

---

WELSH STATUTORY INSTRUMENTS

---

**2010 No. 2574**

**The Child Minding and Day Care (Wales) Regulations 2010**

**PART 1**

**INTRODUCTORY**

**Title, commencement and application**

1.—(1) The title of these Regulations is the Child Minding and Day Care (Wales) Regulations 2010 and they come into force on 1 April 2011.

(2) These Regulations apply in relation to Wales.

**Interpretation**

2.—(1) In these Regulations—

“the 2002 Regulations” (*“Rheoliadau 2002”*) means the Registration of Social Care and Independent Health Care (Wales) Regulations 2002(1);

“the 2004 Regulations” (*“Rheoliadau 2004”*) means the Suspension of Day Care Providers and Child Minders (Wales) Regulations 2004(2);

“the Measure” (*“y Mesur”*) means the Children and Families (Wales) Measure 2010;

“acts as a child minder” (*“yn gweithredu fel gwarchodwr plant”*) has the same meaning as in section 19 of the Measure(3);

“applicant” (*“ceisydd”*) means a person who applies to the Welsh Ministers for registration as a child minder or a day care provider in accordance with Part 2;

“appropriate office” (*“swyddfa briodol”*) means—

- (a) if an office has been specified under paragraph (2) in relation to any premises, that office;
- (b) in any other case, any office controlled by the Welsh Ministers;

“child protection enquiries” (*“ymholiadau amddiffyn plant”*) means any enquiries carried out by a local authority in the exercise of any of its functions conferred by or under the Children Act 1989(4) relating to the protection of children;

“disqualified” (*“wedi ei anghymhwysu”*) means that—

- (a) a person is disqualified from registration as a child minder or provider of day care under Part 2 of the Measure in accordance with the Child Minding and Day Care (Disqualification) (Wales) Regulations 2010(5); or

---

(1) [S.I. 2002/919 \(W.107\)](#); [S.I. 2009/3265 \(W.286\)](#) is a relevant amending instrument.

(2) [S.I. 2004/3282 \(W.285\)](#).

(3) Section 19(4) of the Measure gives the Welsh Ministers power to provide by order the circumstances in which a person is not acting as a child minder for the purposes of Part 2 of the Measure. See the Child Minding and Day Care Exceptions (Wales) Order 2010.

(4) 1989 c. 41.

(5) [S.I. 2010/1703 \(W.163\)](#).

(b) a person is a member of the same household or is employed in the same household as a person who is disqualified in accordance with paragraph (a);

“enhanced criminal record certificate” (“*tystysgrif cofnod troseddol fanylach*”) means an enhanced criminal record certificate issued under section 113B of the Police Act 1997<sup>(6)</sup>, 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 have elapsed since it was issued;

“First-tier Tribunal” (“*Tribiwnlys Haen Cyntaf*”) has the same meaning as in the Tribunals, Courts and Enforcement Act 2007<sup>(7)</sup>;

“ISA” (“*ADA*”) means the Independent Safeguarding Authority<sup>(8)</sup>;

“national minimum standards” (“*safonau gofynnol cenedlaethol*”) means the standards set out in the National Minimum Standards for Regulated Child Care published by the Welsh Ministers in accordance with section 30(3) of the Measure <sup>(9)</sup>;

“open access play provision” (“*darpariaeth chwarae mynediad agored*”) means the provision of day care that does not require—

- (a) a prior arrangement with the registered person to provide such care; or
- (b) that children are escorted by a parent or other responsible person to and from the relevant premises;

“organisation” (“*sefydliad*”) means a body corporate or an unincorporated association;

“person in charge” (“*person â chyfrifoldeb*”) means in relation to day care, the individual appointed by the registered person as the person to be in full day to day charge of the provision of day care on the premises;

“provides day care for children” (“*Darparu gofal dydd i blant*”) has the same meaning as in section 19 of the Measure<sup>(10)</sup>;

“registered person” (“*person cofrestredig*”) means a person registered under Part 2 of the Measure as a child minder or a provider of day care;

“relevant child” (“*plentyn perthnasol*”) means a child in relation to whom a registered person acts as child minder or, as the case may be, to whom day care is provided by a registered person;

“relevant date” (“*dyddiad perthnasol*”) means the date upon which these Regulations come into force;

“relevant premises” (“*mangre perthnasol*”) means premises on which a registered person acts a child minder or, as the case may be, day care is provided by a registered person;

“responsible individual” (“*unigolyn cyfrifol*”) means, in relation to the provision of day care by an organisation, which is—

- (a) a body corporate—
  - (i) a director;
  - (ii) a manager;
  - (iii) a secretary; or

<sup>(6)</sup> 1997 c. 50.

<sup>(7)</sup> 2007 c. 15.

<sup>(8)</sup> The Independent Safeguarding Authority is the operational name the Independent Barring Board, it is a non-departmental public body established in accordance with the Safeguarding Vulnerable Groups Act 2006 (2006 c. 47).

<sup>(9)</sup> Copies of the National Minimum Standards for Regulated Child Care may be obtained from the Welsh Assembly Government, Cathays Park, Cardiff, CF10 3NQ.

<sup>(10)</sup> Section 19(4) of the Measure gives the Welsh Ministers power to provide by order the circumstances in which a person is not acting as a child minder for the purposes of Part 2 of the Measure. See the Child Minding and Day Care Exceptions (Wales) Order 2010.

- (iv) other officer;
  - or
  - (b) an unincorporated association—
    - (i) an officer; or
    - (ii) a member of the governing body,of that organisation, who is responsible for the supervision of the provision of day care;
- “statement of purpose” (“*datganiad o ddiben*”) means the statement compiled in accordance with regulation 15(1).

(2) The Welsh Ministers may specify an office controlled by them as the appropriate office in relation to relevant premises situated in a particular area of Wales.

(3) In these Regulations, unless the contrary intention appears, references to employing a person include employing a person whether or not for payment, and whether under a contract of service, a contract for services or otherwise than under a contract and references to an employee or to a person being employed are to be construed accordingly.

## **PART 2**

### **APPLICATION FOR REGISTRATION UNDER PART 2 OF THE MEASURE**

#### **Prescribed requirements for registration**

- 3.—(1) An applicant for registration as a child minder must—
- (a) satisfy and be likely to continue to satisfy the requirements prescribed in Part 1 of Schedule 1, which contains the requirements prescribed for the purposes of section 24(3) (b) of the Measure (*applications for registration: child minding*); and
  - (b) be likely to comply with the relevant requirements in Parts 3, 4 and 5 .
- (2) An applicant for registration as a provider of day care for children must—
- (a) satisfy and be likely to continue to satisfy the requirements prescribed in Part 2 of Schedule 1, which contains the requirements prescribed for the purposes of section 26(3) (b) of the Measure (*Applications for registration: day care for children*); and
  - (b) be likely to comply with the relevant requirements in Parts 3, 4 and 5 .

