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WELSH STATUTORY INSTRUMENTS

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**2009 No. 2541**

The Children Act 1989, Care Standards Act  
2000 and Adoption and Children Act 2002  
(Miscellaneous Amendments) (Wales) Regulations 2009

**PART 3**

Establishments and agencies — children

**Amendment to the Adoption Agencies (Wales) Regulations 2005**

- 4.—(1) The Adoption Agencies (Wales) Regulations 2005(1) are amended as follows.
- (2) For paragraph (1) of regulation 23 (requirement to carry out police checks) substitute—
- “(1) In respect of the prospective adopter and any other member of the prospective adopter’s household who is aged 18 or over, an adoption agency must obtain an enhanced criminal record certificate issued under section 113B of the Police Act 1997 which includes suitability information relating to children (within the meaning of section 113BA(2) of that Act).”.

**Amendment to the Adoption Support Agencies (Wales) Regulations 2005**

- 5.—(1) The Adoption Support Agencies (Wales) Regulations 2005(2) are amended as follows.
- (2) For paragraph 2 of Schedule 2 (information required in respect of the responsible individual or persons seeking to manage or work for the purposes of an agency) substitute—
- “2. Either—
- (a) where the certificate is required for a purpose related to registration under Part 2 of the 2000 Act or the position falls within regulation 5A of the Police Act 1997 (Criminal Records) Regulations 2002, an enhanced criminal record certificate issued under section 113B of the Police Act 1997 which includes suitability information relating to children (within the meaning of section 113BA(2) of that Act) in respect of which less than 3 years have elapsed since it was issued; or
- (b) in any other case, a criminal record certificate issued under section 113A of the Police Act 1997 in respect of which less than 3 years have elapsed since it was issued.”.

**Amendments to the Children’s Homes (Wales) Regulations 2002**

- 6.—(1) The Children’s Homes (Wales) Regulations 2002(3) are amended as follows.

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(1) S.I.2005/1313 (W.95).  
(2) S.I. 2005/1514 (W.118).  
(3) S.I. 2002/327 (W.40). Relevant amending instruments are S.I. 2002/2622 (W.254), S.I. 2004/2414 (W.222) and S.I. 2007/311 (W.28).

- (2) In regulation 6 (fitness of registered provider)—
- (a) for paragraph (3) (c) substitute—
    - “(c) full and satisfactory information or documentation, as the case may be, is available in relation to the person in respect of each of the matters specified in paragraphs 1 to 5 and 6 of Schedule 2.”;
  - (b) omit paragraph (4) .
- (3) In regulation 8 (fitness of manager)—
- (a) for paragraph (2) (c) substitute—
    - “(c) full and satisfactory information or documentation, as the case may be, is available in relation to the person in respect of each of the matters specified in paragraphs 1 to 6 of Schedule 2.”
  - (b) for paragraph (2E)(4) substitute—
    - “(2E) A person is not fit to manage a children’s home unless he or she is registered as a manager with the Care Council for Wales.” ;
  - (c) omit paragraph (3).
- (4) In regulation 26 (fitness of workers)—
- (a) for paragraph (2) (d) substitute—
    - “(d) subject to paragraph (2G), full and satisfactory information or documentation, as the case may be, is available in relation to the person in respect of each matter specified in paragraphs 1 to 6 of Schedule 2”
  - (b) in paragraph (4) (b), for the words “unless paragraph (5) applies” substitute “unless paragraph (5) or (5A) applies.”;
  - (c) for paragraph (5) (b) substitute—
    - “(b) full and satisfactory information in relation to that person has been obtained in respect of the matters specified in paragraphs 1 and 2 of Schedule 2.” .
- (5) In Schedule 2 (information required in respect of persons seeking to carry on, manage or work at a children’s home)—
- (a) for paragraph 2 substitute—
    - “2. Either—
    - (a) where the certificate is required for a purpose related to registration under Part 2 of the Act or the position falls within regulation 5A of the Police Act 1997 (Criminal Records) Regulations 2002, an enhanced criminal record certificate issued under section 113B of the Police Act 1997 which includes suitability information relating to children (within the meaning of section 113BA(2) of that Act) and, where applicable, suitability information relating to vulnerable adults (within the meaning of section 113BB(2) of that Act) in respect of which less than three years have elapsed since it was issued ;
    - or
    - (b) in any other case, a standard criminal record certificate issued under section 113A of the Police Act 1997 in respect of which less than three years have elapsed since it was issued.” ;
  - (b) omit paragraphs 7 and 8.

