
WELSH STATUTORY INSTRUMENTS

2010 No. 2574

The Child Minding and Day Care (Wales) Regulations 2010

PART 5

ACTIVITIES OF PERSONS REGISTERED UNDER PART 2 OF THE MEASURE

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⁽¹⁾ and which may be disclosed by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975⁽²⁾ 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.

(1) 1974 c. 53.

(2) S.I. 1975/1023.