#### **Information and documentation to accompany application for registration**

- 4.—(1) An application under section 24(1) of the Measure must—
- (a) be in writing on a form approved by the Welsh Ministers;
  - (b) be sent or delivered to the appropriate office; and
  - (c) include the information and documentation referred to in Part 1 of Schedule 2 in respect of the matters mentioned therein.
- (2) An application under section 26(1) of the Measure must—
- (a) be in writing on a form approved by the Welsh Ministers;
  - (b) be sent or delivered to the appropriate office; and
  - (c) include the information and documentation referred to in Part 2 of Schedule 2 in respect of the matters mentioned therein.

**Certificate of registration**

5. A certificate of registration given to an applicant under section 28(2)(b) of the Measure (*Entry on the register and certificates*) must contain the following particulars—

- (a) the name, address and telephone number of the appropriate office;
- (b) the name of the person who has been registered;
- (c) in the case of a person registered as a provider of day care, the address at which the day care is to be provided;
- (d) the name of the person in charge, where one has been appointed;
- (e) where the registration is subject to any conditions, details of the conditions;
- (f) the date of registration;
- (g) a statement that if the child minding or day care, as the case may be, is not provided in accordance with the conditions imposed the registration may be cancelled by the Welsh Ministers;
- (h) a statement that the certificate relates only to the person to whom it is issued by the Welsh Ministers and is not capable of being transferred to another person.

**PART 3****REGISTERED PERSONS****Registered person: suitability**

6.—(1) A person must not act as a child minder or provide day care unless the person is suitable to look after children under the age of eight.

(2) A person is not so suitable unless the person—

- (a) is an individual who acts as a child minder or, who provides day care alone or in partnership with one or more persons, and each such individual satisfies the requirements set out in paragraph (3); or
- (b) in the case where a person providing day care, is an organisation and—
  - (i) the organisation has given notice to the appropriate office of the name, address and position in the organisation of the responsible individual; and
  - (ii) the responsible individual satisfies the requirements set out in paragraph (3).

(3) The requirements are that —

- (a) in relation to child minding —
  - (i) the person who acts as child minder satisfies the requirements prescribed in paragraphs 2 to 7 of Part 1 of Schedule 1; and
  - (ii) there is full and satisfactory information or documentation available in relation to that individual in relation to each of the matters specified in paragraphs 2, 16 and 17 of Part 1 of Schedule 2;
- (b) in relation to the provision of day care—
  - (i) where the person is an individual and paragraph (4) does not apply—
    - (aa) that person satisfies the requirements prescribed in paragraphs 15 – 20 of Part 2 of Schedule 1, and

- (bb) there is full and satisfactory information or documentation in relation to that person in respect of each of the matters specified in paragraphs 22, 39 and 40 of Part 2 of Schedule 2;
  - (ii) where the person is an individual and paragraph (4) applies—
    - (aa) that person satisfies the requirements prescribed in paragraphs 15 – 20 of Part 2 of Schedule 1; and
    - (bb) there is full and satisfactory information or documentation in relation to that person in respect of each of the matters specified in paragraphs 22(5)(b) and 39 of Part 2 of Schedule 2;
  - (iii) where the person is the responsible individual and paragraph (4) does not apply—
    - (aa) that person satisfies the requirements prescribed in paragraphs 21 – 25 of Part 2 of Schedule 1; and
    - (bb) there is full and satisfactory information or documentation in relation to that person in respect of each of the matters specified in paragraphs 24(2), (3) (a), and (4), 39 and 40 of Part 2 of Schedule 2;
  - (iv) where the person is the responsible individual and paragraph (4) applies—
    - (aa) that person satisfies the requirements prescribed in paragraphs 21 – 25 of Part 2 of Schedule 1; and
    - (bb) there is full and satisfactory information or documentation in relation to that person in respect of each of the matters specified in paragraphs 24(2) and (3)(b), and 39 of Part 2 of Schedule 2.
- (4) This paragraph applies where a person in charge has been appointed.

#### **Appointment of a person in charge**

- 7.—(1) The registered person must appoint an individual to be the person in charge of the provision of day care if—
- (a) the registered person is an organisation and the responsible individual is not or does not intend to be in full day to day charge of the provision of day care; or
  - (b) the registered person is an individual and he or she is not or does not intend to be in full day to day charge of the provision of day care.
- (2) Where the registered person appoints an individual to be the person in charge, the registered person must—
- (a) ensure that the person in charge is suitable to be the person in charge of the provision of day care; and
  - (b) forthwith give notice to the appropriate office of the date on which the person in charge will take charge of the provision of day care.

#### **Person in charge: suitability**

- 8.—(1) A person must not act as the person in charge of the provision of day care unless he or she is suitable to do so.
- (2) A person is not so suitable unless the person satisfies the requirements set out in paragraph (3).
  - (3) The requirements are that the person—
    - (a) satisfies the requirements prescribed in paragraphs 27 to 31 of Part 2 of Schedule 1; and

- (b) that there is full and satisfactory information or documentation available in relation to the person in respect of each of the matters specified in paragraphs 25, 39 and 40 of Part 2 of Schedule 2.

### **Registered person: general requirements**

9.—(1) The registered person must, having regard to—

- (a) the statement of purpose, the number and needs (including any needs arising from disability) of the relevant children, and
- (b) the need to safeguard and promote their welfare,

act as a child minder or provide day care (as the case may be) with sufficient care, competence and skill.

(2) Where a person in charge has been appointed, the registered person must ensure that the person in charge fulfils the requirements set out in paragraph (1).

(3) Where a registered person acts as a child minder or is an individual providing day care, the registered person must undertake from time to time such training as is appropriate to ensure that he or she has the experience and skills necessary for acting as a child minder or providing day care, as the case may be.

(4) Where the registered person is an organisation providing day care it must ensure that the responsible individual undertakes such training as is appropriate to ensure that he or she has the skills necessary for providing day care or, where a person in charge has been appointed, for supervising the provision of day care.

(5) Where a person in charge has been appointed the registered person must ensure that the person in charge undertakes such training as is appropriate to ensure that he or she has the skills necessary for providing day care.

### **Notification of offences**

10.—(1) Where the registered person, the person in charge or the responsible individual is convicted of any criminal offence whether in Wales or elsewhere, the registered person must forthwith give notice in writing to the appropriate office of—

- (a) the date and place of the conviction;
- (b) the offence of which the person was convicted; and
- (c) the penalty imposed on the person in respect of the offence.

