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WELSH STATUTORY INSTRUMENTS

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**2003 No. 2709 (W.260)**

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

**The Registration of Social Care and Independent  
Health Care (Amendment) (Wales) Regulations 2003**

*Made* - - - - - *21st October 2003*

*Coming into force* - - - - - *22nd October 2003*

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 79E(2) and 104(4) of, and paragraph 6(2) of Schedule 9A to, the Children Act 1989(1) hereby makes the following Regulations:

**Citation, commencement and application**

1.—(1) These Regulations made be cited as the Registration of Social Care and Independent Health Care (Amendment) (Wales) Regulations 2003 and shall come into force on 22 October 2003.

(2) These Regulations apply in relation to Wales.

**Amendments**

2.—(1) The Registration of Social Care and Independent Health Care (Wales) Regulations 2002(2) are amended as follows—

(2) In regulation 2(1) at the appropriate place there is inserted —

““person in charge” means, in relation to the provision of day care, the individual appointed by the registered person as the person in charge of providing actual day care on the premises where the registered person or responsible individual as the case may be, is not or does not intend to be in actual day to day charge of the provisions of day care on the premises;”.

(3) Regulation 17 shall be replaced with

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(1) 1989 c. 41. Section 79E and Schedule 9A were inserted into the Children Act 1989 by section 79 of the Care Standards Act 2000 (c. 14). For the meaning of “prescribed” see section 105(1) of the 1989 Act and for the meaning of “regulations” see section 79B(7) of that Act (inserted by section 79 of the 2000 Act).

(2) S.I.2002/919 (W.107).

“17.—(1) An application for registration shall —

- (a) be in writing on a form approved by the National Assembly;
- (b) be sent or delivered to the appropriate office of the National Assembly;
- (c) be accompanied by a recent photograph of the responsible person of whom the photograph shall be a true likeness;
- (d) except where paragraph (2) applies, give full information or documentation, as the case may be, in respect of the matters specified in Schedules 7 and 8 in relation to the applicant and, as the case may be, any person other than the applicant who works for or is intended to work for the applicant in relation to child minding or the provision of day care;
- (e) where paragraph (2) applies, give full information or documentation, as the case may be, in respect of each of the matters specified in paragraphs 1(a) and 2 of Schedule 7 and paragraphs 1, 4, 8 and 9 of Schedule 8 in relation to the applicant and, as the case may be, in respect of all the matters specified in Schedules 7 and 8 in relation to any person other than the applicant who works for or is intended to work for the applicant in relation to child minding or the provision of day care, including the person in charge.

(2) This paragraph applies where a person in charge has been appointed.”

(4) In Regulation 18 after paragraph (c) there is inserted

“(cc) the name of the person in charge where one has been appointed;”

(5) Paragraph 3 of Schedule 7 shall be deleted.

(6) Schedule 8 shall be replaced with the following —

#### “SCHEDULE 8

#### DOCUMENTS TO BE SUPPLIED ON AN APPLICATION FOR REGISTRATION AS A CHILD MINDER OR AS A PROVIDER OF DAY CARE.

##### **Documents concerning applicant and person in charge.**

1. The responsible person’s and the person in charge’s birth certificate.

2. Certificates or other suitable evidence relating to the responsible person’s or the person in charge’s professional or technical qualifications, so far as such qualifications are relevant to looking after children under the age of eight.

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

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

4. The following documents in relation to the responsible person and the person in charge —

(a) a criminal record certificate—

(i) which has been issued under section 113 of the Police Act 1997; and

- (ii) the application for which was countersigned by the National Assembly, including, to the extent permitted under the Police Act 1997, the matters specified in section 113(3A)(a) and (b) and (3C)(a) and (b) of that Act;
- (b) an enhanced criminal records certificate—
  - (i) which has been issued under section 115 of that Act; and
  - (ii) the application for which was countersigned by the National Assembly, including, to the extent permitted under the Police Act 1997, the matters specified in section 115(6A)(a) and (b) and (6B)(a) and (b) of that Act.
- 5. Where the applicant is an organisation, copies of the last two annual reports it was required to produce.
- 6. Where the organisation is a subsidiary of a holding company, the name and address of the registered or principal office and the last two annual reports (if any) of the holding company and of any other subsidiary of that holding company.
- 7. The last annual accounts (if any).
- 8. A certificate of insurance for the applicant in respect of liability which may be incurred by him or her in respect of death, injury, public liability, damage or other loss occurring in relation to the proposed child minding or the provision of day care, as the case may be.
- 9. Notwithstanding paragraph 4, where the responsible person or person in charge has applied for a certificate referred to in paragraph 4, but the certificate has not been issued—
  - (a) a statement confirming that the documents specified in paragraph 4 have been applied for and that the applicant will advise the National Assembly on receipt that they are available for inspection;
  - (b) a written report of a check on the lists maintained pursuant to section 1 of the Protection of Children Act 1999 and regulations made under section 218 of the Education Reform Act 1988; and
  - (c) A police check being a report produced by or on behalf of a chief officer of police or other member of a police force within the meaning of the Police Act 1996 which records, as at the time the report is produced, all criminal offences—
    - (i) for which the person had been convicted including convictions which are spent within the meaning of the Rehabilitation of Offenders Act 1974 and which may be disclosed by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975; or
    - (ii) in respect of which the person had been cautioned and which, at the time the caution was given, the person admitted.

#### **Criminal record certificates in respect of staff**

- 10.—(1) A statement confirming that—
  - (a) the documents specified in sub-paragraph (2) have been issued—
    - (i) in the case of any applicant, to every person, other than the applicant, who works, or is intended to work, for the applicant; and
    - (ii) where the applicant is an organisation, to the responsible individual, and
  - (b) the applicant will make the documents so issued available for inspection by the National Assembly if the National Assembly so requires.
- (2) The following documents are specified—

- (a) if the position in which the person works, or is intended to work, falls within section 113 (3B) of the Police Act 1997, either—
  - (i) if the position falls within section 115(3) of that Act, an enhanced criminal record certificate issued to the person under section 115 of that Act; or
  - (ii) in any other case, a criminal record certificate issued to the person under section 113 of that Act,  
including the matters specified in, as the case may be, section 115(6A)(a) and (b) or 113(3A)(a) and (b) of that Act;
- (b) if the position in which the person works, or is intended to work, does not fall within section 113(3B) of the Police Act 1997, a criminal record certificate issued to the person under section 113 of that Act.”.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(3)

21st October 2003

*John Marek*  
The Deputy Presiding Officer of the National  
Assembly

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Registration of Social Care and Independent Health Care (Wales) Regulations 2002 by changing the requirements for the provision of documents and information in relation to the registered person where a person in charge is appointed.