
WELSH STATUTORY INSTRUMENTS

2007 No. 226 (W.20)

TAX CREDITS, WALES

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

Made - - - - 30 January 2007

Coming into force - - 1 February 2007

The National Assembly for Wales, being the appropriate national authority under section 12(6) of the Tax Credits Act 2002⁽¹⁾ and in exercise of the powers conferred on the National Assembly for Wales by sections 12(5), (7) and (8) and 65(3) and (9) of that Act, and after consultation with the Council of Tribunals in accordance with section 8(1) of the Tribunals and Inquiries Act 1992⁽²⁾, makes the following Scheme:

Title, commencement and application

1.—(1) The title of this Scheme is the Tax Credits (Approval of Child Care Providers) (Wales) Scheme 2007 and it will come into force on 1 February 2007.

(2) This Scheme applies in relation to Wales.

Definitions

2. In this Scheme—

“the 1989 Act” (“*Deddf 1989*”) means the Children Act 1989⁽³⁾;

“approval body” (“*corff cymeradwyo*”) means the body referred to in article 3;

“approval criteria” (“*meini prawf cymeradwyo*”) has the meaning given to it in article 7;

“child” (“*plentyn*”) has the meaning attributed to it by the Child Tax Credit Regulations 2002⁽⁴⁾;

“child’s home” has the meaning attributed to it by the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002⁽⁵⁾;

“parent” (“*rhiant*”) includes a person who—

(1) Tax Credits Act 2002 (c. 21)

(2) Tribunals and Inquiries Act 1992 (c. 53)

(3) Children Act 1989 (c. 41)

(4) Child Tax Credit Regulations 2002 (S.I. 2002/2007)

(5) Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (S.I. 2002/2005)

- (a) has parental responsibility for a child;
- (b) a local authority foster parent in relation to a child;
- (c) a foster parent with whom a child has been placed by a voluntary organisation; or
- (d) a person who fosters a child privately;

“parental responsibility” and “fosters a child privately” have the meanings attributed to those respective expressions by sections 3 and 66 of the 1989 Act;

“qualifying child care” (“*gofal plant cymwys*”) has the meaning ascribed to it in article 5;

“relative” (“*perthynas*”) in relation to a child means, a grandparent, aunt, uncle, brother or sister (whether by blood, half blood, marriage, civil partnership or affinity) or a step-parent;

“relevant first-aid certificate” (“*tystysgrif cymorth cyntaf berthnasol*”) means a certificate in respect of a course of first-aid training—

- (a) which is suitable to the care of babies and children;
- (b) which includes training in the following areas; dealing with emergencies; resuscitation; shock; choking; anaphylactic shock; and
- (c) which has been undertaken by the applicant not more than three years before the date upon which the application for approval is made;

“the Tribunal” (“*y Tribiwnlys*”) means the tribunal established by section 9 of the Protection of Children Act 1999⁽⁶⁾;

“the Tribunal Regulations” (“*y Rheoliadau Tribiwnlys*”) means the Protection of Children and Vulnerable Adults and Care Standards Tribunal Regulations 2002⁽⁷⁾.

Specified body

3. The body specified for the purpose of giving approvals under this Scheme is Nestor Primecare Services Limited, trading as Nestor Criminal Records Agency⁽⁸⁾.

Requirements of the Scheme

4. For the purposes of regulations made under section 12 of the Tax Credits Act 2002, a person is a child care provider approved in accordance with this Scheme only—

- (a) if he or she is for the time being approved by the approval body; and
- (b) in respect of the provision by him or her of qualifying child care.

Qualifying Child Care

5.—(1) Subject to paragraph (2), qualifying child care means care provided for a child by an individual for reward wholly or mainly in the child’s home.

(2) Where the care referred to in paragraph (1) is provided for a number of children from different homes at the same time, it is qualifying child care if it is provided wholly or mainly in the home of one or more of the children for whom the care is provided.

(3) Qualifying child care does not include—

- (a) childminding which is subject to registration pursuant to Part 10A of the 1989 Act;
- (b) care provided for reward by any person for a child aged eight years or more other than in accordance with paragraph (1) or (2);

⁽⁶⁾ Protection of Children Act 1999 (c. 14)

⁽⁷⁾ Protection of Children and Vulnerable Adults and Care Standards Tribunal Regulations 2002 (SI 2002/816)

⁽⁸⁾ Registered in England No.1963820.

- (c) child care provided wholly or mainly in the child's home in respect of a child to whom the provider is a parent or relative ; or
- (d) child care provided wholly or mainly in the home of a relative of the child where such care is usually provided solely in respect of one or more children to whom the provider is a parent or relative.

Approved person

6.—(1) Subject to article 13, a person must be given approval as a child care provider under this Scheme if the approval body is satisfied that the approval criteria are met in relation to that person.

(2) A person who has been given approval under paragraph (1) ceases to be so approved if that approval is withdrawn by the approval body.

(3) The approval body may withdraw an approval if satisfied that the approval criteria are no longer met in relation to that person.