(2) Where the registered person or the person in charge is charged with any offence in respect of which an order may be made under Part II of the Criminal Justice and Court Services Act 2000<sup>(11)</sup> the registered person must forthwith give notice in writing to the appropriate office of the offence charged and the date and place of charge.

### **Death of registered person**

11.—(1) If more than one person is registered in respect of the provision of day care, and a registered person dies, a surviving registered person must within 14 days of the death provide the appropriate office with written notification of the death.

(2) If only one person is registered in respect of the provision of day care, and that person, dies, his or her personal representatives must notify the appropriate office in writing—

- (a) within 14 days of the death of the registered person, of that death; and

---

(11) 2000 c. 43.

- (b) within 28 days of the death of the registered person, of their intentions regarding the future running of the provision of day care.
- (3) Subject to paragraph (5), the personal representatives of a deceased person who is registered to provide day care may carry on the provision of day care without being registered in respect of it—
  - (a) for a period not exceeding 28 days from the death of the registered person; and
  - (b) for any further period as may be determined in accordance with paragraph (4).
- (4) The Welsh Ministers may determine a period, not exceeding one year from the date of the death of the registered person, for the purposes of paragraph (3)(b) and must notify any such determination to the personal representatives in writing.
- (5) The personal representatives must appoint a person in charge to manage the provision of day care during the period in which, in accordance with paragraph (3), they carry on the provision of day care without being registered in respect of it.
- (6) If a person is registered in respect of child minding, and that person dies, his or her personal representatives must notify the appropriate office in writing within 14 days of the death of the registered person.

## **PART 4**

### **GENERAL REQUIREMENTS AND ENFORCEMENT**

#### **Requirement to comply with regulations**

- 12.—(1) A registered person must—
  - (a) meet the requirements set out in Part 5 as they apply to that person; and
  - (b) in the provision of the care provided by that person, have regard to the needs of each child for whom child minding or day care is provided.
- (2) Any failure by the registered person—
  - (a) to meet any relevant requirement set out in Part 5; or
  - (b) to have regard to the matter specified in paragraph (1)(b),

may be taken into account in the exercise by the Welsh Ministers of their functions under Part 2 of the Measure and in any proceedings under that Part of the Measure.

#### **Compliance with regulations – more than one registered person**

13. Where there is more than one registered person in respect of the provision of day care for relevant children on the same premises anything which is required under these Regulations to be done by the registered person will, if done by one of the registered persons, not be required to be done by any of the other registered persons.

#### **National minimum standards**

- 14.—(1) The registered person must have regard to the national minimum standards which relate to the type of care provided by the registered person.
- (2) Any allegation that the registered person has failed to comply with paragraph (1) may taken into account in the exercise by the Welsh Ministers of their functions under Part 2 of the Measure and in any proceedings under that Part of the Measure.

**Statement of purpose**

**15.**—(1) The registered person must compile in relation to the child minding or provision of day care for which the person is registered, a statement on paper (“the statement of purpose”) which must consist of—

- (a) a statement of aims and objectives;
- (b) a statement as to the age-range, sex and number of children for whom care is intended to be provided by the registered person and as to the range of needs that the person intends to meet;
- (c) a statement as to the facilities and services to be provided or made available to relevant children;
- (d) a statement as to the activities to be provided and as to the language or languages through which the activities will be provided; and
- (e) a statement of the terms and conditions upon which care is provided to relevant children when the registered person acts as a child minder or provides day care, as the case may be.

(2) Subject to paragraph (3) the registered person must ensure that he or she acts as a child minder or that day care is provided, as the case may be, in a manner which is consistent with the statement of purpose.

(3) Nothing in paragraph (2) or in regulation 37 requires or authorises the registered person to contravene or not to comply with—

- (a) any other provision of these Regulations; or
  - (b) the conditions for the time being in force in relation to the registration of the registered person under Part 2 of the Measure.
- (4) The registered person must—
- (a) keep under review, and, where appropriate, revise the statement of purpose; and
  - (b) whenever practicable notify the appropriate office of any such revision at least 28 days before it is to take effect.

**Review of quality of care**

**16.**—(1) The registered person must make suitable arrangements to establish and maintain a system for monitoring, reviewing and improving the quality of care given to children.

(2) The system established under paragraph (1) must make provision for—

- (a) the quality of care to be reviewed at least annually; and
- (b) the registered person to obtain the views of—
  - (i) relevant children;
  - (ii) the parents of relevant children;
  - (iii) a local authority arranging for child minding or day care for a relevant child; and
  - (iv) persons employed to look after relevant children,on the quality of care provided, as part of any review undertaken.

(3) Following a review of the quality of care, the registered person must within 28 days prepare a report of that review and make a copy of that report available in an appropriate format when requested by—

- (a) the parents of relevant children;
- (b) a local authority arranging for child minding or day care for a relevant child;



- (c) persons employed to look after relevant children; and
- (d) the Welsh Ministers.

#### **Assessment of service**

**17.**—(1) The Welsh Ministers may at any time request the registered person to undertake an assessment of the service provided by that person to relevant children.

(2) Within 28 days of receiving a request under paragraph (1), the registered person must supply to the appropriate office the assessment in the form required by the Welsh Ministers.

(3) The registered person must take reasonable steps to ensure that the assessment is not misleading nor inaccurate.

#### **Compliance notification**

**18.**—(1) The Welsh Ministers may at any time notify the registered person of the action that in the view of the Welsh Ministers the registered person must take to ensure compliance with Part 2 of the Measure and any regulations made under that Part.

(2) The Welsh Ministers may specify the timescale within which the registered person must take the action required under paragraph (1).

(3) The registered person must advise the appropriate office of the completion of any action required under paragraph (1).

#### **Offences**

**19.** A registered person who, without reasonable excuse, contravenes or otherwise fails to comply with the requirements of—

- (a) Regulations 15 to 18; and
- (b) Parts 3 and 5,

is guilty of an offence and will be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

## **PART 5**

### **ACTIVITIES OF PERSONS REGISTERED UNDER PART 2 OF THE MEASURE**

#### **Safeguarding and promotion of welfare**

**20.**—(1) The registered person must act as a child minder or provide day care, as the case may be, in such a way as to—

- (a) promote and make proper provision for the welfare of relevant children; and
- (b) make proper provision for the care, education, supervision and, where appropriate, treatment, of relevant children.

