
WELSH STATUTORY INSTRUMENTS

2002 No. 919 (W.107)

**SOCIAL CARE, WALES
CHILDREN AND YOUNG PERSONS, WALES
PUBLIC HEALTH, WALES**

The Registration of Social Care and Independent
Health Care (Wales) Regulations 2002

Made - - - - 28th March 2002

Coming into force - - 1st April 2002

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 12(2), 14(1)(d), 15(3), 16(1), 25(1) and 118(5) to (7) of the Care Standards Act 2000(1) and sections 79E(2) and 104(4) of, and paragraph 6(2) of Schedule 9A to, the Children Act 1989(2) hereby makes the following Regulations:—

PART I—
GENERAL

Citation, commencement and application

1.—(1) These Regulations may be cited as the Registration of Social Care and Independent Health Care (Wales) Regulations 2002 and shall come into force on 1st April 2002.

(2) These Regulations apply in relation to Wales.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“the Act” means the Care Standards Act 2000;

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- (1) 2000 c. 14. The powers are exercisable by the appropriate Minister. The “appropriate Minister” is defined in s. 121(1) of the 2000 Act. It means the Assembly in relation to Wales: s.5(b) of the Act defines “the Assembly” as the National Assembly for Wales. It means the Secretary of State in relation to England, Scotland and Northern Ireland.
- (2) 1989 c. 41. Section 79E and Schedule 9A were inserted into the Children Act 1989 by section 79 of the Care Standards Act 2000. For the meaning of “prescribed” see section 105(1) of the 1989 Act and for the meaning of “regulations” see section 79B(7) of that Act (inserted by section 79 of the 2000 Act).

“the 1989 Act” means the Children Act 1989;

“applicant” means a person seeking to be registered;

“appropriate office of the National Assembly” means—

- (a) in relation to a care home—
 - (i) if an office has been specified under regulation 48 of the Care Homes (Wales) Regulations 2002⁽³⁾ for the area in which the care home is situated, that office;
 - (ii) in any other case, any office of the National Assembly;
- (b) in relation to a children’s home—
 - (i) if an office has been specified under regulation 42 of the Children’s Homes (Wales) Regulations 2002⁽⁴⁾ for the area in which the children’s home is situated, that office;
 - (ii) in any other case, any office of the National Assembly;
- (c) in relation to an independent hospital or independent clinic—
 - (i) if an office has been specified under regulation 2(2) of the Private and Voluntary Health Care (Wales) Regulations 2002⁽⁵⁾ for the area in which the independent hospital or independent clinic, as the case may be, is situated, that office;
 - (ii) in any other case, any office of the National Assembly;
- (d) in relation to premises on which a person acts as a child minder or seeks to so act or a person provides day care or seeks to do so—
 - (i) if an office has been specified under regulation 2(2) of the Part XA Regulations 2002⁽⁶⁾ for the area in which the premises are situated, that office;
 - (ii) in any other case, any office of the National Assembly.

“holding company” has the meaning given to it by section 736 of the Companies Act 1985⁽⁷⁾;

“National Assembly” means the National Assembly for Wales;

“organisation” means a body corporate;

“the Part XA Regulations” means the Child Minding and Day Care (Wales) Regulations 2002⁽⁸⁾;

“placement plan” has the meaning given to it in regulation 12 (child’s placement plan) of the Children’s Homes (Wales) Regulations 2002;

“registered” means registered under Part II of the Act or Part XA of the 1989 Act, as the case may be;

“registered manager” means a person who is registered as the manager of an establishment;

“registered person” means a person who is the registered provider or registered manager in respect of an establishment;

“registered provider” means a person who is registered as a person carrying on an establishment;

“registration” means registration under Part II of the Act or Part XA of the 1989 Act as the case may be;

“relative”, in relation to any person, means—

(3) S.I.2002/324

(4) S.I. 2002/327

(5) S.I. 2002/325

(6) S.I. 2002/812

(7) 1985 c. 6; section 736 was substituted by section 144(1) of the Companies Act 1989 (c. 40).

