Children and Families (Wales) Measure 2010

2010 nawm 1

A Measure of the National Assembly for Wales to make provision about contributing to the eradication of child poverty; to provide a duty for local authorities to secure sufficient play opportunities for children; to make provision about arrangements for participation of children in local authority decisions that might affect them; to make provision about child minding and day care for children; to make provision establishing integrated family support teams and boards; to make provision about improving standards in social work for children and persons who care for them; to make provision about assessing the needs of children where their parents need community care services or have health conditions that affect the needs of the children; and for connected purposes.

This Measure, passed by the National Assembly for Wales on 10 November 2009 and approved by Her Majesty in Council on 10 February 2010, enacts the following provisions: —

PART 1

CHILD POVERTY, PLAY AND PARTICIPATION

CHAPTER 1

ERADICATING CHILD POVERTY

Broad aims

1 Broad aims for contributing to the eradication of child poverty

(1) This section applies for the purposes of this Part.

Status: *Point in time view as at 03/12/2021. This version of this Measure contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Children and Families (Wales) Measure 2010. (See end of Document for details)*

(2) The broad aims for contributing to the eradication of child poverty are—

(a) to increase income for households including one or more children with a view to ensuring that, so far as reasonably practicable, there are no households in the relevant income group;

(b) ensuring that, so far as reasonably practicable, children living in households in the relevant income group are not materially deprived;

(c) to promote and facilitate paid employment for parents of children;

(d) to provide parents of children with the skills necessary for paid employment;

(e) to reduce inequalities in educational attainment between children;

(f) to support parenting of children;

(g) to reduce inequalities in health between children and between parents of children (so far as necessary to ensure the well-being of their children);

(h) to ensure that all children grow up in decent housing;

(i) to ensure that all children grow up in safe and cohesive communities;

(j) to reduce inequalities in participation in cultural, sporting and leisure activities between children and between parents of children (so far as necessary to ensure the well-being of their children);

(k) to help young persons participate effectively in education and training;

(l) to help young persons take advantage of opportunities for employment;

(m) to help young persons participate effectively and responsibly in the life of their communities.

(3) For the purposes of subsection (2)(a), the "relevant income group", in relation to a household, is every household including one or more children where household income is less than 60% of median income in the United Kingdom.

(4) For the purposes of subsection (2)(b), the "relevant income group", in relation to a household, is every household including one or more children where household income is less than 70% of median income in the United Kingdom.

(5) Regulations may provide for the determination of material deprivation and median income in relation to a household for the purposes of this section.

(6) If no regulations under subsection (5) are in force, a Welsh authority is to make its own determination of material deprivation and median income in relation to a household for the purposes of this section.

(7) In this section "young persons" means persons who have attained the age of 11 but not the age of 26.

(8) The Welsh Ministers may by order—

(a) amend or omit any paragraph of subsection (2);

(b) add paragraphs to that subsection;

(c) amend or omit such additional paragraphs;

(d) amend or omit subsections (3), (4), (5), (6) and (7);

(e) add subsections which relate to subsection (2);

(f) amend or omit such additional subsections;

(g) make any amendments to this Part that are necessary or expedient in consequence of any provision made under paragraphs (a) to (f).

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Strategies

2 Strategies for contributing to the eradication of child poverty

(1) A Welsh authority must prepare and publish a strategy for contributing to the eradication of child poverty in Wales which sets out each of the following—

(a) objectives chosen by the authority (subject to subsections (3) and (4)) which—

(i) relate to one or more of the broad aims for contributing to the eradication of child poverty, and

(ii) may be pursued in the exercise of its functions;

(b) any objectives specified in relation to the authority in regulations under subsection (5);

(c) actions to be performed and functions to be exercised by the authority for the purpose of achieving the objectives under paragraph (a) and, if any objectives are specified in relation to the authority in regulations under subsection (5), paragraph (b).

(2) A Welsh authority must take all reasonable steps to perform the actions and exercise the functions referred to in subsection (1)(c) in accordance with its strategy.

(3) The Welsh Ministers and a local authority must choose a range of objectives under subsection (1)(a) relating to all of the broad aims for the eradication of child poverty.

(4) The Welsh Ministers must also choose objectives under subsection (1)(a) which—

(a) relate to their powers to provide funding to any person, and

(b) promote the broad aims for the eradication of child poverty.

(5) The Welsh Ministers may specify objectives for a Welsh authority in regulations if—

(a) the objectives relate to one or more of the broad aims for contributing to the eradication of child poverty, and

(b) the objectives may be pursued by the Welsh authority in the exercise of its functions.

(6) Regulations under subsection (5) may also provide that subsection (1)(a) and paragraph (c) of that subsection (as it relates to paragraph (a)) do not apply to a Welsh authority to the extent specified in the regulations.

(7) For the purposes of this section, a reference to an action to be performed or a function to be exercised by a Welsh authority is a reference to an action or function which is within the powers of the Welsh authority.

(8) For provision about the preparation and publication of strategies, see sections 3 to 5 of this Measure [F1]....

Textual Amendments

F1 Words in s. 2(8) repealed (1.4.2016) by Well-being of Future Generations (Wales) Act 2015 (anaw 2), s. 56(2), **Sch. 4 para. 25**; S.I. 2016/86, art. 3

Commencement Information

I1 S. 2 partly in force; s. 2 in force for specified purposes at 10.4.2010 see s. 75(1)

I2 S. 2 in force at 10.1.2011 for specified purposes by S.I. 2010/2994, **art. 2(a)**

Status: *Point in time view as at 03/12/2021. This version of this Measure contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Children and Families (Wales) Measure 2010. (See end of Document for details)*

3 Strategies prepared by the Welsh Ministers

(1) The Welsh Ministers—

(a) must publish their first strategy under this Part in 2010,

(b) must keep their strategy under review, and

(c) may from time to time remake or revise their strategy.

(2) Before making, remaking or revising their strategy, the Welsh Ministers must consult—

(a) the Secretary of State, and

(b) such other persons as they consider appropriate.

(3) The provisions of subsection (2)(a) are not to be interpreted as conferring a power or duty on the Secretary of State.

(4) The Welsh Ministers must publish a strategy when they make it and whenever they remake it; and, if they revise the strategy without remaking it, they must publish either the revisions or the strategy as revised (as they consider appropriate).

(5) If the Welsh Ministers publish a strategy or revisions under subsection (4) they must lay a copy of the strategy or revisions before the National Assembly for Wales.

(6) The Welsh Ministers must in 2013 and in every third year after 2013—

(a) publish a report containing an assessment of the extent to which—

(i) the objectives contained in their strategy for contributing to the eradication of child poverty have been achieved, and

(ii) if an objective has not been achieved, progress that has been made towards achieving the objective;

(b) lay a copy of the report before the National Assembly for Wales.

4 Strategies prepared by local authorities [F2]...

(1) The duty of a local authority to publish a strategy under section 2(1) is discharged on publication **[**[F3]of a local well-being plan under section 39 **[**[F4], 44(5) or 47(6) or (11)**]** of the Well-being of Future Generations (Wales) Act 2015 (anaw 2) by the public services board of which the authority is a member, but only if the authority's strategy is an integral part of that plan**]**.

[F5](2) . . . . . .

[F5](3) . . . . . .

(4) In section 66 (regulations and orders), after subsection (6) insert—

"(7) Any statutory instrument containing regulations made under section 26 by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

(8) Paragraphs 33 to 35 of Schedule 11 to the Government of Wales Act 2006 make provision about the National Assembly for Wales procedures that apply to any statutory instrument containing regulations or an order made in exercise of functions conferred upon the National Assembly for Wales by this Act that have been transferred to the Welsh Ministers by virtue of paragraph 30 of that Schedule.".

Textual Amendments

F2 Words in s. 4 omitted (5.5.2010) by virtue of Local Education Authorities and Children's Services Authorities (Integration of Functions) (Wales) Order 2010 (S.I. 2010/1148), arts. 1, **6(2)**

F3 Words in s. 4(1) substituted (1.4.2016) by Well-being of Future Generations (Wales) Act 2015 (anaw 2), s. 56(2), **Sch. 4 para. 26(a)**; S.I. 2016/86, art. 3

F4 Words in s. 4(1) substituted (20.3.2021) by Local Government and Elections (Wales) Act 2021 (asc 1), s. 175(3)(q), **Sch. 14 para. 6(2)**

F5 S. 4(2)(3) repealed (1.4.2016) by Well-being of Future Generations (Wales) Act 2015 (anaw 2), s. 56(2), **Sch. 4 para. 26(b)**; S.I. 2016/86, art. 3,

Commencement Information

I3 S. 4 in force at 10.1.2011 by S.I. 2010/2994, **art. 2(b)** (with art. 3)

5 Strategies prepared by other Welsh authorities

(1) In this section a reference to a "Welsh authority" does not include—

(a) the Welsh Ministers;

(b) a local authority.

(2) Subsection (3) applies to the strategy of a Welsh authority under section 2.

(3) Regulations may make provision as to—

(a) the period to which a strategy is to relate;

(b) when and how a strategy must be published;

(c) keeping a strategy under review;

(d) consultation to be carried out before a strategy is published.

[F6](4) . . . . . .