(2) The registered person must ensure that every person who has attained the age of 16 and who—

- (a) lives on the relevant premises;
- (b) works on the relevant premises (other than a person mentioned in regulation 28); or
- (c) is otherwise present on the relevant premises and has or is likely to have regular contact with relevant children,

is suitable to have such contact.

(3) For the purposes of paragraph (2), a person who works on the relevant premises includes a person who works on a voluntary basis.

(4) The registered person must confirm to the Welsh Ministers that in respect of each person mentioned in paragraph (2) —

- (a) an enhanced criminal record certificate has been issued; and
- (b) where appropriate<sup>(12)</sup>, the person is registered with the ISA and that the person has provided their ISA registration number to the registered person.

(5) If the registered person is not entitled to receive, in respect of a person referred to in paragraph (2) the information or documentation upon which to base the confirmation required by paragraph (4), the registered person must ensure that any such person is appropriately supervised at all times when he or she is in contact with a relevant child or children.

(6) The registered person must, for the purpose of providing care to relevant children and making proper provision for their welfare, so far as practicable, ascertain and take into account their wishes and feelings.

(7) The registered person must make suitable arrangements to ensure that while relevant children are in the care of the registered person—

- (a) their privacy and dignity is respected;
- (b) due regard is paid to their sex, religious persuasion, racial origin, cultural and linguistic background and any disability affecting them.

### **Food provided for children**

**21.**—(1) The registered person must ensure, where food is provided to relevant children by the registered person, that—

- (a) they are provided with food which—
  - (i) is served in adequate quantities and at appropriate intervals;
  - (ii) is properly prepared, wholesome and nutritious;
  - (iii) is suitable for their needs and meets their reasonable preferences; and
  - (iv) is sufficiently varied; and
- (b) any special dietary need of a relevant child which is due to the child's health, religious persuasion, racial origin or cultural background is met.

(2) The registered person must ensure that relevant children are provided with access to fresh drinking water at all times while they are under the care of the registered person.

### **Arrangements for the protection of children**

**22.**—(1) The registered person must draw up and implement a written policy which—

- (a) is intended to safeguard relevant children from abuse or neglect; and
- (b) sets out the procedure to be followed in the event of any allegation of abuse or neglect.

(2) The procedure under paragraph (1)(b) must in particular provide for—

---

(12) The requirement for persons undertaking regulated activity in child care settings to register with the ISA under the Vetting and Barring Scheme is being introduced incrementally in accordance with Regulations made under the Safeguarding Vulnerable Groups Act 2006 (c. 47). In this respect the term “where appropriate” is to be interpreted in accordance with a person's requirement to register with the ISA explained in the *Vetting and Barring Scheme Guidance* issued by the Home Office in March 2010 (ISBN - 978 - 1 - 84987 - 2020 7).

- (a) liaison and co-operation with any local authority which is, or may be, making child protection enquiries in relation to a relevant child;
- (b) the prompt referral to the local authority for the area in which the relevant premises are situated, of any allegations of abuse or neglect affecting a relevant child;
- (c) written records to be kept of any allegation of abuse or neglect, and of the action taken in response;
- (d) consideration to be given in each case to the measures which may be necessary to protect relevant children following an allegation of abuse or neglect;
- (e) a requirement for any person working with relevant children to report any concerns about the welfare or safety of a child to one of the following—
  - (i) the registered person;
  - (ii) a constable;
  - (iii) a person responsible for exercising the functions of the Welsh Ministers under Part 2 of the Measure;
  - (iv) an officer of the local authority for the area in which the relevant premises are situated; or
  - (v) an officer of the National Society for the Prevention of Cruelty to Children;
- (f) arrangements giving persons working with relevant children, access at all times and in an appropriate form, to information which would enable them to contact the local authority for the area in which the relevant premises are situated, or the appropriate office concerning the welfare or safety of such children.

### **Behaviour management, discipline and restraint**

**23.**—(1) No measure of control, restraint or discipline which is excessive, unreasonable or contrary to paragraph (5) may be used at any time on relevant children.

(2) The registered person must, in accordance with this regulation, draw up and implement a written behaviour management policy setting out—

- (a) the measures of control, restraint and discipline which may be used on the relevant premises; and
- (b) the means whereby appropriate behaviour is to be promoted on those premises.

(3) Subject to paragraphs (5) and (6), only such measures of control, restraint and discipline as are provided for in the said behaviour management policy may be used on relevant children.

(4) The registered person must keep under review and where appropriate revise the behaviour management policy and notify the appropriate office of any such revision within 28 days of the revision having been made.

(5) Subject to paragraph (6), neither the following measures nor a threat to use one or more of them may be used on relevant children—

- (a) any form of corporal punishment;
- (b) subject to the provision of any court order relating to contact between the child and any person, any restriction on a child's contact or communication with his or her parents;
- (c) any punishment relating to the consumption or deprivation of food or drink;
- (d) any requirement that a child wear distinctive or inappropriate clothes;
- (e) the use or withholding of medication or medical or dental treatment as a disciplinary measure;
- (f) the intentional deprivation of sleep;

- (g) any intimate physical examination of a child;
- (h) the withholding of any aids or equipment needed by a disabled child;
- (i) any measure which involves—
  - (i) any child in the imposition of any measure against any other child; or
  - (ii) the punishment of a group of children for the behaviour of an individual child.
- (6) Nothing in this regulation prohibits—
  - (a) the taking of any action by, or in accordance with the instructions of, a registered medical or dental practitioner which is necessary to protect the health of a child;
  - (b) the taking of any action immediately necessary to prevent injury to any person or serious damage to property.

### **Health needs of children**

- 24.**—(1) The registered person must promote and protect the health of relevant children.
- (2) In particular the registered person must ensure that—
- (a) each child is provided with such individual support as may be required in the light of any particular health needs or disability of the child; and
  - (b) at all times, at least one person caring for relevant children has a suitable first aid qualification.

### **Hazards and safety**

- 25.** The registered person must ensure that—
- (a) all parts of the relevant premises to which relevant children have access are so far as reasonably practicable free from hazards to their safety;
  - (b) any activities in which relevant children participate are so far as reasonably practicable free from avoidable risks; and
  - (c) unnecessary risks to the health or safety of relevant children are identified and so far as possible eliminated.