(8) S.I. 2002/ 812

- (a) the person's spouse;
- (b) any parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece of the person or the person's spouse;
- (c) the spouse of any relative within sub-paragraph (b) of this definition;

and for the purpose of determining any such relationship a person's step-child shall be treated as the person's child, and references to "spouse" in relation to any person include a former spouse and a person who is living with the person as husband or wife;

"representative" means, in relation to a service user, a person, other than the registered person or a person employed at or for the purposes of the establishment, who with the service user's express or implied consent takes an interest in the service user's health and welfare;

"responsible individual" means an individual who is a director, manager, secretary or other officer of an organisation and is responsible for supervising the management of an establishment;

"responsible person" means—

- (a) where the applicant is an individual, the applicant;
- (b) where the applicant is an organisation, the responsible individual;

"service user" means any person who is to be provided with accommodation or services in an establishment;

"statement of purpose" means—

- (a) in relation to a care home, the written statement required to be compiled in relation to the care home in accordance with regulation 4(1) of the Care Homes (Wales) Regulations 2002;
- (b) in relation to a children's home, the written statement required to be compiled in relation to the children's home in accordance with regulation 4(1) of the Children's Homes (Wales) Regulations 2002;
- (c) in relation to an independent hospital or independent clinic, the written statement required to be compiled in relation to the independent hospital or independent clinic in accordance with regulation 5(1) of the Private and Voluntary Health Care (Wales) Regulations 2002;
- (d) in relation to the child minding or provision of day care for which a person applies for registration, the written statement required to be compiled in accordance with reg 3(1) of the Part XA Regulations;

"subsidiary" has the meaning given to it by section 736 of the Companies Act 1985.

(2) In these Regulations, unless the context otherwise requires, references to an establishment are to be construed as references—

- (a) in the case of an applicant, to the establishment or proposed establishment in respect of which he or she is seeking to be registered;
- (b) in the case of a registered person, to the establishment in respect of which he or she is registered.

(3) In these Regulations, a reference—

- (a) to a numbered regulation or Schedule is to the regulation in, or Schedule to, these Regulations bearing that number;
- (b) in a regulation or Schedule to a numbered paragraph is to the paragraph in that regulation or Schedule bearing that number;
- (c) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

**PART II—
APPLICATIONS FOR REGISTRATION UNDER
PART II OF THE CARE STANDARDS ACT 2000**

Application of regulations 4 to 15

3. Regulations 4 to 15 apply in relation to Part II of the Act.

Information and documents to be provided by an applicant

- 4.—(1) An application for registration shall—
- (a) be in writing on a form approved by the National Assembly;
 - (b) be sent or delivered to the appropriate office of the National Assembly;
 - (c) be accompanied by a recent photograph of the responsible person, of whom the photograph shall be a true likeness;
 - (d) give the information that the applicant is required to provide in accordance with paragraphs (2) to (4).
- (2) A person who is seeking to be registered as a person who carries on an establishment shall provide to the National Assembly—
- (a) full information in respect of the matters listed in Parts I and II of Schedule 1;
 - (b) the documents listed in paragraphs 1 to 3 and 5 to 9 of Schedule 2;
 - (c) the documents listed in paragraphs 4 and 10 of Schedule 2, except where any certificate or information on any matters referred to in those paragraphs is not available to an individual because any provision of the Police Act 1997(9) has not been brought into force.
- (3) A person who is seeking to be registered as a manager in respect of an establishment shall provide to the National Assembly—
- (a) full information in respect of each of the matters listed in Part I of Schedule 3;
 - (b) the documents listed in paragraphs 9 to 11 of that Schedule;
 - (c) the documents listed in paragraphs 12 and 13 of that Schedule, except where any certificate or information on any matters referred to in those paragraphs is not available to the person because any provision of the Police Act 1997 has not been brought into force.
- (4) A person who is seeking to be registered in respect of an establishment of a description specified in column (1) below shall additionally provide to the National Assembly full information in respect of each of the matters listed in the Schedule specified in the corresponding entry in column (2) below.

(1) Establishment	(2) Schedule
Care home	Schedule 4
Children’s home	Schedule 5
Independent hospital or independent clinic	Schedule 6

(5) If the National Assembly so requests, the applicant shall provide full information to the National Assembly in respect of the matters listed in Part III of Schedule 1 in relation to any person

(9) 1997 c. 50.

specified for this purpose by the National Assembly who works, or is intended to work, at the establishment.