(5) The duty of a Welsh authority under section 2(1) to publish a strategy is discharged if the strategy is an integral part of a **[**[F7]local well-being plan published under section 39 **[**[F8], 44(5) or 47(6) or (11)**]** of the Well-being of Future Generations (Wales) Act 2015 (anaw 2) by each public services board for a local authority area in which the Welsh authority exercises functions.**]**

Textual Amendments

F6 S. 5(4) repealed (1.4.2016) by Well-being of Future Generations (Wales) Act 2015 (anaw 2), s. 56(2), **Sch. 4 para. 27(a)**; S.I. 2016/86, art. 3

F7 Words in s. 5(5) substituted (1.4.2016) by Well-being of Future Generations (Wales) Act 2015 (anaw 2), s. 56(2), **Sch. 4 para. 27(b)**; S.I. 2016/86, art. 3

F8 Words in s. 5(5) substituted (20.3.2021) by Local Government and Elections (Wales) Act 2021 (asc 1), s. 175(3)(q), **Sch. 14 para. 6(3)**

Commencement Information

I4 S. 5 in force at 10.1.2011 by S.I. 2010/2994, **art. 2(c)**

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The Welsh authorities

6 The Welsh authorities

(1) For the purposes of this Measure, each of the following is a "Welsh authority"—

(a) the Welsh Ministers;

(b) a local authority;

[[F9](ba) a corporate joint committee established by regulations made under Part 5 of the Local Government and Elections (Wales) Act 2021 (asc 1);**]**

(c) a Local Health Board;

(d) a Welsh fire and rescue authority, that is an authority in Wales constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 (c. 21) or a scheme to which section 4 of that Act applies;

(e) a National Park authority in Wales;

(f) **[**[F10]the Natural Resources Body for Wales**]**;

(g) the Higher Education Funding Council for Wales;

(h) the Public Health Wales National Health Service Trust;

(i) the National Museum of Wales;

(j) the Arts Council of Wales;

(k) the National Library of Wales;

(l) the Sports Council for Wales.

(2) The Welsh Ministers may by order—

(a) amend or omit any paragraph of subsection (1), except paragraphs (a) and (b);

(b) add paragraphs to that subsection;

(c) amend or omit such additional paragraphs;

(d) make any amendments to section 5 that are necessary or expedient in consequence of any provision made under paragraphs (a) to (c).

(3) Before making an order under subsection (2) to include a person within subsection (1) or to remove a person from subsection (1), the Welsh Ministers must consult that person.

(4) The Welsh Ministers must not exercise their power under subsection (2) so as to include any of the following within subsection (1)—

(a) a person who does not have functions of a public nature;

(b) a person whose principal functions do not relate to one or more of the fields in Part 1 of Schedule 5 to the Government of Wales Act 2006 (c. 32);

(c) a tribunal.

(5) If the Welsh Ministers exercise their power under subsection (2) so as to include a person within subsection (1) who has functions of both a public and a private nature, they must include that person only in relation to those of its functions which are of a public nature.

Textual Amendments

F9 S. 6(1)(ba) inserted (3.12.2021) by The Children and Families (Wales) Measure 2010 (Amendment to the List of Welsh Authorities) Regulations 2021 (S.I. 2021/1361), regs. 1(2), **2**

F10 Words in s. 6(1)(f) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 3 para. 1** (with Sch. 7)

Commencement Information

I5 S. 6 in force at 10.1.2011 by S.I. 2010/2994, **art. 2(d)**

PROSPECTIVE

Services to tackle child poverty

7 Local authority duty to secure the availability of free childcare

(1) A local authority must secure that childcare of a prescribed description is available free of charge for such periods as may be prescribed for each child of a prescribed description in its area who—

(a) has attained such age as may be prescribed, but

(b) is under compulsory school age.

(2) This duty is subject to the provisions of regulations made under section 10(1)(c).

(3) In this section "childcare" means—

(a) child minding or day care within the meaning of Part 2 in respect of which the provider is required to be registered under that Part, or

(b) care provided by a person of a description approved in accordance with a scheme made by the Welsh Ministers under section 12(5) of the Tax Credits Act 2002 (c. 21).

8 Parental support services: powers of a local authority

(1) A local authority may provide, secure the provision of or participate in the provision of parental support services to parents of children.

(2) A local authority may not charge for anything provided under subsection (1).

(3) In this section and in section 10 "parental support services" means any of the following—

(a) training in parenting skills;

(b) any other service to promote or facilitate effective parenting.

9 Health support services: powers of a local authority

(1) A local authority may provide, secure the provision of or participate in the provision of health support services.

(2) A local authority may not provide, secure the provision of or participate in the provision of nursing services under subsection (1) for any part of its area without the consent of the Local Health Board for that part of its area.

(3) A local authority may not charge for anything provided under subsection (1).

(4) In this section and in section 10, "health support services" means services providing assistance in relation to the health of children or parents of children (so far as necessary

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to secure the well-being of their children), apart from assistance that amounts to the provision of medical, dental, ophthalmic, or pharmaceutical services.

10 Regulations about services to tackle child poverty

(1) Regulations may—
- (a) require a local authority to secure the provision of parental support services of a prescribed description free of charge for prescribed parents of children in its area;
- (b) require a local authority to secure the provision of health support services of a prescribed description free of charge for prescribed children or prescribed parents of children in its area;
- (c) provide that the duty in section 7(1) is to apply only in one or more parts of a local authority area;
- (d) provide that a requirement in regulations under paragraph (a) or (b) is to apply only in one or more parts of a local authority area.

(2) Regulations under paragraph (c) or (d) of subsection (1) may (among other things)—
- (a) specify one or more areas within a local authority area;
- (b) provide for the specification of one or more areas by a local authority.

CHAPTER 2

PLAY AND PARTICIPATION

Play opportunities

11 Local authority duties in respect of play opportunities for children

(1) A local authority must assess the sufficiency of play opportunities in its area for children in accordance with regulations.

(2) Regulations may include provision about—
- (a) the matters to be taken into account in assessing sufficiency;
- (b) the date by which a first assessment is to be carried out;
- (c) frequency of assessments;
- (d) review of assessments;
- (e) publication of assessments.

(3) A local authority must secure sufficient play opportunities in its area for children, so far as reasonably practicable, having regard to its assessment under subsection (1).

(4) A local authority must—
- (a) publish information about play opportunities in the authority's area for children, and
- (b) keep the information published up to date.

(5) In performing its duties under this section, a local authority must have regard (among other things)—

(a) to the needs of children who are disabled persons (within the meaning of section 1 of the Disability Discrimination Act 1995 (c. 50);

(b) to the needs of children of different ages.

(6) In this section—

"play" includes any recreational activity;

"sufficient", in relation to play opportunities, means sufficient having regard to quantity and quality.

Commencement Information

I6 S. 11(1)(2)(5)(6) in force at 1.11.2012 by S.I. 2012/2453, **art. 2**

I7 S. 11(3)(4) in force at 1.7.2014 by S.I. 2014/1606, **art. 2(2)**

Participation

12 Participation of children in local authority decision making

(1) A local authority must make such arrangements as it considers suitable to promote and facilitate participation by children in decisions of the authority which might affect them.

(2) A local authority must—

(a) publish information about its arrangements under subsection (1), and

(b) keep the information published up to date.

(3) Section 176 of the Education Act 2002 (c. 32) is repealed by this subsection.

Commencement Information

I8 S. 12 in force at 31.1.2012 by S.I. 2012/191, **art. 5**

CHAPTER 3

INSPECTION, GUIDANCE AND DIRECTIONS

PROSPECTIVE

Inspection

13 Inspection

(1) The Welsh Ministers may by regulations make provision—

(a) for the inspection of the exercise by a local authority of functions under sections 7 to 12;

(b) for the publication of reports of the inspections in such manner as the Welsh Ministers consider appropriate.

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(2) The regulations may provide for the inspections to be organised by—
- (a) the Welsh Ministers, or
- (b) Her Majesty's Chief Inspector of Education and Training in Wales, or any other person, under arrangements made with the Welsh Ministers.

(3) The regulations may provide that for the purposes of the law of defamation any report published under the regulations is privileged unless the publication is shown to have been made with malice.

(4) Regulations made under subsection (3) do not limit any privilege subsisting apart from provision in such regulations.

14 Powers of entry

(1) Any person authorised by the Welsh Ministers may, for the purposes of regulations made under section 13, at any reasonable time enter—
- (a) any premises owned or controlled by a local authority;
- (b) any premises falling within subsection (3).

(2) But subsection (1) does not authorise entry to premises used wholly or mainly as a private dwelling.

(3) The premises referred to in subsection (1)(b) are premises—
- (a) which are used, or proposed to be used, by any person in connection with services or facilities secured by a local authority;
- (b) or which the person authorised under subsection (1) reasonably believes to be so used, or proposed to be so used.

(4) Authorisation under subsection (1)—
- (a) may be given for a particular occasion or period;
- (b) may be given subject to conditions.

(5) A person exercising any power conferred by subsection (1) or section 15 must, if so required, produce some duly authenticated document showing that person's authority to do so.

15 Powers of inspection

(1) A person entering premises under section 14 may (subject to any conditions imposed under section 14(4)(b))—
- (a) inspect the premises;
- (b) inspect, take copies of and remove from the premises any documents or records relating to the discharge by the local authority of its functions under sections 7 to 12;
- (c) inspect any other item and remove it from the premises;
- (d) interview in private any person working at the premises.