### **Use and storage of medicines**

- 26.**—(1) The registered person must make suitable arrangements for the safekeeping of any medicine on relevant premises.
- (2) In particular the registered person must ensure, subject to paragraph (3), that—
- (a) relevant children are prevented from having unsupervised access to any medicine;
  - (b) any medicine that is prescribed for a relevant child is administered as prescribed, to the child for whom it is prescribed, and to no other child; and
  - (c) a written record is kept of the administration of any medicine to a relevant child.
- (3) In this regulation, “prescribed” means—
- (a) ordered for a patient for provision to that patient under or by virtue of section 80 of the National Health Service (Wales) Act 2006 (*arrangements for pharmaceutical services*)(**13**); or

- (b) in a case not falling within sub-paragraph (a), prescribed for a patient under section 58 of the Medicines Act 1968 (*medicinal products on prescription only*)(14).

### **Staffing**

27. The registered person must ensure that there is at all times, having regard to—

- (a) the statement of purpose and the number and needs (including any needs arising from any disability) of the relevant children, and
- (b) the need to safeguard and promote their health and welfare,

a sufficient number of suitably qualified, skilled and experienced persons looking after the relevant children.

### **Suitability of workers**

28.—(1) Subject to paragraphs (5) and (6), the registered person must not—

- (a) employ under a contract of employment a person to look after relevant children unless that person is suitable to do so;
- (b) allow a volunteer to look after relevant children unless that person is suitable to do so.

(2) For the purposes of paragraph (1), a person is not suitable to look after relevant children unless—

- (a) where that person works for a child minder—
  - (i) the person satisfies the requirements prescribed in paragraphs 8 to 12 of Part 1 of Schedule 1; and
  - (ii) there is full and satisfactory information or documentation available in relation to the person in respect of each of the matters specified in paragraph 11 (e) to (g) and (j) to (l) of Part 1 of Schedule 2;
- (b) where that person works for a provider of day care—
  - (i) the person satisfies the requirements prescribed in paragraphs 32 to 36 of Part 2 of Schedule 1; and
  - (ii) there is full and satisfactory information or documentation available in relation to the person in respect of each of the matters specified in paragraph 34 (e) to (g) and (j) to (l) of Part 2 of Schedule 2.

(3) This paragraph applies where an individual has applied for an enhanced criminal record certificate but the certificate has not been issued.

(4) The registered person must ensure that—

- (a) any offer of employment to, or other arrangement about working in the relevant premises made with or in respect of a person described in paragraph (1), is subject to the relevant requirements of paragraph (2) being complied with in relation to that person; and
- (b) unless paragraph (5) or (6) applies, no such person starts work in the relevant premises until such time as the relevant requirements of paragraph (2) have been complied with in relation to that person.

(5) Where the following conditions apply, the registered person may permit a person to start work in or for the purposes of the relevant premises notwithstanding the provision in paragraphs (1) and (4)(b)—

- (a) the registered person has taken all reasonable steps to obtain full information in respect of each of the matters listed in paragraph (2) as it applies to that person, but the enquiries in relation to any of the matters listed in—
    - (i) paragraph 11 (e), (f) and (l) of Part 1 of Schedule 2, in respect of a person who is to work or works for a child minder, or
    - (ii) paragraph 34 (e), (f) and (l) of Part 2 of Schedule 2, in respect of a person who is to work or works for a provider of day care,
 are incomplete;
  - (b) full and satisfactory information in relation to that person has been obtained in respect of the matters specified in—
    - (i) paragraph 11 of Part 1 of Schedule 1 and paragraph 11 (j) and (k) of Part 1 of Schedule 2, in respect of a person who is to work or works for a child minder; or
    - (ii) paragraph 35 of Part 2 of Schedule 1 and paragraph 34 (j) and (k) of Part 2 of Schedule 2, in respect of a person who is to work or works for a provider of day care;
  - (c) in the reasonable opinion of the registered person the circumstances are exceptional; and
  - (d) pending receipt of, and being satisfied with regard to, any outstanding information, the registered person ensures that the person is appropriately supervised while carrying out his or her duties.
- (6) Where the following conditions apply, the registered person may permit a person to start work in or for the purposes of the relevant premises notwithstanding paragraphs (1) and (4)(b)—
- (a) paragraph (3) of this regulation applies;
  - (b) full and satisfactory information in relation to that person has been obtained in respect of the matters specified in—
    - (i) paragraphs 8 to 10 and 12 of Part 1 of Schedule 1 and paragraph 11 (e) to (g) and (j) to (l) of Part 1 of Schedule 2, in respect of a person who is to work or works for a child minder; or
    - (ii) paragraph 32 to 34 and 36 of Part 2 of Schedule 1 and paragraph 34 (e) to (g) and (j) to (l) of Part 2 of Schedule 2, in respect of a person who is to work or works for a provider of day care;
  - (c) the person has provided a written declaration of the details of any criminal offences of which that person her or she has been convicted, including details of any convictions which are spent within the meaning of section 1 of the Rehabilitation of Offenders Act 1974<sup>(15)</sup> and which may be disclosed by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975<sup>(16)</sup> or in respect of which he or she has been cautioned;
  - (d) in the reasonable view of the registered person the interests of the service will not be met unless the person can be appointed; and
  - (e) pending receipt of, and satisfying himself or herself with regard to, the certificate referred to in paragraph (3), the registered person ensures that the person is appropriately supervised while carrying out his or her duties.

### **Employment of staff**

- 29.**—(1) The registered person must operate a disciplinary procedure which, in particular—

<sup>(15)</sup> 1974 c. 53.

<sup>(16)</sup> S.I. 1975/1023.

- (a) provides for the suspension, and the taking of other action short of suspension, in relation to an employee where appropriate in the interests of the safety or welfare of relevant children; and
  - (b) provides that the failure on the part of an employee to report an incident of abuse, or suspected abuse of a relevant child to an appropriate person is a ground on which disciplinary proceedings may be instituted.
- (2) For the purposes of paragraph (1)(b), an appropriate person is—
- (a) the registered person,
  - (b) a person responsible for the exercise of functions of the Welsh Ministers under Part 2 of the Measure,
  - (c) an officer of the local authority for the area in which the relevant premises are situated,
  - (d) a constable, or
  - (e) an officer of the National Society for the Prevention of Cruelty to Children.
- (3) The registered person must ensure that all employees who look after relevant children—
- (a) receive appropriate training, supervision and appraisal; and
  - (b) have an opportunity from time to time to obtain further qualifications appropriate to the work they perform.

### **Keeping of records**

- 30.**—(1) Subject to paragraph (2), the registered person must—
- (a) maintain and, whilst relevant children are being cared for by the registered person, keep at the relevant premises, records in relation to the matters specified in Schedule 3;
  - (b) preserve every entry in the records specified in paragraphs 1 to 9 of that Schedule for a period of three years from the date on which the last entry was made; and
  - (c) make the records available for inspection by the Welsh Ministers at their request.
- (2) A registered person who provides day care by means of open access play provision is not required to keep the records specified in paragraphs 5, 6 (in so far as hours of attendance are concerned) and 9 of that Schedule.
- (3) Where a registered person ceases to act as a child minder or to provide day care, the registered person must ensure that the records maintained in accordance with paragraph (1) are kept securely and must make them available for inspection by the Welsh Ministers at their request.