(6) The applicant shall provide to the National Assembly any other documents that it may reasonably require in relation to his or her application for registration.

Convictions

5. Where the National Assembly asks the responsible person for details of any criminal convictions which are spent within the meaning of section 1 of the Rehabilitation of Offenders Act 1974⁽¹⁰⁾ and informs him or her at the time the question is asked that by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975⁽¹¹⁾ spent convictions are to be disclosed, the responsible person shall supply in writing to the National Assembly details of any spent convictions that he or she has.

Interview

6. The responsible person shall attend an interview for the purpose of enabling the National Assembly to determine whether the applicant is fit to carry on or manage the establishment in respect of which the applicant seeks to be registered.

Notice of changes

7. The applicant shall give notice in writing to the National Assembly of any change specified below which occurs after the application for registration is made and before it is determined—

- (a) any change of the name or address of the applicant or any responsible person;
- (b) where the applicant is an organisation, any change of director, manager, secretary or other person responsible for supervising the management of the organisation.

Information as to staff engaged after application made

8.—(1) Where an applicant applies for registration as a person who carries on an establishment, and before the application is determined, engages a person to work at the establishment, the applicant shall, in respect of each person so engaged—

- (a) obtain the information specified in paragraphs 15 and 16 of Schedule 1 and, except where paragraph (2) applies, the documents specified in paragraph 10 of Schedule 2, in relation to the position in which the person is to work;
- (b) provide to the National Assembly, if it so requests, any of the information or documents which the applicant is required to obtain under paragraph (a).

(2) This paragraph applies where any certificate or information on any matters referred to in paragraph 10 of Schedule 2 is not available to an individual because any provision of the Police Act 1997 has not been brought into force.

(10) 1974 c. 53.

(11) S.I.1975/1023. Relevant amendments have been made by S.I. 1986/1249, 1986/2268 and 2001/1192.

PART III— CERTIFICATES OF REGISTRATION

Contents of certificate

9. A certificate of registration shall contain the following particulars—
- (a) the name, address and telephone number of the appropriate office of the National Assembly;
 - (b) the name and address of the person who has been registered as the person who carries on the establishment;
 - (c) where the person is an organisation, the name of the responsible individual;
 - (d) the name of the person registered as the manager of the establishment;
 - (e) the description of the establishment by reference to the description of establishment specified in section 4(8)(a) of the Act;
 - (f) where the registration is subject to any condition, details of the condition including any requirement in the condition as to—
 - (i) the facilities or services that are to be provided;
 - (ii) the number of service users for whom accommodation or services may be provided;
 - (iii) the description of persons to whom facilities or services are to be provided;
 - (iv) any period of time within which the condition is to be fulfilled;
 - (v) the number and description of persons to be working at any specified place and time;
 - (g) the date of registration;
 - (h) a statement that if an establishment is not carried on in accordance with the relevant requirements and conditions the registration is liable to be cancelled by the National Assembly;
 - (i) a statement that the certificate relates only to the person to whom it is issued by the National Assembly and is not capable of being transferred to another person.

Return of certificate

10. If the registration of a person in respect of an establishment is cancelled, the person shall, not later than the day on which the decision or order cancelling the registration takes effect, return the certificate of registration to the National Assembly by—
- (a) delivering it to the appropriate office of the National Assembly; or
 - (b) sending it to the said office by registered post or by recorded delivery.

Offence

11. A failure to comply with regulation 10 shall be an offence.

PART IV— CONDITIONS AND REPORTS

Application for variation or removal of a condition

12.—(1) In this regulation—

“application” means an application by the registered person under section 15(1)(a) of the Act for the variation or removal of a condition in relation to his or her registration;

“proposed effective date” means the date requested by the registered person as the date on which the variation or removal applied for is to take effect.

(2) An application shall be—

- (a) made in writing on a form approved by the National Assembly;
- (b) sent or delivered to the appropriate office of the National Assembly not less than six weeks before the proposed effective date or such shorter period (if any) before that date as may be agreed with the Commission;
- (c) accompanied by the information specified in paragraph (3);
- (d) accompanied by a fee of such amount as may be prescribed in relation to the variation or removal applied for by any regulation made under section 15(3) of the Act⁽¹²⁾.