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(4) Paragraph (2E) of regulation 8 was inserted by S.I. 2007/311 (W.28).

### **Amendments to the Fostering Services (Wales) Regulations 2003**

7.—(1) The Fostering Services (Wales) Regulations 2003<sup>(5)</sup> are amended as follows.

(2) For paragraph 2 of Schedule 1 (information required in respect of persons seeking to carry on, manage or work for the purposes of a fostering service) substitute—

“2. Either —

- (a) where the certificate is required for a purpose related to registration under Part 2 of the 2000 Act or the position falls within regulation 5A of the Police Act 1997 (Criminal Records) Regulations 2002, an enhanced criminal record certificate issued under section 113B of the Police Act 1997 which includes suitability information relating to children (within the meaning of section 113BA(2) of that Act); or
- (b) in any other case, a criminal record certificate issued under section 113A of the Police Act 1997.”

(3) For paragraph 13 of Schedule 3 (information as to prospective foster parent and other members of the prospective foster parent’s household and family) substitute—

“13. In respect of the prospective foster parent and any other member of the prospective foster parent’s household who is aged 18 or over, an enhanced criminal record certificate issued under section 113B of the Police Act 1997 which includes suitability information relating to children (within the meaning of section 113BA(2) of that Act).”

### **Amendment to the Local Authority Adoption Service (Wales) Regulations 2007**

8.—(1) The Local Authority Adoption Service (Wales) Regulations 2007<sup>(6)</sup> are amended as follows.

(2) For paragraph 2 of Schedule 3 (information required in respect of persons seeking to manage or work for the purposes of the adoption service) substitute—

“2. Either—

- (a) where the certificate is required for a position that falls within regulation 5A of the Police Act 1997 (Criminal Records) Regulations 2002, an enhanced criminal record certificate issued under section 113B of the Police Act 1997 which includes suitability information relating to children (within the meaning of section 113BA(2) of that Act) in respect of which less than three years has elapsed since it was issued; or
- (b) in any other case, a criminal record certificate issued under section 113A of the Police Act 1997 in respect of which less than three years has elapsed since it was issued.”

### **Amendments to the Residential Family Centres (Wales) Regulations 2003**

9.—(1) The Residential Family Centres (Wales) Regulations 2003<sup>(7)</sup> are amended as follows.

(2) In regulation 5 (fitness of registered provider)—

- (a) for paragraph (3) (c) substitute—

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(5) S.I. 2003/237 (W.35).  
(6) S.I. 2007/1357 (W.128).  
(7) S.I. 2003/781 (W.92).

- “(c) full and satisfactory information and documentation, as the case may be, is available in relation to the individual in respect of each matter specified in paragraphs 1 to 6 of Schedule 2” ;
  - (b) omit paragraph (4) .
- (3) In regulation 7 (fitness of manager)—
  - (a) For paragraph (2) (c) substitute—
    - “(c) full and satisfactory information and documentation, as the case may be, is available in relation to the person in respect of each of the matters specified in paragraphs 1 to 6 of Schedule 2.”
  - (b) omit paragraph (3).
- (4) In Schedule 2 (information required in respect of persons seeking to carry on, manage or work at a residential family centre) —
  - (a) for paragraph 2 substitute—
    - “2. Either—
      - (a) where the certificate is required for a purpose related to registration under Part 2 of the 2000 Act or the position falls within regulation 5A of the Police Act 1997 (Criminal Records) Regulations 2002, an enhanced criminal record certificate issued under section 113B of the Police Act 1997 which includes suitability information relating to children (within the meaning of section 113BA(2) of that Act) and, where applicable, suitability information relating to vulnerable adults (within the meaning of section 113BB(2) of that Act); or
      - (b) in any other case, a criminal record certificate issued under section 113A of the Police Act 1997.” ;
  - (b) omit paragraph 7.