(2) The power in subsection (1)(b) includes—
- (a) power to require any person holding or accountable for documents or records kept on the premises to produce them, and

(b) in relation to records which are kept by means of a computer, power to require the records to be produced in a form in which they are legible and can be taken away.

(3) The power in subsection (1)(b) does not include power—

(a) to require a person to produce any document or record in respect of which a claim to legal professional privilege could be maintained in legal proceedings, or

(b) to take copies of such a document or record or to remove it.

(4) In connection with inspecting any such documents, a person authorised for the purposes of section 14 (subject to any conditions imposed under section 14(4)(b))—

(a) may obtain access to, and inspect and check the operation of, any computer and associated apparatus or material which he or she considers is or has been in use in connection with the documents, and

(b) may require a person within subsection (5) to afford him or her such reasonable assistance as may be required for that purpose.

(5) A person is within this subsection if he or she is—

(a) the person by whom or on whose behalf the computer is or has been used, or

(b) a person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material.

(6) A person entering premises under section 14 (subject to any conditions imposed under section 14(4)(b)) may require any person to afford him or her such facilities and assistance with respect to matters within the person's control as are necessary to enable him or her to exercise powers under section 14 or this section.

(7) Any person who without reasonable excuse—

(a) obstructs a person exercising any power under section 14(1) or this section, or

(b) fails to comply with any requirement imposed under this section,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

16 Power to require information

(1) The Welsh Ministers may at any time require any person specified in subsection (3) to provide them with any information, documents, records (including personal records) or other items—

(a) which relates or relate to the exercise by a local authority of its functions under sections 7 to 12, and

(b) which the Welsh Ministers—

(i) consider necessary or expedient to have for the purpose of any of their functions relating to the exercise by a local authority of its functions under sections 7 to 12, or

(ii) consider necessary or expedient for any person exercising functions under sections 14 to 15 to have for the purpose of those functions.

(2) The Welsh Ministers may share anything obtained under subsection (1) with any person exercising functions under sections 14 to 15.

(3) The persons referred to in subsection (1) are—

(a) a local authority;

(b) any person with whom the authority have entered into arrangements—

(i) in the exercise of any of its functions under sections 7 to 12, or

(ii) in connection with any related activity.

(4) The power in subsection (1) includes, in relation to information, documents or records kept by means of a computer, power to require provision of them in a legible form which can be taken away.

(5) The power in subsection (1) does not include power to require the provision of information, documents or records in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

(6) Any person who without reasonable excuse fails to comply with any requirement imposed by virtue of this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Guidance and directions

17 Guidance

(1) The Welsh Ministers may give guidance to another Welsh authority from time to time about—

(a) the exercise of functions under sections 1 to 10, or

(b) any action to promote the broad aims for contributing to the eradication of child poverty.

(2) A Welsh authority must have regard to the guidance when exercising its functions.

(3) In exercising its functions under sections 11 and 12, a local authority must have regard to any guidance given from time to time by the Welsh Ministers.

Commencement Information

I9 S. 17 in force at 10.1.2011 by S.I. 2010/2994, **art. 2(e)**

18 Directions

(1) This section applies if the Welsh Ministers are satisfied that any other Welsh authority is failing, or is likely to fail, to comply with any duty under section 2, 7, 10, 11 or 12.

(2) The Welsh Ministers may direct the Welsh authority to take any action which the Welsh Ministers consider necessary or expedient to secure its compliance with the requirements of the relevant duty.

(3) A direction given under this section—

(a) must be given in writing;

(b) may be varied or revoked by a later direction;

(c) is enforceable by mandatory order on the application of the Welsh Ministers.

Commencement Information

I10 S. 18 in force at 10.1.2011 by S.I. 2010/2994, **art. 2(f)**

PART 2

CHILD MINDING AND DAY CARE FOR CHILDREN

Main terms

19 Meaning of "child minding" and "day care for children"

(1) This section applies for the purposes of this Part.

(2) A person acts as a child minder if the person looks after one or more children under the age of **[**[F11]twelve**]** on domestic premises for reward; and "child minding" is to be interpreted accordingly.

(3) A person provides day care for children if the person provides care at any time for children under the age of **[**[F12]twelve**]** on premises other than domestic premises; and "day care for children" and "day care" are to be interpreted accordingly.

(4) The Welsh Ministers may by order—

(a) amend subsection (2) or (3) to substitute a different age;

(b) provide that, in the circumstances specified in the order, a person is not acting as a child minder for the purposes of this Part;

(c) provide that, in the circumstances specified in the order, a person is not providing day care for the purposes of this Part.

(5) The circumstances specified in an order may relate to one or more of the following matters (among others)—

(a) the person providing the child minding or day care;

(b) the child or the children for whom it is provided;

(c) the nature of the child minding or day care;

(d) the premises on which it is provided;

(e) the times during which it is provided;

(f) the arrangements under which it is provided.

(6) In this section "domestic premises" means any premises which are wholly or mainly used as a private dwelling.

Textual Amendments

F11 Word in s. 19(2) substituted (1.4.2016) by The Regulation of Child Minding and Day Care (Wales) Order 2016 (No. 98), arts. 1(2), **3(a)**

F12 Word in s. 19(3) substituted (1.4.2016) by The Regulation of Child Minding and Day Care (Wales) Order 2016 (No. 98), arts. 1(2), **3(b)**

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Commencement Information

I11 S. 19 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

Registration of child minding

20 Register of child minders

The Welsh Ministers must maintain a register ("the child minders register") of all persons who are registered as child minders under this Part.

Commencement Information

I12 S. 20 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

21 Duty of child minders to register

(1) A person must not act as a child minder in Wales unless that person is registered as a child minder by the Welsh Ministers under this Part.

(2) If it appears to the Welsh Ministers that a person is acting as a child minder without being registered to do so under this Part, the Welsh Ministers may serve a notice ("an enforcement notice") on that person.

(3) An enforcement notice may be served on a person—
  (a) by delivering it to the person, or
  (b) by sending it by post to the person's last known address.

(4) An enforcement notice has effect for a period of one year beginning with the date on which it is served.

(5) A person ("P") who acts as a child minder in contravention of subsection (1) commits an offence if—
  (a) an enforcement notice has effect in relation to P, and
  (b) P acts as a child minder without reasonable excuse.

(6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Commencement Information

I13 S. 21 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

Registration of day care for children

22 Register of providers of day care for children

The Welsh Ministers must maintain a register ("the day care for children register") of all persons who are registered to provide day care for children under this Part and of the premises on which they are authorised to provide it under this Part.

Commencement Information
I14 S. 22 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

23 Duty of day care providers to register

(1) A person must not provide day care for children on any premises in Wales unless that person is registered to provide day care for children on those premises by the Welsh Ministers under this Part.

(2) A person who contravenes subsection (1) without reasonable excuse commits an offence.

(3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Commencement Information
I15 S. 23 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

Process and requirements of registration

24 Applications for registration: child minding

(1) A person who proposes to act as a child minder may make an application to the Welsh Ministers for registration as a child minder.

(2) An application must—
- (a) give any prescribed information about prescribed matters,
- (b) give any other information which the Welsh Ministers reasonably require the applicant to give, and
- (c) be accompanied by any prescribed fee.

(3) The Welsh Ministers must grant an application if—
- (a) the applicant is not disqualified from registration under section 38, and
- (b) it appears to the Welsh Ministers that all the prescribed requirements for registration as a child minder are satisfied and are likely to continue to be satisfied.

(4) The Welsh Ministers must refuse any application under subsection (1) which subsection (3) does not require them to grant.

Commencement Information
I16 S. 24 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

25 Prescribed requirements for registration as a child minder

The prescribed requirements for registration as a child minder may include requirements relating to—

(a) the applicant;
(b) the premises on which the child minding is to be provided;
(c) the arrangements for child minding on those premises;
(d) any person who may be caring for children on those premises;
(e) any person who may be on those premises.

Commencement Information
I17 S. 25 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

26 Applications for registration: day care for children

(1) A person who proposes to provide day care for children on particular premises may make an application to the Welsh Ministers for registration as a provider of day care on those premises.

(2) An application must—
(a) give any prescribed information about prescribed matters,
(b) give any other information which the Welsh Ministers reasonably require the applicant to give, and
(c) be accompanied by any prescribed fee.

(3) The Welsh Ministers must grant an application if—
(a) the applicant is not disqualified from registration under section 38, and
(b) it appears to the Welsh Ministers that all the prescribed requirements for registration of day care providers are satisfied and are likely to continue to be satisfied.

(4) The Welsh Ministers must refuse any application under subsection (1) which subsection (3) does not require them to grant.

Commencement Information
I18 S. 26 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

27 Prescribed requirements for registration of providers of day care for children

The prescribed requirements for registration of providers of day care for children may include requirements relating to—
(a) the applicant;
(b) the premises on which the day care is to be provided;
(c) the arrangements for day care on those premises;
(d) any person who may be caring for children on those premises;
(e) any other person who may be on those premises.

Commencement Information
I19 S. 27 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

28 Entry on the register and certificates

(1) If an application under section 24(1) is granted, the Welsh Ministers must—

(a) register the applicant in the child minders register as a child minder, and

(b) give the applicant a certificate of registration stating that the applicant is registered.