### **Provision of information**

- 31.**—(1) A registered person must notify the appropriate office of the occurrence of any of the events set out in Schedule 4 and must at the same time provide the Welsh Ministers with any information specified in that Schedule in respect of that event.
- (2) Notification must be made—
- (a) where it is reasonably practicable to do so, in advance of the event occurring; and
  - (b) in all other cases as soon as reasonably practicable, but not later than 14 days after the event has occurred.
- (3) The registered person must without delay notify the parent of a relevant child of any significant incident affecting the child's welfare and must make the records maintained in accordance with regulation 30, in so far as they relate to a relevant child, available for inspection by that child's parent unless to do so is not reasonably practicable or would place the child's welfare at risk.

(4) The registered person must provide the Welsh Ministers upon their request with such information as they may require about the provision of care to relevant children, including financial information and confirmation of insurance cover in respect of liability which may be incurred by the registered person in respect of death, injury, public liability, damage or other loss.

### **Complaints**

**32.**—(1) The registered person must prepare and follow a written procedure (“the complaints procedure”) for considering complaints made to the registered person by or on behalf of relevant children.

(2) The complaints procedure must be appropriate to the needs of children.

(3) The complaints procedure must include provision for the consideration of complaints made about the registered person.

(4) The registered person must ensure that the following persons are aware of the existence of the complaints procedure and take all reasonable steps to give a copy of the complaints procedure in an appropriate format or such format as may be requested to—

- (a) relevant children;
- (b) their parents; and
- (c) a local authority arranging for child minding or day care for a relevant child.

(5) The registered person must ensure that the staff employed to look after relevant children are informed about, given a copy of, and appropriately trained in the operation of the complaints procedure.

(6) The complaints procedure must include—

- (a) the name, address and telephone number of the appropriate office; and
- (b) the procedure, (if any), that has been notified to the registered person by the Welsh Ministers, for the making of complaints to the Welsh Ministers.

(7) The complaints procedure must include provision for the local resolution of complaints at an early stage where appropriate.

(8) Where the complaints procedure includes provision for a formal consideration, this provision must be approved by the Welsh Ministers.

(9) The approval of the Welsh Ministers under paragraph (8) will only be given where the complaints procedure includes provision for the formal consideration to be undertaken by a person who is independent of the provision of care to relevant children.

### **Handling complaints**

**33.**—(1) The complaints procedure prepared in accordance with regulation 32 must be operated in accordance with the principle that the welfare of the child is safeguarded and promoted and account must be taken of the ascertainable wishes and feelings of the child.

(2) When a complaint is made, the registered person must advise the complainant of their right at any time to complain to the Welsh Ministers or, where relevant, to the local authority which has arranged for the provision of child minding or day care for a relevant child.

(3) The registered person must inform the complainant of the availability of any advocacy services that the registered person believes may be of assistance to the complainant. Where relevant and the complainant is a child, the registered person must advise the complainant that a local authority receiving a complaint must provide information and assistance for complainants, and that it must in particular offer help in obtaining an advocate.



(4) The registered person may in any case where it is appropriate to do so, and with the agreement of the complainant, make arrangements for conciliation, mediation or other assistance for the purposes of resolving the complaint.

(5) The registered person must keep a written record of any complaint, the outcome of the investigation and any action taken in response.

(6) The registered person must supply to the appropriate office at the request of the Welsh Ministers a statement containing a summary of the complaints made during the preceding twelve months and the action taken in response to each complaint.

### **Local resolution**

**34.**—(1) Complaints that are dealt with locally<sup>(17)</sup> must be resolved by the registered person as soon as reasonably practicable and in any event within 14 days.

(2) Where the complaint is resolved under paragraph (1), the registered person must confirm in writing to the complainant the agreed resolution.

(3) The registered person must, at the request of the Welsh Ministers or any local authority which has arranged for the provision of child minding or day care for a relevant child, confirm the local resolution of a complaint.

(4) The time limit in paragraph (1) may be extended for up to a further 14 days with the agreement of the complainant.

### **Formal consideration**

**35.**—(1) Complaints that are dealt with by way of formal consideration<sup>(18)</sup> must be resolved as soon as reasonably practicable and in any event within 35 working days of the request for formal consideration.

(2) The outcome of a formal consideration must be confirmed in writing by the registered person to the complainant and must summarise the nature and substance of the complaint, the conclusions and the action to be taken as a result.

(3) The registered person must send a copy of a written response to a complaint to the appropriate office and to any local authority which has arranged for the provision of child minding or day care for a relevant child.

(4) The time limit in paragraph (1) may be extended with the agreement of the complainant.

(5) If the complaint has not been resolved within 35 days of the request for formal consideration, the registered person must notify the appropriate office of the complaint and reasons for the delay in resolution.

### **Complaints subject to concurrent consideration**

**36.**—(1) Where a complaint relates to any matter—

- (a) about which the complainant has stated in writing that he or she intends to take proceedings in any court or tribunal, or
- (b) about which the registered person is taking or is proposing to take disciplinary proceedings, or

---

(17) The terms “locally” and “Local resolution” are to be construed in accordance with the principles set out in *Listening and Learning: A guide to handling complaints and representations in local authority social services in Wales* (ISBN 0 - 11- 091240 - 3) published by the Welsh Assembly Government in 2005.

(18) “Formal consideration” is to be construed in accordance with the principles set out in *Listening and Learning: A guide to handling complaints and representations in local authority social services in Wales* (ISBN 0 - 11- 091240 - 3) published by the Welsh Assembly Government in 2005.

- (c) about which the registered person has been notified that an investigation is being conducted by any person or body in contemplation of criminal proceedings, or
- (d) about which a meeting involving other bodies including the police has been convened to discuss issues relating to the protection of children or vulnerable adults, or
- (e) about which the registered person has been notified that there are current investigations in contemplation of proceedings under section 59 of the Care Standards Act 2000 (*removal etc. from register*)(19), or
- (f) about which the registered person has been notified that a local authority has or is instigating child protection enquiries,

the registered person must consider, in consultation with the complainant and any other person or body which they consider appropriate to consult, how the complaint should be handled. Such complaints are referred to for the purposes of this regulation as “complaints subject to concurrent consideration”.

