
WELSH STATUTORY INSTRUMENTS

2003 No. 237

The Fostering Services (Wales) Regulations 2003

PART VIII

MISCELLANEOUS

Registration

50.—(1) The “Registration of Social Care and Independent Health Care (Wales) Regulations 2002”⁽¹⁾ are amended in accordance with the following provisions of this regulation.

(2) In the paragraph headed “SCHEDULES” and in regulations 2(2), 4(2), 4(3), 4(6), 9(b), 9(d), 9(e), 9(h), 10, 12(3)(c), 13, 14, 15(4)(f) and in paragraphs 1(e)(ii), 3(c), 3(d), 4, 5, 6, 7, 8, 11(a), 12(a), 13, 14 of Schedule 1 and in paragraphs 3(1), 7, 9, 10(1)(a)(i), 10(2)(a), 10(2)(b), 10(2)(c) of Schedule 2 and in paragraphs 3, 6(b), 7, 11 of Schedule 3,

for “establishment” in each instance where it appears substitute “establishment or agency”;

(3) In regulation 2(1) in the definitions of “registered manager”, “registered person”, “registered provider”, “representative”, “responsible individual”, for “establishment” in each instance where it appears substitute “establishment or agency”;

(4) In regulation 2(1) in the definition of “service user”, for “establishment” substitute “establishment or by an agency”;

(5) In regulation 4(5) and in paragraphs 15, 16(a), 16(d) of Schedule 1, for “establishment” in each instance where it appears substitute “establishment or for the purposes of the agency”;

(6) In regulation 8(1), for “establishment” substitute where it appears “establishment or agency” in the first instance and “establishment or for the purposes of the agency” in the second instance;

(7) In regulation 12(3)(c)(i), for “establishment” substitute “establishment or for the purposes of an agency”;

(8) In regulation 15(4)(b) and in paragraph 2 of Schedule 2 and in paragraph 10 of Schedule 3, for “establishment” in each instance where it appears substitute “establishment or by the agency”;

(9) In regulation 15(4)(d), for “establishment is” substitute “establishment or the premises used by the agency are”;

(10) In paragraph 1(b) of Schedule 1, for “establishment” substitute where it appears “establishment or agency” in the first instance and “establishment or by the agency” in the second instance;

(11) In paragraph 2(c) of Schedule 1, for “establishment” substitute where it appears “establishment or agency” in the first and second instances and “establishment or by the agency” in the third instance;

(12) In paragraphs 5 and 13 of Schedule 1, for “section 4(8)(a)” in each instance where it appears substitute “section 4(8)(a) or (9)(a);

(13) In paragraph 11 of Schedule 1, for “establishment” substitute where it appears in the first instance “establishment or for the purposes of an agency”;

(14) In paragraph 16 of Schedule 1, for “establishment” substitute where it appears in the first instance “establishment or for the purposes of the agency”;

(15) In paragraph 2 of Schedule 3, for “establishment” substitute where it appears “establishment or agency” in the first instance and “establishment or by the agency” in the second instance.

(16) In regulation 2(1),

(a) at the appropriate place, insert—

““fostering service” means—

(a) a fostering agency within the meaning of the Act; or

(b) a local authority fostering service;”;

““local authority fostering service” means the discharge by a local authority of relevant fostering functions within the meaning of the Act”;

(b) in the definition of “appropriate office”, after subsection (d) insert—

“(e) in relation to a fostering service—

(i) if an office has been specified under regulation 2(2) of the Fostering Services (Wales) Regulations 2003 (2) for the area in which the fostering service, as the case may be, is situated, that office;

(ii) in any other case, any office of the National Assembly.”;

(c) in the definition of “statement of purpose”, after subsection (d) insert—

“(e) in relation to a fostering service, the written statement required to be compiled in relation to the fostering service in accordance with regulation 3(1) of the Fostering Services (Wales) Regulations 2003;”.

Fees

51.—(1) The “Registration of Social Care and Independent Healthcare (Fees)(Wales) Regulations 2002”(3) are amended in accordance with the following provisions of this regulation.

(2) In the paragraph headed “Arrangement of Regulations”, add the following at the end “12. Annual fee — fostering agencies and local authority fostering services”.

(3) In regulation 2(1),(a) at the appropriate places insert—

““agency” means a fostering agency”;

“local authority fostering service” means the discharge by a local authority of relevant fostering functions within the meaning of the Act;”;

(b) in the definitions of “new provider”, “previously exempt provider”, “registered manager”, “registered provider”, for “establishment” in each instance where it appears substitute “establishment or agency”;

(c) in the definition of “service user” for “establishment” in each instance where it appears substitute “establishment or by an agency”.