(2) If an application under section 26(1) is granted, the Welsh Ministers must—

(a) register the applicant as a day care provider in respect of the premises in question, and

(b) give the applicant a certificate of registration stating that the applicant is registered.

(3) A certificate of registration given to the applicant under subsection (1) or (2) must contain prescribed information about prescribed matters.

(4) If there is a change in circumstances which requires the amendment of a certificate of registration, the Welsh Ministers must give the registered person an amended certificate.

(5) If the Welsh Ministers are satisfied that a certificate of registration has been lost or destroyed, the Welsh Ministers must give the registered person a copy, on payment by the registered person of any prescribed fee.

Commencement Information

I20 S. 28 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

29 Conditions on registration

(1) The Welsh Ministers may impose such conditions as they think fit on the registration under this Part of a person who acts as a child minder or a person who provides day care for children.

(2) This power may be exercised at any time when the Welsh Ministers register a person under section 24 or section 26 or at any subsequent time.

(3) The Welsh Ministers may at any time vary or remove any condition imposed under this section.

(4) A person registered under this Part commits an offence if, without reasonable excuse, that person fails to comply with any condition imposed under this section.

(5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Modifications etc. (not altering text)

C1 S. 29 excluded (1.4.2016) by The Regulation of Child Minding and Day Care (Wales) Order 2016 (No. 98), arts. 1(2), **12(2)**(3)(a) (with art. 11)

C2 S. 29(4) excluded (1.4.2016) by The Regulation of Child Minding and Day Care (Wales) Order 2016 (No. 98), arts. 1(2), **8(2)**(3)(a) (with art. 6)

Status: *Point in time view as at 03/12/2021. This version of this Measure contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Children and Families (Wales) Measure 2010. (See end of Document for details)*

Commencement Information
I21 S. 29 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

30 Regulations governing activities

(1) The Welsh Ministers may make regulations governing the activities of registered persons who act as child minders, or provide day care, on premises in Wales.

(2) The regulations under this section may deal with the following matters (among others) —

(a) the welfare and development of the children concerned;
(b) suitability to look after, or be in regular contact with, the children concerned;
(c) qualifications and training;
(d) the maximum number of children who may be looked after and the number of persons required to assist in looking after them;
(e) the maintenance, safety and suitability of premises and equipment;
(f) the procedures for dealing with complaints;
(g) the supervision of staff;
(h) the keeping of records;
(i) the provision of information.

(3) If the regulations require any person (other than the Welsh Ministers) to have regard to or meet factors, standards or other matters prescribed by or referred to in the regulations, they may also provide for any allegation that the person has failed to do so to be taken into account—

(a) by the Welsh Ministers in the exercise of their functions under this Part, or
(b) in any proceedings under this Part.

(4) Regulations may provide—

(a) that a registered person who without reasonable excuse contravenes, or otherwise fails to comply with, any requirement of the regulations is guilty of an offence; and
(b) that a person guilty of the offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Commencement Information
I22 S. 30 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

Cancellation and suspension of registration

31 Cancellation of registration

(1) The Welsh Ministers must cancel the registration of a person registered under this Part if it appears to them that the person has become disqualified from registration under section 38.

(2) The Welsh Ministers may cancel the registration of a person registered under this Part if it appears to them that any of the following apply—

(a) the requirements for registration that apply in relation to the person's registration under section 25 or 27 have ceased, or will cease, to be satisfied;
(b) the person has failed to comply with a condition imposed on that person's registration under this Part;
(c) the person has failed to comply with a requirement imposed on that person by regulations under this Part;
(d) the person has failed to pay a prescribed fee.

(3) Where a requirement to make any changes or additions to any services, equipment or premises has been imposed on a person registered under this Part, that person's registration may not be cancelled on the ground of any defect or insufficiency in the services, equipment or premises if—
(a) the time set for complying with the requirement has not expired, and
(b) it is shown that the defect or insufficiency is due to the changes or additions not having been made.

(4) A cancellation under this section must be in writing.

(5) The Welsh Ministers may prescribe other circumstances in which the registration of a person registered under this Part may be cancelled.

Modifications etc. (not altering text)

C3 S. 31(2)(b) excluded (1.4.2016) by The Regulation of Child Minding and Day Care (Wales) Order 2016 (No. 98), arts. 1(2), **12(2)**(3)(b) (with art. 11)

C4 S. 31(2)(b) excluded (1.4.2016) by The Regulation of Child Minding and Day Care (Wales) Order 2016 (No. 98), arts. 1(2), **8(2)**(3)(b) (with art. 6)

Commencement Information

I23 S. 31 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

32 Suspension of registration

(1) Regulations may provide for the registration of any person under this Part to be suspended.

(2) Regulations under subsection (1) may include (among other things) provision about—
(a) the period of suspension;
(b) the circumstances in which registration may be suspended;
(c) suspension of registration at the request of the registered person.

(3) Regulations under subsection (1) must include provision conferring on the registered person a right of appeal to the First-tier Tribunal against suspension.

(4) The duty in subsection (3) does not apply in relation to suspension at the request of the registered person.

(5) A person registered under this Part for child minding by the Welsh Ministers must not act as a child minder in Wales at a time when that registration is suspended.

(6) A person registered under this Part for providing day care on any premises by the Welsh Ministers must not provide day care on those premises at any time when that registration is suspended.

Status: *Point in time view as at 03/12/2021. This version of this Measure contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Children and Families (Wales) Measure 2010. (See end of Document for details)*

(7) If a person contravenes subsection (5) or (6) without reasonable excuse, that person is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Commencement Information

I24 S. 32 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

33 Voluntary removal from the register

(1) A person registered under this Part may give notice to the Welsh Ministers to remove that person from the child minding register or (as the case may be) the day care for children register.

(2) If a person gives notice under subsection (1), the Welsh Ministers must remove that person from the child minding register or (as the case may be) the day care for children register.

(3) The Welsh Ministers must not act under subsection (2) if—

(a) the Welsh Ministers have sent the person a notice (under section 36) of their intention to cancel the person's registration, and

(b) the Welsh Ministers still intend to take that step.

(4) The Welsh Minister must not act under subsection (2) if—

(a) the Welsh Ministers have sent the person a notice (under section 36) of their decision to cancel that person's registration, and

(b) the time within which an appeal under section 37 may be brought has not expired or, if such an appeal has been brought, it has not been determined.

Commencement Information

I25 S. 33 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

Emergency protection

34 Protection of children in an emergency: cancellation of registration

(1) In relation to a person registered under this Part, the Welsh Ministers may apply to **[**[F13]the family court**]** for an order cancelling the person's registration.

(2) If it appears to **[**[F14]the court**]** that a child for whom child minding or day care is being, or may be, provided by that person is suffering or is likely to suffer significant harm, **[**[F14]the court**]** may make the order.

(3) An application under subsection (1) may be made without notice.

(4) An order under subsection (2)—

(a) must be made in writing, and

(b) has effect from the time when it is made.

(5) If an order is made under subsection (2), the Welsh Ministers must serve on the registered person as soon as is reasonably practicable after the making of the order—
  (a) a copy of the order,
  (b) a copy of any written statement in support of the application for the order, and
  (c) notice of any right of appeal conferred by section 37(2).

(6) The documents mentioned in subsection (5) may be served on the registered person by—
  (a) delivering them to the person, or
  (b) sending them by post to the person's last known address.

(7) If an order is made under subsection (2), the Welsh Ministers must, as soon as reasonably possible after the making of the order, notify the local authority in whose area the person concerned acts or acted as a child minder, or provides or provided day care, of the making of the order.

(8) For the purposes of this section and section 35, "harm" has the same meaning as in the Children Act 1989 (c. 41) and the question of whether harm is significant is to be determined in accordance with section 31(10) of that Act.

Textual Amendments

F13 Words in s. 34(1) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 208(a)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F14 Words in s. 34(2) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 208(b)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Commencement Information

I26 S. 34 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

35 Protection of children in an emergency: changes to conditions

(1) Subsection (2) applies where—
  (a) a person is registered under this Part, and
  (b) the Welsh Ministers have reasonable cause to believe that unless they act under this section a child will suffer or is likely to suffer significant harm.

(2) If this subsection applies, the Welsh Ministers may, by giving notice under this section to the person registered under this Part, provide for any decision of the Welsh Ministers that is mentioned in subsection (3) to take effect from the time when the notice is given.

(3) Those decisions referred to in subsection (2) are decisions under section 29 to vary or remove a condition for the time being in force in relation to the registration or to impose an additional condition.

(4) A notice under this section may be served on a person—
  (a) by delivering it to the person, or
  (b) by sending it by post to the person's last known address.

(5) The notice must—

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Changes to legislation: *There are currently no known outstanding effects for the Children and Families (Wales) Measure 2010. (See end of Document for details)*

(a) state that it is given under this section,
(b) state the Welsh Ministers' reasons for believing that the circumstances fall within subsection (1)(b),
(c) specify the condition varied, removed or imposed, and explain the right of appeal conferred by section 37.

Commencement Information
I27 S. 35 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

Procedural safeguards

36 Procedure for taking certain steps

(1) This section applies if the Welsh Ministers propose to take any of the following steps under this Part—
(a) refuse an application for registration;
(b) impose a new condition on a person's registration;
(c) vary or remove any condition imposed on a person's registration;
(d) refuse to grant an application for the variation or removal of any such condition;
(e) cancel a person's registration.