Approval criteria

7. In relation to an application for approval as a child care provider the approval criteria are—
- (a) that the applicant is 18 years of age or over;
 - (b) that the applicant has obtained one of the qualifications specified from time to time in a list maintained by the National Assembly for Wales for the purpose of this article;
 - (c) that the applicant has obtained a relevant first-aid certificate; and
 - (d) that the applicant is not considered unsuitable to work with or have unsupervised access to children.

Approval system

8.—(1) The approval body must operate a system for the determination of applications for approval made to it under this scheme and must make adequate arrangements to publicise the details of that system.

(2) Without prejudice to the generality of paragraph (1), the approval system referred to in that paragraph must in particular—

- (a) provide for a procedure by which an applicant may apply for approval;
- (b) set out requirements relating to the provision by an applicant of documentary or other evidence necessary to demonstrate that the approval criteria are met;
- (c) provide for a procedure whereby approvals may be withdrawn;
- (d) provide for the applicant to be given notice in writing in respect of a determination to grant, refuse or withdraw an approval;
- (e) provide for a procedure whereby it may be ascertained whether an individual is for the time being approved under the scheme; and
- (f) provide for the keeping of appropriate records relating to applications for approvals and to the grant, refusal or withdrawal of such approvals.

(3) The approval body must maintain a record of those persons to whom an approval is granted for the time being under this Scheme.

(4) The records referred to in sub-paragraphs (2) and (3) may be kept by means of a computer.

Provision of information by approval body

9. The approval body must supply to the Commissioners for Her Majesty's Revenue and Customs such information as they may require for the discharge of any of their functions relating to working tax credit and which is information relating to the approval, or the refusal or withdrawal of approval, of persons under this Scheme.

Period of approval

10.—(1) An approval given under this Scheme must state the period of its validity which must not exceed a period of 12 months.

(2) Nothing in this article prejudices the application of article 6(2).

Appeals

11.—(1) Where the approval body refuses an application for the grant of an approval or withdraws an approval previously granted, an appeal can be made to the Tribunal against that decision.

(2) The provisions of the Tribunal Regulations apply to an appeal under paragraph (1) as they apply to an appeal under section 79M of the 1989 Act and as if those provisions were set out in this Scheme, but with the modifications referred to in paragraph (3).

(3) Schedule 2 to the Tribunal Regulations applies as if—

- (a) any reference to an appeal under the 1989 Act were a reference to an appeal under article 11(1) of this Scheme;
- (b) any reference to any registration were a reference to an approval given under this Scheme;
- (c) any reference to the cancellation of registration were a reference to the withdrawal of an approval under this Scheme;
- (d) any reference to the registration body or the respondent were a reference to the approval body; and
- (e) paragraph 3(3)(c) of that Schedule were modified as specified in paragraph (4) of this article and any reference to the said paragraph 3 were a reference to that paragraph as so modified.

(4) The said paragraph 3(3)(c) applies as if—

- (a) the decision referred to in sub-paragraph (ii) of that paragraph were to the decision to refuse to grant or to withdraw an approval under this Scheme; and
- (b) sub-paragraph (iii) of that paragraph did not apply.

(5) On an appeal, the Tribunal may—

- (a) confirm the refusal to grant the approval or the withdrawal of the approval;
- (b) direct that the said refusal or withdrawal does not have, or ceases to have, effect; or
- (c) direct the approval body to reconsider any decision which is the subject of the appeal.

Fees

12. The approval body may charge any person seeking approval under this Scheme such reasonable fee as it shall, subject to the approval of the National Assembly for Wales, determine.

Transitional provisions

13. Where an application for approval under this Scheme is made before 6 April 2007, no approval may be granted earlier than 6 April 2007.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998⁽⁹⁾.

30 January 2007

D. Elis-Thomas
The 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.

EXPLANATORY NOTE

(This note is not part of the Scheme)

This Scheme provides for the approval of child care providers for the purposes of section 12(5) of the Tax Credits Act 2002 (“the Act”)(**10**). The National Assembly for Wales is the “appropriate national authority” in relation to care provided in Wales. Qualifying child care (as defined) provided by a person approved in accordance with this Scheme constitutes care provided by a person of a prescribed description for the purposes of section 12(4) of the Act. Regulations made under section 12(1) of the Act prescribe the circumstances in which entitlement to working tax credit in respect of care provided by a person approved in accordance with this Scheme may arise. (*See the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (S.I.2002/2005)*)(**11**).

The approval body named in this Scheme is specified by the National Assembly for Wales under section 12(7) of the Act (article 3). Applications for approval are determined by the approval body in accordance with criteria set out in this Scheme (article 7).

The Scheme further provides:

- (a) for the approval body to operate a system for the determination of applications for approval (article 8);
- (b) for the approval body to provide information to the Commissioners for Her Majesty’s Revenue and Customs in order to enable them to discharge their functions relating to working tax credit (article 9);
- (c) for the period of validity of an approval (article 10);
- (d) for the right to appeal against the refusal or withdrawal of approval (article 11);
- (e) for the charging of fees by the approval body (article 12);
- (f) for the earliest date on which approvals under the scheme may be given (article 13).

This Scheme applies only in relation to Wales.

(10) Tax Credits Act 2002. (c.21)

(11) Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (S.I. 2002/2005).