(4) In regulations 2(2) and 4(3) for “establishment” in each instance where it appears substitute “establishment or agency”.

(5) In regulation 3 for establishment in each instance where it appears substitute “establishment or an agency”.

(2) S.I. 2003/237 (W.35).

(3) S.I. 2002/921 (W.109).

(6) After regulation 11 (Annual fee — residential family centres), there is to be inserted the following regulation—

“Annual fee — fostering agencies and local authority fostering services

12.—(1) The annual fee in respect of a fostering agency is £ 1,000.

(2) The annual fee in respect of a local authority fostering service is £ 1,000.

(3) The annual fee in respect of a fostering agency or a local authority fostering service is to 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.

(4) The specified date is—

(a) in the case of a fostering agency, on 1 April 2004, or on the date on which the certificate is issued, whichever is the later;

(b) in the case of a local authority fostering service—

(i) in a case of a local authority which is discharging relevant fostering functions on the date on which the Fostering Services (Wales) Regulations 2003 come into force, on 1 April 2003;

(ii) in any other case, on the date on which such functions are first discharged.”

Transitional Provisions

52.—(1) This paragraph applies to a fostering agency falling within section 4(4)(b) of the 2000 Act (a voluntary organisation which places children with foster parents under section 59(1) of the 1989 Act) which has, before the coming into force of these Regulations duly made an application for registration under Part II of the 2000 Act.

(2) These Regulations are to apply to a fostering agency to which paragraph (1) applies, as if any reference in them to a registered person is a reference to the person who carries on the agency (4)—

(a) until such time as the application or registration is granted, either unconditionally or subject only to conditions which have been agreed in writing between that person and the National Assembly; or

(b) if the application is granted subject to conditions which have not been so agreed, or if it is refused—

(i) if no appeal is brought, until the expiration of the period of 28 days after service on that person of notice of the decision of the National Assembly; or

(ii) if an appeal is brought, until it is determined or abandoned.

(3) This paragraph applies to an independent fostering agency which is carried on by a voluntary organisation, which has, before the coming into force of these Regulations, duly made an application for registration, under Part II of the 2000 Act.

(4) Where a local authority looking after a child is satisfied that the child should be placed with foster parents, they may make arrangements, subject to paragraph (5), for the duties imposed on them by regulations 34, 35, 36(1) and 37 to be discharged on their behalf by the voluntary organisation to which paragraph (3) applies (“an unregistered independent voluntary provider”)—

(a) until such time as the application for registration is granted, either unconditionally or subject only to conditions which have been agreed in writing between that provider and the National Assembly; or

(4) See Section 121(4) of the Care Standards Act 2000.

- (b) if the application is granted subject to conditions which have not been so agreed, or it is refused—
 - (i) if no appeal is brought, until the expiration of the period of 28 days after service on that provider of notice of the decision of the National Assembly; or
 - (ii) if an appeal is brought, until it is determined or abandoned.
- (5) A local authority may not make arrangements under paragraph (4) unless they—
 - (a) are satisfied—
 - (i) as to the capacity of the unregistered independent voluntary provider to discharge duties on their behalf; and
 - (ii) that those arrangements are the most suitable way for those duties to be discharged; and
 - (b) enter into a written agreement with the unregistered independent voluntary provider about the arrangements, providing for consultation and exchange of information and reports between the local authority and the unregistered independent voluntary provider.
- (6) Paragraphs (2) and (4) are subject to the provisions of Article 2 of, and sub-paragraphs (5) and (6) of paragraph 5 of Schedule 1 to, the Care Standards Act 2000 (Commencement No. 8 (Wales) and Transitional, Savings, Consequential and Amendment Provisions) Order 2002 (application by the National Assembly to a justice of the peace)(5).
- (7) Regulation 20(5) is not to apply to any person to whom it would, apart from this regulation apply, if the person is on 1st April 2003 already employed by a fostering service provider in a position to which paragraph (6) of that regulation applies.

Revocation

- 53.** The following Regulations are revoked—
- (a) The Foster Placement (Children) Regulations 1991(6)
 - (b) regulation 2 of the Children (Short-term Placements) (Miscellaneous Amendments) Regulations 1995(7)
 - (c) regulation 3 of the Children (Protection from Offenders) (Miscellaneous Amendments) Regulations 1997(8)
 - (d) regulation 2 of the Children (Protection from Offenders) (Amendment) (Wales) Regulations 2001 (9) so far as it amends the Foster Placement (Children) Regulations 1991.

(5) S.I. 2002/920 (W.108)(C.24)
 (6) S.I. 1991 No. 910.
 (7) S.I. 1995 No. 2015.
 (8) S.I. 1997 No. 2308.
 (9) S.I. 2001 No. 3443 (W. 278).