(2) This section does not apply to action taken under section 34 or 35.

(3) The Welsh Ministers must give to the applicant for registration or (as the case may be) the registered person, notice of their intention to take the step in question.

(4) The notice must—
(a) give the Welsh Ministers' reasons for proposing to take the step, and
(b) inform the person concerned of that person's rights under this section.

(5) The Welsh Ministers may not take the step until the end of the period of 28 days beginning with the day on which they give notice under subsection (3) unless the applicant for registration or (as the case may be) the registered person notifies the Welsh Ministers they wish to object to the step being taken.

(6) If the recipient of a notice under subsection (3) ("the recipient") gives notice to the Welsh Ministers that the recipient wishes to object to the step being taken, the Welsh Ministers must give the recipient an opportunity to object before taking the step.

(7) An objection made under subsection (5) may be made orally or in writing and in either case may be made by the recipient or the recipient's representative.

(8) If the Welsh Ministers decide to take the step, they must give the recipient notice of their decision (whether or not the recipient informed the Welsh Ministers that the recipient wished to object to the step being taken).

(9) The taking of a step mentioned in paragraph (b), (c) or (e) of subsection (1) does not have effect until—
(a) the expiry of the time within which an appeal may be brought under section 37, or

(b) if such an appeal is brought, the time when the appeal is determined (and the taking of the step is confirmed).

(10) Subsection (9) does not prevent such a step having effect before the expiry of the time within which an appeal may be brought if the person concerned notifies the Welsh Ministers that the person does not intend to appeal.

(11) If the Welsh Ministers give notice to an applicant for registration under this Part that they intend to refuse the application, the application may not be withdrawn without the consent of the Welsh Ministers.

(12) In this section and in section 37, "a new condition" means a condition imposed otherwise than at the time of the person's registration.

Commencement Information
I28 S. 36 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

37 Appeals

(1) An applicant for registration or (as the case may be) a registered person may appeal to the First-tier Tribunal against the taking of any of the following steps by the Welsh Ministers under this Part—

(a) refusal of an application for registration;
(b) imposition of a new condition on registration;
(c) variation or removal of any condition imposed on registration;
(d) refusal of an application to vary or remove any such condition;
(e) cancellation of registration.

(2) The following persons may also appeal to the First-tier Tribunal—

(a) an applicant for registration or (as the case may be) a registered person in respect of a determination made by the Welsh Ministers under this Part of a prescribed description;
(b) a registered person against whom an order is made under section 34;
(c) a registered person who is given a notice under section 35.

(3) On an appeal the First-tier Tribunal must either—

(a) confirm the taking of the step, the making of the other determination, the making of the order, or the giving of the notice (as the case may be), or
(b) direct that it does not have, or ceases to have, effect.

(4) Unless the First-tier Tribunal has confirmed the taking of a step mentioned in subsection (1)(a) or (e) or the making of an order under section 34 cancelling a person's registration, the Tribunal may also do either or both or the following—

(a) impose conditions on the registration of the person concerned;
(b) vary or remove any condition previously imposed on the person's registration.

Commencement Information
I29 S. 37 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

Status: *Point in time view as at 03/12/2021. This version of this Measure contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Children and Families (Wales) Measure 2010. (See end of Document for details)*

Disqualification from registration

38 Disqualification from registration

(1) In this section "registration" means registration under this Part.

(2) Regulations may provide for a person to be disqualified from registration.

(3) The regulations may, in particular, provide for a person to be disqualified from registration if—

(a) the person is barred from regulated activity relating to children (within the meaning of section 3(2) of the Safeguarding Vulnerable Groups Act 2006 (c. 47));

(b) an order of a prescribed kind has been made with respect to the person;

(c) an order of a prescribed kind has been made at any time with respect to a child who has been in the person's care;

(d) a requirement of a prescribed kind has been imposed at any time with respect to such a child, under or by virtue of any enactment;

(e) the person has at any time been refused registration under this Part of this Measure, Part 3 of the Childcare Act 2006 (c. 21) or under Part 10 or Part 10A of the Children Act 1989 (c. 41) or any prescribed enactment, or had any such registration cancelled;

(f) the person has been convicted of an offence of a prescribed kind or has been discharged absolutely or conditionally for such an offence;

(g) the person has been given a caution in respect of an offence of a prescribed kind;

(h) the person has at any time been disqualified from fostering a child privately (within the meaning of the Children Act 1989 (c. 41));

(i) a prohibition has been imposed on the person at any time under section 69 of the Children Act 1989 (c. 41), section 10 of the Foster Children (Scotland) Act 1984 (c. 56) or any prescribed enactment;

(j) the person's rights and powers with respect to a child have at any time been vested in a prescribed authority under a prescribed enactment.

(4) Regulations may provide for a person to be disqualified from registration if—

(a) the person lives in the same household as another person who is disqualified from registration, or

(b) the person lives in a household in which another person who is disqualified is employed.

(5) Regulations under subsection (2) or (4) may provide for a person not to be disqualified from registration (and in particular may provide for a person not to be disqualified from registration for the purposes of section 39) by reason of any fact which would otherwise cause the person to be disqualified if—

(a) the person has disclosed the fact to the Welsh Ministers, and

(b) the Welsh Ministers have consented in writing to the person not being disqualified from registration and have not withdrawn their consent.

(6) In this section—

"caution" includes a reprimand or warning within the meaning of section 65 of the Crime and Disorder Act 1998 (c. 37);

"enactment" means any enactment having effect at any time in any part of the United Kingdom.

(7) A conviction in respect of which a probation order was made before 1 October 1992 (which would not otherwise be treated as a conviction) is to be treated as a conviction for the purposes of this section.

Commencement Information

I30 S. 38 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

39 Consequences of disqualification

(1) A person who is disqualified from registration under this Part by regulations under section 38 must not—

(a) act as a child minder in Wales,

(b) provide day care in Wales or be directly concerned in the management of any provision of day care in Wales.

(2) A person must not employ, in connection with the provision of day care or child minding in Wales, a person who is disqualified from registration under this Part by regulations under section 38.

(3) A person who contravenes subsection (1) or (2) commits an offence.

(4) A person who contravenes subsection (1) is not guilty of an offence under subsection (3) if—

(a) the person is disqualified from registration by virtue only of regulations under section 38(4), and

(b) the person proves that he or she did not know, and had no reasonable grounds for believing, that he or she was living—

(i) in the same household as a person who was disqualified from registration, or

(ii) in a household in which such a person was employed.

(5) A person who contravenes subsection (2) is not guilty of an offence under subsection (3) if the person proves that he or she did not know, and had no reasonable grounds for believing, that the person employed was disqualified from registration.

(6) A person guilty of an offence under subsection (3) is liable on summary conviction to imprisonment for a term not exceeding 51 weeks, or to a fine not exceeding level 5 on the standard scale, or to both.

(7) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44) (alteration of penalties for summary offences), the reference in subsection (7) to 51 weeks is to be read as a reference to 6 months.

Commencement Information

I31 S. 39 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

Status: *Point in time view as at 03/12/2021. This version of this Measure contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Children and Families (Wales) Measure 2010. (See end of Document for details)*

Inspection

40 Inspection

(1) The Welsh Ministers may by regulations make provision—

(a) for the inspection of child minding provided in Wales by registered persons and of day care provided by registered persons on premises in Wales;

(b) for the publication of reports of the inspections in such manner as the Welsh Ministers consider appropriate.

(2) The regulations may provide for the inspections to be organised by—

(a) the Welsh Ministers, or

(b) Her Majesty's Chief Inspector of Education and Training in Wales, or any other person, under arrangements made with the Welsh Ministers.

(3) The regulations may provide that for the purposes of the law of defamation any report published under the regulations is privileged unless the publication is shown to have been made with malice.

(4) Regulations made under subsection (3) do not limit any privilege subsisting apart from provision in such regulations.

Commencement Information

I32 S. 40 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

41 Powers of entry

(1) Any person authorised for the purposes of this subsection by the Welsh Ministers may at any reasonable time enter any premises in Wales on which child minding or day care is at any time provided.

(2) Any person authorised for the purposes of this subsection by the Welsh Ministers may at any reasonable time enter any premises in Wales if the person has reasonable cause to believe that a child is being looked after on any premises in contravention of this Part.

(3) Authorisation under subsection (1) or (2)—

(a) may be given for a particular occasion or period;

(b) may be given subject to conditions.

(4) A person exercising any power conferred by this section or section 42 must, if so required, produce some duly authenticated document showing that person's authority to do so.

Commencement Information

I33 S. 41 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

Status: *Point in time view as at 03/12/2021. This version of this Measure contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Children and Families (Wales) Measure 2010. (See end of Document for details)*

42 Powers of inspection

(1) A person entering premises under section 41 may (subject to any conditions imposed under section 41(3)(b))—

(a) inspect the premises;

(b) inspect, and take copies of—

(i) any records kept by the person providing the child minding or day care, and

(ii) any other documents containing information relating to its provision;

(c) seize and remove any document or other material or thing found there which the authorised person has reasonable grounds to believe may be evidence of a failure to comply with any condition or requirement imposed by or under this Part;

(d) take measurements and photographs or make recordings;

(e) inspect any children being looked after there, and the arrangements made for their welfare;

(f) interview in private the person providing the child minding or day care;

(g) interview in private any person looking after children, or living or working, on the premises who consents to be interviewed.

