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WELSH STATUTORY INSTRUMENTS

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**2005 No. 118 (W.10)**

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

**The Day Care (Application to  
Schools) (Wales) Regulations 2005**

*Made* - - - - 25 January 2005  
*Coming into force* - - 31 January 2005

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

**Citation, commencement and application**

1.—(1) These Regulations are to be cited as the Day Care (Application to Schools) (Wales) Regulations 2005 and are to come into force on 31 January 2005.

(2) These Regulations apply only in relation to Wales.

**Interpretation**

2.—(1) In these Regulations—

“the Act” (“*y Ddeddf*”) means the Children Act 1989;

“the National Assembly” (“*y Cynulliad Cenedlaethol*”) means the National Assembly for Wales.

**Requirement to register day care in schools under Part XA**

3. Subject to regulation 5, the circumstances prescribed for the purposes of paragraph 1 of Schedule 9A to the Act (exemption of certain schools) are those referred to in regulation 4.

4. The prescribed circumstances are that the main purpose for which the day care is provided is to look after children other than in the course of providing them with education.

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(1) 1989 c. 41. Functions of the Secretary of State under the Act are made exercisable by the National Assembly for Wales by virtue of the inclusion of the Act in Schedule 1 to the National Assembly for Wales (Transfer of Functions Order) 1999 (S.I. 1999/672) (see article 2(a) of the 1999 Order and section 22(1) of the Government of Wales Act 1998 (c. 38)). Schedule 9A to the Act was inserted by the Care Standards Act 2000 (c. 14), section 79 and Schedule 3

### **Transitional provisions**

5. If the day care to which regulation 4 applies was first provided at the school in question prior to the coming into force of these Regulations and continues to be so provided, regulations 3 and 4 will not apply to that day care (and therefore the provision of such day care without registration is not prohibited by section 79D(5) of the Act) until:—

- (a) if no completed application for registration under Part XA of the Act is made in relation to the provision of that day care at that school prior to 1 April 2005, 1 April 2005;
- (b) if such an application is made prior to 1 April 2005, the day on which the applicant is notified of the National Assembly's decision in relation to it;
- (c) if such an application is made prior to 1 April 2005, and the decision of the National Assembly in relation to it is that it be refused or be granted subject to conditions, not all of which have been agreed in writing between the applicant and the National Assembly, the expiry of 28 days from the date on which the applicant is notified of that decision;
- (d) if the applicant for registration appeals against a decision to which sub-paragraph (c) applies, the date on which the appeal is abandoned or, if not abandoned, the date on which the applicant is notified of the decision in relation to it;

whichever is the later.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(2)

25 January 2005

*D. Elis-Thomas*  
The Presiding Officer of the National Assembly

## EXPLANATORY NOTE

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

These Regulations require that all schools that were previously exempt from the requirement to do so must be registered under Part XA of the Children Act 1989 if they are providing day care for children aged under eight years old, the main purpose of which is to look after children other than in the course of providing them with education.

Schools that provide day care for the first time on or after 31 January 2005 must be registered as day care providers before they open for business.

For schools providing day care prior to 31 January 2005 and which continue to after that date the Regulations make transitional provisions. Under these transitional provisions such schools may continue to provide such care until 1 April 2005 and, if they apply for registration before that date may continue to do so after that date until the application is decided, or if the decision is appealed the appeal is determined or abandoned. Schools which fail to make such an application before 1 April 2005 will be committing an offence under section 79D(5) of the Act if they continue to provide day care after that date.