(3) The following information is specified—

- (a) the proposed effective date;
- (b) the registered person’s reasons for making the application;
- (c) details of changes that the registered person proposes to make in relation to the establishment as a consequence of the variation or removal applied for, including details of—
 - (i) proposed structural changes to the premises that are used as an establishment;
 - (ii) additional staff, facilities or equipment, or changes in management that are required to ensure that the proposed changes are carried into effect.

(4) The registered person shall provide the National Assembly with any other information or any documents that it may reasonably require in relation to his application.

Report as to financial viability

13. If it appears to the registered person that the establishment is likely to cease to be financially viable at any time within the following six months, the registered person shall give a report to the appropriate office of the National Assembly of the relevant circumstances.

⁽¹²⁾ Regulation 4 of the Registration of Social Care and Independent Health Care (Fees) (Wales) Regulations 2002 (S.I. 2002/921) prescribes a fee for these purposes.

PART V— CANCELLATION OF REGISTRATION

Cancellation of registration

14. The following grounds are specified for the purposes of section 14(1)(d) of the Act as grounds on which the National Assembly may cancel the registration of a person in respect of an establishment—

- (a) the person has failed to pay at the time prescribed under subsection (3) of section 16 of the Act the annual fee payable by him or her by virtue of that subsection;
- (b) the person has in relation to any application by him or her—
 - (i) for registration; or
 - (ii) for the variation or removal of a condition in relation to his or her registration, made a statement which is false or misleading in a material respect or provided false information;
- (c) the establishment has ceased to be financially viable, or is likely to cease to be so within the next six months.

Application for cancellation of registration

15.—(1) In this regulation—

“application for cancellation” means an application by the registered person under section 15(1)(b) of the Act for the cancellation of his or her registration;

“notice of application for cancellation” means a notice by the registered person stating that he or her has made, or intends to make, an application for cancellation;

“proposed effective date” means the date requested by the registered person as the date on which the cancellation applied for is to take effect.

(2) An application for cancellation shall be—

- (a) made in writing on a form approved by the National Assembly;
- (b) sent or delivered to the appropriate office of the National Assembly not less than three months before the proposed effective date or such shorter period (if any) before that date as may be agreed with the National Assembly;
- (c) accompanied by the information specified in paragraph (4).

(3) If the registered person makes an application for cancellation he or she shall not more than seven days thereafter give notice of application for cancellation to each of the persons specified in paragraph (4)(d), other than a person to whom the registered person has given such notice within three months before he or she made the application for cancellation.

(4) The following information is specified—

- (a) the proposed effective date;
- (b) a statement as to the arrangements (if any) that have been made by the registered person to ensure that on and after—
 - (i) the date of application for cancellation; and
 - (ii) the proposed effective date,

- service users will continue to be provided with similar accommodation (if any) and services as those provided to them in the establishment at the date on which the application for cancellation is made;
- (c) the registered person's reasons for making the application for cancellation;
 - (d) particulars of any notice of application for cancellation that has been given to any of the following persons—
 - (i) service users;
 - (ii) persons who appear to the registered person to be representatives of service users;
 - (iii) the local authority and Health Authority in whose areas the establishment is situated;
 - (e) where the registered person has not given notice of application for cancellation to—
 - (i) each service user;
 - (ii) in respect of each service user, a person who appears to the registered person to be a representative of that service user; and
 - (iii) each of the bodies specified in sub-paragraph (4)(d)(iii),
a statement as to whether there were any circumstances which prevented the registered person from giving, or made it impracticable for him or her to give, notice of application for cancellation to any of the persons or bodies referred to in heads (i) to (iii) of this subparagraph before the date on which he or she applied for cancellation;
 - (f) where the registered person has applied for cancellation less than three months before the proposed effective date, a report as to whether the establishment has ceased, or is likely to cease within the next following twelve months, to be financially viable.
- (5) The registered person shall provide the National Assembly with any other information or any documents that it may reasonably require in relation to his or her application for cancellation.