(2) The power in subsection (1)(b) includes—

(a) power to require any person holding or accountable for documents or records kept on the premises to produce them, and

(b) in relation to records which are kept by means of a computer, power to require the records to be produced in a form in which they are legible and can be taken away.

(3) The powers in paragraphs (b) and (c) of subsection (1) do not include power—

(a) to require a person to produce any record or document in respect of which a claim to legal professional privilege could be maintained in legal proceedings, or

(b) to take copies of such a record or document or to seize and remove it.

(4) In connection with inspecting any such documents, a person authorised for the purposes of section 41 (subject to any conditions imposed under section 41(3)(b))—

(a) may obtain access to, and inspect and check the operation of, any computer and associated apparatus or material which he or she considers is or has been in use in connection with the documents, and

(b) may require a person within subsection (5) to afford him or her such reasonable assistance as may be required for that purpose.

(5) A person is within this subsection if he or she is—

(a) the person by whom or on whose behalf the computer is or has been used, or

(b) a person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material.

(6) A person entering premises under section 41 (subject to any conditions imposed under section 41(3)(b)) may require any person to afford him or her such facilities and assistance with respect to matters within the person's control as are necessary to enable him or her to exercise powers under section 41 or this section.

(7) Any person who without reasonable excuse—

(a) obstructs a person exercising any power under section 41 or this section, or

(b) fails to comply with any requirement imposed under this section,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Commencement Information

I34 S. 42 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

43 Power of constable to assist in exercising powers of entry

(1) A person authorised to exercise a power of entry under section 41 may apply to a court for a warrant under this section.

(2) If it appears to the court that the authorised person—

(a) has attempted to exercise a power conferred on that person under section 41 or 42 but has been prevented from doing so, or

(b) is likely to be prevented from exercising any such power,

the court may issue a warrant authorising any constable to assist the authorised person in exercising the power, using reasonable force if necessary.

(3) A warrant issued under this section must be addressed to, and executed by, a constable.

[F15](4) . . . . . .

(5) In this section, "court" means the High Court**[**[F16]or the family court**]**.

Textual Amendments

F15 S. 43(4) omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 209(a)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F16 Words in s. 43(5) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 209(b)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Commencement Information

I35 S. 43 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

Information

44 Supply of information to the Welsh Ministers

The Welsh Ministers may at any time require any person registered under this Part to provide them with any information connected with the person's activities as a child minder or in providing day care which the Welsh Ministers consider it necessary to have for the purposes of their functions under this Part.

Commencement Information

I36 S. 44 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

45 Supply of information to local authorities

(1) The Welsh Ministers must provide prescribed information to the relevant local authority, if they take any of the following steps under this Part—

(a) grant a person's application for registration;

(b) give notice of their intention to cancel a person's registration;

(c) cancel a person's registration;

(d) suspend a person's registration;

(e) remove a person from the register at that person's request.

(2) The Welsh Ministers must also provide prescribed information to the relevant local authority if an order is made under section 34(2).

(3) The information which may be prescribed for the purposes of this section is information which would assist the local authority in the discharge of its functions under section 27 of the Childcare Act 2006 (c. 21).

(4) In this section, "the relevant local authority" means the local authority for the area in which the person acts as a child minder (or has so acted) or provides (or has provided) day care in respect of which the person is (or was) registered.

(5) The Welsh Ministers may provide information to a person exercising statutory functions (for purposes connected to those functions) about whether or not a person is registered under this Part.

Modifications etc. (not altering text)

C5 S. 45: power to modify conferred (temp.) (25.3.2020) by Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 17 para. 7** (with ss. 88-90) (which affecting provision is continued until 25.9.2022 by Coronavirus Act 2020 (c. 7), **s. 89** (with s. 90))

Commencement Information

I37 S. 45 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

Offences, criminal proceedings and fixed penalties

46 Offence of making false or misleading statement

(1) A person commits an offence if, in an application for registration under this Part, that person knowingly makes a statement which is false or misleading in a material particular.

(2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Status: *Point in time view as at 03/12/2021. This version of this Measure contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Children and Families (Wales) Measure 2010. (See end of Document for details)*

Commencement Information

I38 S. 46 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

47 Penalty notices

(1) Where the Welsh Ministers are satisfied that a person has committed a fixed penalty offence, they may give the person a penalty notice in respect of the offence.

(2) A fixed penalty offence is any relevant offence which is prescribed for the purposes of this section.

(3) A relevant offence is an offence under this Part or under regulations made under this Part.

(4) A penalty notice is a notice offering the person the opportunity of discharging any liability to conviction for the offence to which the notice relates by payment of a penalty in accordance with the notice.

(5) Where a person is given a penalty notice, proceedings for the offence to which the notice relates may not be instituted before the end of such period as may be prescribed.

(6) Where a person is given a penalty notice, the person cannot be convicted of the offence to which the notice relates if the person pays the penalty in accordance with the notice.

(7) Penalties under this section are payable to the Welsh Ministers.

Commencement Information

I39 S. 47 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

48 Penalty notices: supplementary provisions

(1) The Welsh Ministers may by regulations make provision about any of the following—

(a) the form and content of penalty notices;

(b) the monetary amount of the penalty and the time by which it is to be paid;

(c) determination of the methods by which penalties may be paid;

(d) the records to be kept in relation to penalty notices;

(e) the withdrawal, in prescribed circumstances, of a penalty notice, including—

(i) repayment of any amount paid by way of penalty under a penalty notice which is withdrawn, and

(ii) prohibition of the institution or continuation of proceedings for the offence to which the withdrawn notice relates;

(f) certificates to be received in evidence—

(i) purporting to be signed by or on behalf of a prescribed person, and

(ii) stating that payment of any amount paid by way of penalty was or, as the case may be, was not received on or before a date specified in the certificate;

(g) action to be taken if a penalty is not paid in accordance with a penalty notice;

(h) anything else in relation to penalties or penalty notices as the Welsh Ministers think necessary or expedient.

(2) Regulations under subsection (1)(b)—

(a) may make provision for penalties of different amounts to be payable in different cases, including provision for the penalty payable under a penalty notice to differ according to the time by which it is paid, but

(b) must secure that the amount of any penalty payable in respect of any offence does not exceed one half of the maximum amount of the fine to which a person committing the offence would be liable on summary conviction**[**[F17]or, where there is no such maximum amount, that it does not exceed the amount corresponding to level 4 on the standard scale for summary offences**]**.

(3) In this section—

"penalty" means a penalty under a penalty notice;

"penalty notice" has the meaning given by section 47.

Textual Amendments

F17 Words in s. 48(2)(b) inserted (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 5 para. 16** (with reg. 5(1))

Commencement Information

I40 S. 48 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

49 Time limit for proceedings

(1) Proceedings for an offence under this Part or regulations made under it may be brought within a period of one year from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings comes to the prosecutor's knowledge.

(2) No such proceedings may be brought by virtue of subsection (1) more than three years after the commission of the offence.

Commencement Information

I41 S. 49 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

50 Offences by bodies corporate

(1) This section applies where any offence under this Part is committed by a body corporate.

(2) If the offence is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of, any director, manager or other similar officer of the body corporate, or of any person who was purporting to act in any such capacity, he or she (as well as the body corporate) is guilty of the offence and liable to be proceeded against and punished accordingly.

Status: *Point in time view as at 03/12/2021. This version of this Measure contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Children and Families (Wales) Measure 2010. (See end of Document for details)*

Commencement Information
I42 S. 50 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

51 Unincorporated associations

(1) Proceedings for an offence under this Part which is alleged to have been committed by an unincorporated association must be brought in the name of the association (and not in the name of any of its members).

(2) For the purpose of any such proceedings, rules of court relating to the service of documents are to have effect as if the association were a body corporate.

(3) In proceedings for an offence under this Part brought against an unincorporated association, section 33 of the Criminal Justice Act 1925 (c. 86) and Schedule 3 to the Magistrates' Courts Act 1980 (c. 43) apply as they do in relation to a body corporate.

(4) A fine imposed on an unincorporated association on its conviction of an offence under this Part is to be paid out of the funds of the association.

(5) If an offence under this Part by an unincorporated association is shown—
(a) to have been committed with the consent or connivance of an officer of the association or a member of its governing body, or
(b) to be attributable to any neglect on the part of such an officer or member,

the officer or member as well as the association is guilty of the offence and liable to be proceeded against and punished accordingly.

Commencement Information
I43 S. 51 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

Miscellaneous

52 Functions of local authorities

Regulations may require a local authority to secure the provision—
(a) of information or advice about child minding and day care;
(b) of training about the provision of child minding and day care.

Commencement Information
I44 S. 52 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

53 Fees

(1) Regulations may require persons registered under this Part to pay to the Welsh Ministers at or by prescribed times fees of the prescribed amounts in respect of the discharge by the Welsh Ministers of their functions under this Part.

(2) Regulations under subsection (1) may prescribe circumstances in which—

(a) the amount of a fee payable under the regulations may be varied in accordance with the regulations;

(b) a fee payable under the regulations may be waived.

Commencement Information

I45 S. 53 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

54 Co-operation between authorities

(1) If it appears to the Welsh Ministers that any local authority could, by taking any specified action, help in the exercise of any of their functions under this Part, they may request the help of the authority, specifying the action in question.