(2) The consideration of complaints subject to concurrent consideration may be discontinued if at any time it appears to the registered person that to continue would compromise or prejudice the other consideration.

(3) Where the registered person decides to discontinue the consideration of a complaint under paragraph (2) the registered person must give notice of that decision to the complainant.

(4) Where the registered person discontinues the consideration of any complaint under paragraph (2), consideration can be resumed at any time.

(5) Where the consideration of a complaint has been discontinued under paragraph (2) the registered person must ascertain the progress of the concurrent consideration and notify the complainant when it has been concluded.

(6) The registered person must resume consideration of any complaint where the concurrent consideration is discontinued or completed and the complainant requests that the complaint be considered under these Regulations.

### **Fitness of premises**

**37.—**(1) The registered person must not use premises for child minding or the provision of day care, as the case may be, unless they are in a location and of a physical design and layout, which are suitable for the purpose of achieving the aims and objectives set out in the statement of purpose.

(2) The registered person must ensure that all parts of the relevant premises used by relevant children are—

- (a) adequately lit, heated and ventilated;
- (b) secure from unauthorised access;
- (c) suitably furnished and equipped;
- (d) of sound construction and kept in good structural repair externally and internally;
- (e) clean and reasonably decorated and maintained; and
- (f) equipped with what is reasonably necessary, and adapted as necessary, in order to meet the needs arising from the disability of any relevant child.

(3) The registered person must ensure that the relevant premises are kept free from offensive odours and must make suitable arrangements for the disposal of general and clinical waste.

(4) The registered person must ensure that when care is provided in indoor premises there are available on the relevant premises for use by relevant children in conditions of appropriate privacy—

---

(19) 2000 c. 14.

- (a) a sufficient number of wash basins supplied with hot and cold running water, and
- (b) a sufficient number of lavatories which are suitable for relevant children,

for the number and sex of relevant children.

(5) The registered person must ensure that where food is provided in indoor premises there are suitable and sufficient facilities and equipment for the preparation storage and consumption of food on the relevant premises.

### **Fire precautions**

**38.**—(1) Subject to paragraph (2) the registered person must, in relation to relevant premises—

- (a) take adequate precautions against the risk of fire, including the provision of fire prevention and detection equipment;
- (b) provide adequate means of escape in the event of a fire;
- (c) make adequate arrangements—
  - (i) for detecting, containing and extinguishing fires;
  - (ii) for giving warnings of fires;
  - (iii) for evacuation in the event of a fire;
  - (iv) for the maintenance of all fire prevention and detection equipment; and
  - (v) for reviewing fire precautions, and testing fire prevention and detection equipment, at suitable intervals;
- (d) make arrangements for persons working with relevant children on relevant premises to receive suitable training in fire prevention;
- (e) ensure by means of fire drills and practices at suitable intervals, that the persons working with relevant children, and, so far as practicable, the relevant children, are aware of the procedure to be followed in case of fire; and
- (f) consult with the fire and rescue authority about the matters described in sub-paragraphs (a) to (e).

(2) Where the Regulatory Reform (Fire Safety) Order 2005<sup>(20)</sup> applies to the relevant premises—

- (a) paragraph (1) does not apply; and
- (b) the registered person must ensure that the requirements of that Order and any regulations made under it, except for article 23 (duties of employees), are complied with in respect of the premises.

(3) In this regulation “fire and rescue authority” (“*awdurdod tân ac achub*”) means the fire and rescue authority under the Fire and Rescue Services Act 2004<sup>(21)</sup> for the area in which the relevant premises are situated.

---

<sup>(20)</sup> S.I. 2005/1541.

<sup>(21)</sup> 2004 c. 21.

## PART 6

### SUSPENSION OF A PERSON'S REGISTRATION UNDER PART 2 OF THE MEASURE

#### Interpretation

**39.** In this Part—

“grounds” (“*seiliau*”) means the reasons or circumstances that cause the Welsh Ministers to believe that the continued provision of child minding or day care for children by a registered person exposes or may expose one or more of the children to whom such care is or may be provided to the risk of harm;

“suspension” (“*ataliad dros dro*”) means the suspension by the Welsh Ministers of a person’s registration on the child minding register or, as the case may be, the day care for children register maintained under Part 2 of the Measure, in accordance with these Regulations. It does not include a voluntary suspension under regulation 46, and “suspend” (“*atal dros dro*”) and “suspended” (“*ataliwyd dros dro*”) are to be interpreted accordingly.

#### Power to suspend registration

**40.**—(1) The Welsh Ministers may, in accordance with regulations 41, 42, 43, 44 and 46(8), suspend the registration of any person acting as a child minder or providing day care for children if—

- (a) they have reasonable cause to believe that the continued provision of such care by that person exposes, or may expose, one or more of the children cared for by that person to the risk of harm; and
- (b) the purpose of the suspension is for one or both of the purposes set out in paragraph (2).

(2) The purposes of the suspension are—

- (a) to allow time for the circumstances giving rise to the belief of the Welsh Ministers to be investigated; and
- (b) to allow time for steps to be taken to reduce or eliminate the risk of harm.

#### Period of suspension

**41.**—(1) Where the Welsh Ministers exercise their power to suspend the registration of any person in accordance with these Regulations, the suspension begins and ends on such dates as are specified in the notification of suspension given to the registered person in accordance with regulations 42 and 43.

(2) The date specified as the date on which the suspension ends must not be more than 6 weeks after the date on which it begins.

(3) Subject to paragraph (4), the exercise by the Welsh Ministers of their power to suspend a person’s registration does not prevent them from further exercising that power, at any time, whether during an existing period of suspension or after it has ended, on the same or different grounds.

(4) The Welsh Ministers may not exercise their power to suspend a person’s registration so as to give rise to a period of suspension on the same or substantially the same grounds that exceeds 12 weeks in aggregate within any period of 12 months unless—

- (a) it has not been reasonably practicable (for reasons beyond the control of the Welsh Ministers) to complete the investigation or carry out the steps under sub-paragraphs (2)(a) or (2)(b) respectively of regulation 40; or

- (b) the Welsh Ministers have issued proceedings against the registered person under section 34 of the Measure (protection of children in an emergency: cancellation of registration) but the application has not yet been determined by the court.

### **Notification of suspension, etc**

**42.** The Welsh Ministers must, in accordance with regulation 43, give the registered person written notice of any suspension, and any such notice must—

- (a) include the reasons for the decision;
- (b) include details of the registered person’s right of appeal against suspension; and
- (c) where regulation 41(4) applies, state that fact and identify which of the circumstances identified in that regulation applies.

