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## EXPLANATORY NOTE

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

These Regulations revoke and re-enact with modifications the following Regulations—

- the Registration of Social Care and Independent Health Care (Wales) Regulations 2002, in so far as they relate to child minders and the providers of day care for children (“the 2002 Regulations”);
- the Child Minding and Day Care (Wales) Regulations 2002; and
- the Suspension of Day Care Providers and Child Minders (Wales) Regulations 2004 (“the 2004 Regulations”),

which are all made under powers under Part XA of the Children Act 1989 (“the 1989 Act”). The powers under Part XA of the 1989 Act are repealed in a separate Order, which also makes savings and transitional provision.

These Regulations are made under Part 2 of the Children and Families (Wales) Measure 2010 (“the Measure”); the powers in Part 2 of the Measure are broadly in analogous terms to those within Part XA of the 1989 Act. Part 2 of the Measure provides for the registration and inspection of child minders and day care providers in Wales by the Welsh Ministers and it also contains powers enabling the Welsh Ministers to make regulations governing the activities of such persons. Section 30 of the Measure contains a new power that enables the Welsh Ministers to make regulations which will enable the carrying on of the provision of day care in prescribed circumstances upon the death of the registered person.

These Regulations apply to persons who act as child minders or who provide day care for children under the age of eight (“day care providers”) on premises situated in Wales.

Regulation 3 and Schedule 1 prescribe the requirements that must be satisfied for an application for registration to be granted by the Welsh Ministers. These include provision regarding the suitability of the provider and other persons who will be looking after or in regular contact with relevant children. Regulation 4 and Schedule 2 prescribe the information that must be included with an application for registration. Different requirements apply in respect of child minders and day care providers.

The 2002 Regulations currently make provision in relation to the registration of child minders and day care providers; they also make provision for the registration and inspection of a wide range of establishments and agencies involved in the provision of care in a range of settings. These Regulations are amended by Part 7 and Schedules 5 and 6 to reflect that provision for the registration of child minders and day care providers is now contained within these Regulations.

Part 3 (regulations 6 to 11) makes provision about the suitability of persons acting as child minders and day care providers and requires information to be available in relation to the matters specified in Schedule 1. Where a day care provider is an organisation it must nominate a responsible individual in respect of whom the prescribed information must be available. Regulation 9 imposes general requirements about the provision of care by registered persons and as to training. Regulation 10 contains a requirement for the Welsh Ministers to be notified about a person’s conviction of criminal offences and being charged with certain specified offences. Regulation 11 prescribes the circumstances in which personal representatives may carry on the provision of day care upon the death of the registered person.

Part 4 (regulations 12 to 19) makes provision for the general requirements that apply to persons registered under Part 2 of the Measure and for enforcement. In particular, regulations 12 and 14

require registered persons to comply with the requirements of Part 5 of these Regulations and to have regard to national minimum standards and provide respectively that any allegation that a registered person has failed to comply with the requirements of Part 5 or has failed have regard to the relevant standards may be taken into account by the Welsh Ministers in the exercise of their functions under Part 2 of the Measure and in proceedings under that Part. Regulation 15 provides for a statement of purpose to be compiled by registered persons consisting of the aims and objectives and other relevant matters about the service to be provided for children under the care of the registered person. Regulation 19 provides for offences for contravention of or non-compliance with Part 5.

Part 5 (regulations 20 to 38) makes provision about the activities of persons registered under Part 2 of the Measure. Regulations 20 to 26 make provision about the welfare and development of relevant children under the care of registered persons and in particular, about the promotion of the welfare of such children, the provision of food and the provision and implementation of child protection and behaviour management policies.

Regulations 27 to 29 make provision about the numbers, qualifications, experience and suitability of those working for registered persons including provision about the information that is required in relation to workers before they may work for child minders or day care providers.

Regulations 30 and 31 provide for the keeping of records and the provision of information to parents of relevant children under the care of child minders or day care providers and to the Welsh Ministers.

Regulations 32 to 36 make provision for a complaints procedure to be prepared and followed by registered persons.

Regulations 37 and 38 make provision about the fitness of premises on which care is provided, equipment and facilities provided at the premises and about fire precautions.

Part 6 sets out the circumstances in which a person's registration may be suspended by the Welsh Ministers and provides for a right of appeal to a First-tier Tribunal (established in accordance with the Tribunals, Courts and Enforcement Act 2007).

This Part also makes provision for the registered person to give notice to the Welsh Ministers requesting the voluntary suspension of their registration; there is no right of appeal to a First-tier Tribunal in the event that the Welsh Ministers refuse to take action upon receipt of a voluntary suspension notice.

Part 7 contains provision for amendment, revocation and savings. Regulation 47 and Schedule 5 make consequential amendments to the 2002 Regulations. Regulation 48 and Schedule 6 make provision for the revocation of specified regulations and regulation 49 contains savings provision.