(2) An authority whose help is requested must comply with the request if it is compatible with its own statutory and other duties and does not unduly prejudice the discharge of any of its functions.

Commencement Information

I46 S. 54 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

55 Notices

(1) This section applies in relation to notices required or authorised to be given to any person by any of the following—

(a) section 33;

(b) section 36.

(2) The notice may be given to the person in question—

(a) by delivering it to the person,

(b) by sending it by post to the person's last known address, or

(c) subject to subsection (3), by transmitting it electronically.

(3) If the notice is transmitted electronically, it is to be treated as given only if the requirements of subsection (4) or (5) are met.

(4) If the person required or authorised to give the notice is the Welsh Ministers—

(a) the person to whom the notice is required or authorised to be given must have indicated to the Welsh Ministers that person's willingness to receive notices transmitted by electronic means and provided an address suitable for that purpose, and

(b) the notice must be sent to the address provided by that person.

(5) If the person required or authorised to give the notice is not the Welsh Ministers, the notice must be transmitted in such manner as the Welsh Ministers may require.

(6) An indication of willingness to receive notices transmitted by electronic means, given for the purposes of subsection (4), may be given generally for the purposes of notices required or authorised to be given by the Welsh Ministers under this Part or may be limited to notices of a particular description.

(7) In relation to the taking of a step mentioned in paragraph (b) or (c) of section 36(1), notification authorised to be given to the Welsh Ministers under subsection (5) or (7) of that section may be given orally to a person authorised by the Welsh Ministers to receive such notification (as well as by any of the methods mentioned in subsection (2)).

Commencement Information

I47 S. 55 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

56 Death of registered person

(1) Regulations may—

(a) provide for the provisions of this Part to apply with prescribed modifications in cases where a person who was the only person registered in respect of a day care business has died;

(b) require the personal representatives of a deceased person who was registered in respect of child minding or day care to notify the Welsh Ministers of the death.

(2) Regulations under subsection (1)(a) may in particular—

(a) provide for the day care business to be carried on for a prescribed period by a person who is not registered in respect of it; and

(b) include provision for the prescribed period to be extended by such further period as the Welsh Ministers may allow.

Commencement Information

I48 S. 56 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

[F18]PART 3

INTEGRATED FAMILY SUPPORT TEAMS

Textual Amendments

F18 Pt. 3 omitted (6.4.2016) by virtue of The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (No. 413), regs. 2(1), **276**

Teams

57 Establishment of integrated family support teams

. . . . . .

58 Functions of integrated family support teams

. . . . . .

59 Resources for integrated family support teams

. . . . . .

60 Composition of integrated family support teams

. . . . . .

Boards

61 Establishment of integrated family support boards

. . . . . .

62 Functions of integrated family support boards

. . . . . .

Regulations

63 Regulations about integrated family support teams and boards

. . . . . .

Reports

64 Annual reports on integrated family support teams

. . . . . .

Guidance

65 Guidance about integrated family support teams

. . . . . .

Status: *Point in time view as at 03/12/2021. This version of this Measure contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Children and Families (Wales) Measure 2010. (See end of Document for details)*

PART 4

MISCELLANEOUS AND GENERAL

PROSPECTIVE

Family social work standards officers

66 Family social work standards officers

A local authority must designate an officer of the authority (to be known as the "family social work standards officer") as having responsibility for the following matters in relation to social work conducted by or on behalf of the authority in connection with children and persons who care for children—

(a) raising standards in social work practice;

(b) raising awareness of relevant research evidence amongst persons engaged in social work;

(c) promoting adaptation of social work practice in the light of relevant research evidence.

PROSPECTIVE

Children's needs arising from community care and health needs of their parents

67 Children's needs arising from community care needs of their parents

(1) This section applies to a child where it appears to a local authority that the child's parent—

(a) is a person for whom it may provide or arrange for the provision of community care services, and

(b) may be in need of any such services.

(2) A local authority must consider whether the child appears to the authority to be a child in need as a result of the needs of the parent.

(3) A local authority must take account of the results of its consideration under subsection (2) in deciding—

(a) whether or not to assess the needs of the child for the purposes of section 17 of the Children Act 1989 (c. 41) (provision of services for children in need), and

(b) what, if any, services to provide under that section for the child or the child's family.

(4) A local authority must take account of the results of its consideration under subsection (2) in making any decision in respect of the parent under section 47(1)(b) of the National Health Service and Community Care Act 1990 (c. 19) (assessment of needs for community care services).

(5) In this section—

Status: *Point in time view as at 03/12/2021. This version of this Measure contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Children and Families (Wales) Measure 2010. (See end of Document for details)*

"child in need" ("plentyn mewn angen") means a child taken to be in need for the purposes of Part 3 of the Children Act 1989;

"community care services" ("gwasanaethau gofal cymunedol") has the same meaning as in section 46 of the National Health Service and Community Care Act 1990.

(6) In this section and in section 68 "parent", in relation to a child, includes any individual—

(a) who is not a parent of the child but who has parental responsibility for the child, or

(b) who has care of the child.

(7) For the purposes of subsection (6)—

(a) "parental responsibility" has the same meaning as in the Children Act 1989 (c. 41);

(b) in determining whether an individual has care of a child, any absence of the child at a hospital, children's home or foster placement and any other temporary absence is to be disregarded.

68 Children's needs arising from the health conditions of their parents

(1) This section applies to the provision of specified health services to a child's parent where the services are provided by, or secured by, a specified National Health Service body.

(2) A specified National Health Service body must make such arrangements as it thinks fit—

(a) for consideration to be given to the effect of any health condition of the parent on the needs of the child and whether that effect may call for the provision of services by a local authority in the exercise of its social services functions;

(b) for referral of appropriate cases to the relevant local authority, subject to any duty owed by the National Health Service body to the child or the parent in respect of the disclosure of information relating to the child or the parent.

(3) In this section—

"health" ("iechyd") means physical or mental health;

"National Health Service body" ("corff Gwasanaeth Iechyd Gwladol") means any one of the following—

(a) a Local Health Board;

(b) a National Health Service trust;

"specified" ("penodedig") means specified by order of the Welsh Ministers.

PROSPECTIVE

Social services functions

F19 69 Social services functions

. . . . . .

Textual Amendments

F19 S. 69 omitted (6.4.2016) by virtue of The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (No. 413), regs. 2(1), **277**

General

70 Guidance

(1) This section has effect in relation to any guidance issued by the Welsh Ministers under this Measure to bodies that must have regard to it.

(2) The Welsh Ministers—

(a) may give guidance to bodies generally or to one or more particular bodies;

(b) may issue different guidance to or in respect of different bodies;

(c) must, before they issue guidance, consult the bodies that must have regard to the guidance;

(d) must publish the guidance.

Commencement Information

I49 S. 70 in force at 30.6.2014 by S.I. 2014/1606, **art. 2(1)**

PROSPECTIVE

71 General interpretation

In this Measure—

"child" ("plentyn") means a person who has not attained the age of 18;

"child minding" ("*gwarchod plant*") is to be interpreted in accordance with section 19 for the purposes of Part 2;

"day care for children" ("*gofal dydd i blant*") (and "day care" ("*gofal dydd*")) is to be interpreted in accordance with section 19 for the purposes of Part 2;

"local authority" ("awdurdod lleol") means a county council or a county borough council in Wales;

"Local Health Board" ("*Bwrdd Iechyd Lleol*") means a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006 (c. 42);

"premises" ("*mangre*") includes any area and any vehicle;

"prescribed" ("*rhagnodi*") means prescribed in regulations;

"regulations" ("rheoliadau") means regulations made by the Welsh Ministers;

"Welsh authority" ("*awdurdod Cymreig*") means a person specified in section 6(1).

72 Minor and consequential amendments

Schedule 1 contains minor and consequential amendments.

Commencement Information

I50 S. 72 in force at 1.4.2011 for specified purposes by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

73 Repeals

Schedule 2 contains repeals.

Commencement Information

I51 S. 73 in force at 1.4.2011 for specified purposes by S.I. 2010/2582, art. 2, **Sch. 1** (with art. 3, Sch. 2, Sch. 3)

74 Orders and regulations

(1) Any power of the Welsh Ministers to make an order or regulations under this Measure is exercisable by statutory instrument.

(2) Any power of the Welsh Ministers to make an order or regulations under this Measure includes power—

(a) to make different provision for different cases or classes of case, different areas or different purposes;

(b) to make provision generally or subject to specified exemptions or exceptions or only in relation to specific cases or classes of case;

(c) to make such incidental, supplementary, consequential, transitory, transitional or saving provision as the Welsh Ministers think fit.

(3) Any statutory instrument containing regulations made under this Measure is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

(4) Subsection (3) does not apply to orders to which subsection (5) applies.

(5) A statutory instrument containing regulations under section 2(5) or an order under section 1(8), 6(2), or 19(4) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

75 Commencement

(1) The following provisions come into force at the end of a period of two months beginning on the day on which this Measure is approved by Her Majesty in Council—

section 1;

section 2 (in so far as it applies the Welsh Ministers);

section 3;

section 74;

this section;

section 76.

Status: *Point in time view as at 03/12/2021. This version of this Measure contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Children and Families (Wales) Measure 2010. (See end of Document for details)*

(2) Paragraphs 19 to 20 of Schedule 1 come into force on the day on which this Measure is approved by Her Majesty in Council.