### **Notice provisions**

**43.—**(1) A notice under these Regulations may be given to the registered person—

- (a) by delivering it to the registered person;
- (b) by sending it by post; or
- (c) subject to paragraph (3), by transmitting it electronically.

(2) A notice to a registered person under these Regulations will be deemed to be properly addressed if it is addressed to the registered person at the last address notified by the registered person to the Welsh Ministers upon the registered person’s application for registration or subsequently.

(3) If the notice is transmitted electronically for the purposes of paragraph (1)—

- (a) the registered person must have stated to the Welsh Ministers their willingness to receive notices transmitted by electronic means and provided an address suitable for that purpose;
- (b) the notice must be sent to the address provided by the registered person; and
- (c) any notice sent in accordance with this paragraph will be deemed to have been received by the registered person on the next working day after the day on which it is sent.

### **Lifting of suspension**

**44.—**(1) Without prejudice to regulation 41(2), where the Welsh Ministers have suspended a person’s registration, they must, whether or not a written request has been made under paragraph (2), lift the suspension at any time, if they no longer have reasonable cause to believe that the grounds for suspension apply.

(2) A person whose registration has been suspended under these Regulations may, at any time, make a written request to the appropriate office of the Welsh Ministers that the suspension be lifted.

(3) Where the Welsh Ministers make a decision to lift or to refuse to lift the suspension of a person’s registration, they must within 2 working days and in accordance with regulation 43, send a notice of the decision to the registered person.

(4) Where the Welsh Ministers decide not to lift the suspension of a person’s registration, the notice issued in accordance with paragraph (3) must include the reasons for the decision and details of the registered person’s right of appeal against the decision.

(5) Any decision by the Welsh Ministers to lift a suspension takes effect as from a specified date, which must be included in the notice referred to in paragraph (3).

**Rights of appeal**

**45.**—(1) Save where the person’s registration has been suspended voluntarily under regulation 46, a person whose registration has been suspended under these Regulations may appeal to the First-tier Tribunal against the decision of the Welsh Ministers—

- (a) to suspend that person’s registration;
- (b) to refuse to lift that suspension when requested to do so in accordance with regulation 44(2).

(2) Subject to paragraph (3), when determining an appeal under paragraph (1), the First-tier Tribunal may—

- (a) confirm the decision of the Welsh Ministers to suspend or, as the case may be, to refuse to lift the suspension;
- (b) direct that the suspension is to cease to have effect, and

for the avoidance of doubt, in any case in which the First-tier Tribunal exercises its power under (a) it may also exercise its power under (b) if at the time of making its determination it is satisfied that the conditions for suspension are no longer met.

(3) If the suspension of a person’s registration against which an appeal has been made under paragraph (1) is no longer in effect, the First-tier Tribunal must dismiss the appeal.

**Voluntary suspension**

**46.**—(1) A registered person may give notice to the Welsh Ministers to suspend their registration on the child minding register or, as the case may be, the day care for children register maintained under Part 2 of the Measure (“a voluntary suspension notice”) (*“hysbysiad o ataliad gwirfoddol”*).

(2) A voluntary suspension notice must —

- (a) be made in writing;
- (b) contain the following information—
  - (i) the date upon which the period of voluntary suspension begins (“the effective date”) (*“y dyddiad dod i rym”*),
  - (ii) where it is known, the date upon which the period of voluntary suspension is to end (“the termination date”) (*“y dyddiad terfynu”*),
  - (iii) the reason why the period of voluntary suspension is requested;
- (c) be sent or delivered to the appropriate office not less than five working days before the effective date, or such shorter period before that date as the Welsh Ministers may agree.

(3) A registered person must provide such other information or documents as the Welsh Ministers may reasonably require in relation to the voluntary suspension notice.

(4) If a registered person—

- (a) gives notice in accordance with paragraphs (1) or (8)(b); and
- (b) that voluntary suspension notice complies with the requirements in paragraph (2),

unless paragraph (5) applies, the Welsh Ministers must suspend, or extend the period of suspension in respect of, that person’s registration on the child minding register or, as the case may be, the day care for children register (“voluntary suspension”) (*“ataliad gwirfoddol”*).

(5) The Welsh Ministers may not act in accordance with paragraph (4) if—

- (a) the Welsh Ministers have sent, or have given the registered person notice of their decision to suspend that person from the register in accordance with regulation 40; or

(b) in the case of a person whose registration has been suspended by the Welsh Ministers in accordance with regulation 40 and the person has—

- (i) made a written request to the Welsh Ministers that the suspension be lifted and that request has not yet been determined; or
- (ii) appealed to the First-tier Tribunal in accordance with regulation 45 and that appeal has not yet been determined.

(6) Where the Welsh Ministers have acted in accordance with paragraph (4), they must send the registered person written confirmation that their registration on the child minding register or, as the case may be, on the day care for children register has been suspended in accordance with the voluntary suspension notice

(7) There is no right of appeal to the First-tier Tribunal against a decision of the Welsh Ministers to refuse to take action in respect of a notice for voluntary suspension given by the registered person.

(8) A registered person whose registration has been suspended voluntarily may, at any time before the termination date, give notice in writing, which complies, where relevant with the requirements of paragraph (2), to the Welsh Ministers that they require—

- (a) the voluntary suspension to be lifted in advance of the termination date; or requiring
- (b) the period of voluntary suspension to be extended for such further period as the person specifies in the notice.

(9) The fact that a person's registration has been suspended voluntarily in accordance with this regulation does not prevent the Welsh Ministers from exercising their power to suspend that person's registration in accordance with regulation 40.

## **PART 7**

### **AMENDMENT, REVOCATION AND SAVING**

#### **Amendment of the 2002 Regulations**

47. The 2002 Regulations are amended in accordance with Schedule 5.

#### **Revocation**

48. The instruments listed in column (1) of the table in Schedule 6 (which have the references listed in column (2)) are revoked to the extent indicated in column (3).

#### **Saving**

49.—(1) Subject to paragraph (2), the revocation of the 2004 Regulations will not affect—

- (a) any decision made;
- (b) any notification of suspension;
- (c) any period of suspension or limitation or time; or
- (d) any decision made by the First-tier Tribunal,
- (e) under or in accordance with the 2004 Regulations.

(2) In relation to the revocation of the 2004 Regulations, legal proceedings may be brought, or continued and remedies or penalties may be imposed and enforced in relation to acts done under, in relation to, or in contravention of any provision made by the 2004 Regulations before the relevant date, as if the revocation in regulation 48 had not been made.

20 October 2010

*Huw Lewis*  
Deputy Minister for Children, under authority  
of the Minister for Children, Education and  
Lifelong Learning, one of the Welsh Ministers