section 19 of the Measure (meaning of “child minding” and “day care for children”)—

- (a) in subsection (2), for “eight” substitute “twelve”;
- (b) in subsection (3), for “eight” substitute “twelve”.

Amendment to the Tax Credits (Approval of Child Care Providers) (Wales) Scheme 2007

4. In article 5(3)(b) (qualifying child care) of the Tax Credits (Approval of Child Care Providers) (Wales) Scheme 2007(1) for “aged eight years” substitute “aged twelve years”.

Amendment to the Children’s Homes (Wales) Regulations 2002

5. In regulation 3(3) of the Children’s Homes (Wales) Regulations 2002(2) for “under eight” substitute “under twelve”.

Transitional provision

Child minders

6. The provisions in articles 7 to 9 of this Order apply to a person who is registered immediately before the transfer date by the Welsh Ministers as a child minder under Part 2 of the Measure.

Registration

7.—(1) Subject to paragraph (2), a person who is registered as a child minder for children under the age of eight is to be treated on and after the transfer date as having applied for and been granted registration to look after children under the age of twelve.

(2) Paragraph (1) does not apply in respect of a person who, before the transfer date, communicated to the Welsh Ministers a request to cancel their registration as a child minder under Part 2 of the Measure.

Conditions of registration

8.—(1) This article applies where, immediately before the transfer date, a person provides child minding in circumstances in which, if it were to be provided on or after that date it would be contrary to that person’s conditions of registration imposed under

(1) S.I. 2007/226 (W. 20).

(2) S.I. 2002/327 (W.40).

section 29 of the Measure because of the effect of article 7(1) of this Order.

(2) Where a person to whom paragraph (1) applies submits an application to the Welsh Ministers to vary conditions of registration before the transfer date, the Welsh Ministers must determine that application within a period of five months of the transfer date.

(3) During the period specified in paragraph (2)—

- (a) a person who has submitted an application to vary conditions of registration is not liable to prosecution under section 29(4) of the Measure where the breach of conditions is a consequence of the effect of article 7(1) of this Order;
- (b) section 31(2)(b) of the Measure does not apply where the breach of conditions is a consequence of the effect of article 7(1) of this Order.

Applications for registration: undetermined applications

9.—(1) Paragraph (2) applies where, before the transfer date, a person makes an application to register as a child minder but the Welsh Ministers have not determined the person's application.

(2) An application made before the transfer date has effect as an application made on the transfer date.

Day care providers

10. The provisions in articles 11 to 13 of this Order apply to a person who is registered immediately before the transfer date by the Welsh Ministers as a day care provider under Part 2 of the Measure.

Registration

11.—(1) Subject to paragraph (2), a person who is registered as a day care provider for children under the age of eight is to be treated on and after the transfer date as having applied for and been granted registration to provide care for children under the age of twelve.

(2) Paragraph (1) does not apply in respect of a person who, before the transfer date, communicated to the Welsh Ministers a request to cancel their registration as a day care provider under Part 2 of the Measure.

Conditions of registration

12.—(1) This article applies where, immediately before the transfer date, a person provides day care for children in circumstances in which, if it were to be

provided on or after that date it would be contrary to that day care provider's conditions of registration imposed under section 29 of the Measure because of the effect of article 11(1) of this Order.

(2) Where a person to whom paragraph (1) applies submits an application to the Welsh Ministers to vary conditions of registration before the transfer date, the Welsh Ministers must determine that application within a period of five months of the transfer date.

(3) During the period specified in paragraph (2) —

(a) a person who has submitted an application to vary conditions of registration is not liable to prosecution under section 29 of the Measure where the breach of conditions is a consequence of the effect of article 11(1) of this Order; and

(b) section 31(2)(b) of the Measure does not apply where the breach of conditions is a consequence of the effect of article 11(1) of this Order.

Applications for registration: undetermined applications

13.—(1) Paragraph (2) applies where before the transfer date, a person makes an application to register as a day care provider under Part 2 of the Measure but the Welsh Ministers have not determined the person's application.

(2) An application made before the transfer date has effect as an application made on the transfer date.

Suspension: child minders and day care providers

14.—(1) This article applies where immediately before the transfer date a person registered under Part 2 of the Measure —

(a) is suspended by the Welsh Ministers under regulation 40 of the 2010 Regulations;

(b) is voluntarily suspended under regulation 46 of the 2010 Regulations.

(2) The suspension of a person's registration is not affected by the operation of articles 7(1) and 11(1) in this Order.

Lesley Griffiths

Minister for Communities and Tackling Poverty, one of the Welsh Ministers

Date