(3) The remaining provisions of this Measure come into force in accordance with provision made by the Welsh Ministers by order.

76 Short title

This Measure may be cited as the Children and Families (Wales) Measure 2010.

Status: *Point in time view as at 03/12/2021. This version of this Measure contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Children and Families (Wales) Measure 2010. (See end of Document for details)*

SCHEDULE 1

(introduced by section 72)

MINOR AND CONSEQUENTIAL AMENDMENTS

Magistrates' Courts Act 1980 (c. 43)

1 Amend the Magistrates' Courts Act 1980 as follows.

Commencement Information
I52 Sch. 1 para. 1 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

2 In section 65 (meaning of family proceedings), in subsection (1) after paragraph (nza) insert—

"(nzb) sections 34 and 43 of the Children and Families (Wales) Measure 2010;".

Commencement Information
I53 Sch. 1 para. 2 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

Senior Courts Act 1981 (c. 54)

3 Amend the Senior Courts Act 1981 as follows.

Commencement Information
I54 Sch. 1 para. 3 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

4 In Schedule 1 (distribution of business in High Court) after paragraph 3(ea) insert—

"(eb) proceedings under section 43 of the Children and Families (Wales) Measure 2010;".

Commencement Information
I55 Sch. 1 para. 4 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

Children Act 1989 (c. 41)

5 Amend the Children Act 1989 as follows.

Commencement Information
I56 Sch. 1 para. 5 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

6 In Section 80 (inspection of children's homes etc by persons authorised by the Welsh Ministers)—

(a) in subsection (1) omit paragraph (i);

(b) in subsection (5) omit paragraphs (h) and (hh).

Status: *Point in time view as at 03/12/2021. This version of this Measure contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Children and Families (Wales) Measure 2010. (See end of Document for details)*

Commencement Information
I57 Sch. 1 para. 6 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

7 In section 105 (interpretation)—
(a) in subsection (1)—
(i) in the definition of "day care" omit "(except in Part XA)";
(ii) in the definition of "hospital" omit "(except in Schedule 9A)";
(b) omit subsection (5A).

Commencement Information
I58 Sch. 1 para. 7 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

Water Industry Act 1991 (c. 56)

8 Amend the Water Industry Act 1991 as follows.

Commencement Information
I59 Sch. 1 para. 8 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

9 In Schedule 4A (premises that are not to be disconnected for non-payment of charges) in paragraph 12(2) for "Part 10A of the Children Act 1989" substitute " Part 2 of the Children and Families (Wales) Measure 2010 ".

Commencement Information
I60 Sch. 1 para. 9 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

Protection of Children Act 1999 (c. 14)

10 Amend the Protection of Children Act 1999 as follows.

Commencement Information
I61 Sch. 1 para. 10 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

11 In section 2A (power of certain authorities to refer individuals for inclusion in list of persons considered unsuitable to work with children), in subsection (1)(a) for "Part 10A of the Children Act 1989" substitute " Part 2 of the Children and Families (Wales) Measure 2010 ".

Commencement Information
I62 Sch. 1 para. 11 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

12 In section 9 (the Tribunal), in subsection (2)—
(a) in paragraph (c) omit "or under, or by virtue of, Part XA of that Act";

(b) in paragraph (f), omit "or";

(c) at the end of paragraph (g) insert " ; or ";

(d) after paragraph (g) insert—

"(h) on an appeal under, or by virtue of, Part 2 of the Children and Families (Wales) Measure 2010".

Commencement Information

I63 Sch. 1 para. 12 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

Care Standards Act 2000 (c. 14)

13 Amend the Care Standards Act 2000 as follows.

Commencement Information

I64 Sch. 1 para. 13 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

14 In section 55(3)(e)—

(a) for "Assembly" in both places where it appears substitute " Welsh Assembly Government ";

(b) for "section 79T of that Act" substitute " section 40 of the Children and Families (Wales) Measure 2010 ".

Commencement Information

I65 Sch. 1 para. 14 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

Children Act 2004 (c. 31)

15 Amend the Children Act 2004 as follows.

Commencement Information

I66 Sch. 1 para. 15 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

16 In section 29 (information databases: Wales) in subsection (8)(a) for "Part 10A of the Children Act 1989 (c. 41)" substitute " Part 2 of the Children and Families (Wales) Measure 2010 ".

Commencement Information

I67 Sch. 1 para. 16 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

Education Act 2005 (c .18)

17 Amend the Education Act 2005 as follows.

Status: *Point in time view as at 03/12/2021. This version of this Measure contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Children and Families (Wales) Measure 2010. (See end of Document for details)*

Commencement Information
I68 Sch. 1 para. 17 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

18 In section 59 (combined reports), for subsection (1)(b) substitute the following—

"(b) Part 2 of the Children and Families (Wales) Measure 2010 (child minding and day care for children),".

Commencement Information
I69 Sch. 1 para. 18 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

Education and Inspections Act 2006 (c. 40)

19 Amend section 162 of the Education and Inspections Act 2006 (as amended by the Education (Wales) Measure 2009) as follows.

20 In subsection (5A)—

(a) after paragraph (a) insert—

"(aa) make such provision as appears to them to be appropriate for the purpose of—

(i) repealing any reference in a Measure of the National Assembly for Wales to a children's services authority (however expressed), and

(ii) replacing it, where it appears to them to be appropriate, with a reference (however expressed) to a Welsh local authority;";

(b) in paragraph (b), after "paragraph (a)" insert " or paragraph (aa) ".

Childcare Act 2006 (c. 21)

21 Amend the Childcare Act 2006 as follows.

Commencement Information
I70 Sch. 1 para. 21 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

22 In section 30 (interpretation of Part 2) in the definition of "childcare", for "Part 10A of the Children Act 1989 (c 41)" substitute " Part 2 of the Children and Families (Wales) Measure 2010 ".

Commencement Information
I71 Sch. 1 para. 22 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

23 In section 75 (disqualification from registration), in subsection (3)(f) after "Part 10A of the Children Act 1989 (c 41)" insert " or under Part 2 of the Children and Families (Wales) Measure 2010 ".

Commencement Information
I72 Sch. 1 para. 23 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

24 In section 101 (provision of information about children: Wales)—

(a) in subsection (1)(a) for "Part 10A of the Children Act 1989 (c 41)" substitute " Part 2 of the Children and Families (Wales) Measure 2010 ";

(b) in subsection (9), in the definition of "child minding" and "day care" for "Part 10A of the Children Act 1989" substitute " Part 2 of the Children and Families (Wales) Measure 2010 ".

Commencement Information
I73 Sch. 1 para. 24 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

National Health Service (Wales) Act 2006 (c. 42)

25 Amend the National Health Service (Wales) Act 2006 as follows.

Commencement Information
I74 Sch. 1 para. 25 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

26 In Schedule 1, paragraph 7A (weighing and measuring of children)—

(a) in sub-paragraph (3) for "Part 10A of the Children Act 1989" substitute " Part 2 of the Children and Families (Wales) Measure 2010 ";

(b) in sub-paragraph (4) for "Part 10A of the Children Act 1989" substitute " Part 2 of the Children and Families (Wales) Measure 2010 ".

Commencement Information
I75 Sch. 1 para. 26 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

Safeguarding Vulnerable Groups Act 2006 (c. 47)

27 Amend the Safeguarding Vulnerable Groups Act 2006 as follows.

Commencement Information
I76 Sch. 1 para. 27 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

28 In Schedule 4—

(a) in paragraph 1(6)(a) for "section 79D of the Children Act 1989 (c 41)" substitute " section 21 of the Children and Families (Wales) Measure 2010 ";

(b) in paragraph 1(6)(b), after "eight" insert " (or such other age as may be substituted by order under section 19(4)(a) of the Children and Families (Wales) Measure 2010) ";

Status: *Point in time view as at 03/12/2021. This version of this Measure contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Children and Families (Wales) Measure 2010. (See end of Document for details)*

(c) in paragraph 3(2)(c), for "(within the meaning of section 79A of the Children Act 1989 (c 41))" substitute " (within the meaning of section 19 of the Children and Families (Wales) Measure 2010) ".

Commencement Information

I77 Sch. 1 para. 28 in force at 1.4.2011 by S.I. 2010/2582, art. 2, **Sch. 1** (with Schs. 2, 3)

SCHEDULE 2

(introduced by section 73)

REPEALS

Commencement Information

I78 Sch. 2 in force at 1.4.2011 for specified purposes by S.I. 2010/2582, art. 2, **Sch. 1** (with art. 3, Sch. 2, Sch. 3)

Short title and chapter	***Extent of repeal***
Children Act 1989 (c. 41)	In section 80(1), paragraph (i). In section 80(5), paragraphs (h) and (hh). In section 105, subsection (5A). Part XA. Schedule 9A.
Education Act 2002 (c. 32)	Section 176.
Education Act 2005 (c. 18)	In Schedule 7, paragraphs 5 and 6.
Childcare Act 2006 (c. 21)	In Schedule 2, paragraphs 5 to 18.
Education and Inspections Act 2006 (c. 40)	Section 167.
Education and Skills Act 2008 (c. 25)	Section 158.

Status:
Point in time view as at 03/12/2021. This version of this Measure contains provisions that are prospective.

Changes to legislation:
There are currently no known outstanding effects for the Children and Families (Wales) Measure 2010.