PART VI—

REGISTRATION UNDER PART XA OF THE CHILDREN ACT 1989

Application of regulation 17 and 18

16. Regulations 17 and 18 apply in relation to Part XA of the 1989 Act.

Information and documents to be provided by an applicant for registration under Part XA of the 1989 Act

17. An application for registration shall—
- (a) be in writing on a form approved by the National Assembly;
 - (b) be sent or delivered to the appropriate office of the National Assembly;
 - (c) be accompanied by a recent photograph of the responsible person of whom the photograph shall be a true likeness;
 - (d) give full information or documentation, as the case may be, in respect of the matters specified in Schedules 7 and 8 in relation to the applicant and, as the case may be, any person other than the applicant who works for or is intended to work for the applicant in relation to child minding or the provision of day care.

Certificates of Registration under Schedule 9A to the 1989 Act

18. A certificate of registration given to an applicant under paragraph 6 (1) of Schedule 9A to the 1989 Act shall contain the following particulars_

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

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998**(13)**

28th March 2002

Rhodri Morgan
Assembly First Minister

SCHEDULE 1

Regulation 4(2)(a) and (5)

INFORMATION TO BE SUPPLIED ON AN APPLICATION FOR REGISTRATION AS A PERSON WHO CARRIES ON AN ESTABLISHMENT

PART I

Information about the applicant

1. Where the applicant is an individual—
 - (a) the applicant's full name, date of birth, address and telephone number;
 - (b) details of the applicant's professional or technical qualifications, and experience of carrying on an establishment, so far as such qualifications and experience are relevant to providing services for persons to whom services are to be provided at the establishment;
 - (c) details of the applicant's employment history, including the name and address of his or her present employer and of any previous employers;
 - (d) details of any business the applicant carries on or has carried on;
 - (e) the name and addresses of two referees—
 - (i) who are not relatives of the applicant;
 - (ii) each of whom is able to provide a reference as to the applicant's competence to carry on an establishment of the same description as the establishment; and
 - (iii) one of whom has employed the applicant for a period of at least 3 months, but the requirement for the name and address of a referee who has employed the applicant for a period of at least 3 months shall not apply where it is impracticable to obtain a reference from a person who fulfils that requirement;
 - (f) where any certificate or information on any matters referred to in paragraph 4 of Schedule 2 is not available to the responsible person because any provision of the Police Act 1997 has not been brought into force, details of any criminal offences—
 - (i) of which the responsible person has been convicted, including details of any convictions which are spent within the meaning of section 1 of the Rehabilitation of Offenders Act 1974 and which may be disclosed by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975; or
 - (ii) in respect of which he or she has been cautioned by a constable and which, at the time the caution was given, he admitted.
2. Where the applicant is an organisation—
 - (a) the name of the organisation and the address of the registered office or principal office of the organisation;
 - (b) the full name, date of birth, address and telephone number of the responsible individual;
 - (c) details of the professional or technical qualifications of the responsible individual and his or her experience of carrying on an establishment of the same description as the establishment, so far as such qualifications and experience are relevant to providing services for persons for whom services are to be provided at the establishment;
 - (d) if the organisation is a subsidiary of a holding company, the name and address of the registered or principal office of the holding company and of any other subsidiary of that holding company.

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3. In every case—
 - (a) a reference from a bank expressing an opinion as to the applicant’s financial standing;
 - (b) a statement as to whether the responsible person has been adjudged bankrupt, or sequestration of his or her estate has been ordered, or he or she has made a composition or arrangement with, or granted a trust deed for, his creditors;
 - (c) a statement as to the applicant’s ability to ensure the financial viability of the establishment for the purpose of achieving the aims and objectives of the establishment set out in its statement of purpose;
 - (d) a business plan in respect of the establishment;
 - (e) details as to cash-flow in respect of the establishment.

PART II

Information about the establishment

4. The name, address, telephone number, facsimile number, and electronic mail address (if any) of the establishment.
5. The description of establishment specified in section 4(8)(a) of the Act in respect of which the applicant seeks to be registered.
6. The statement of purpose of the establishment.
7. A statement as to the accommodation, facilities and services which are to be provided by the establishment including the extent and, where appropriate, location of such accommodation, facilities and services.
8. The date on which the establishment was established or is proposed to be established.
9. Details of the scale of charges payable by the service users.
10. In respect of the premises to be used by an establishment—
 - (a) a description of the premises, including a statement as to whether the premises are purpose-built or have been converted for use as an establishment;
 - (b) a description of the area in which the premises are located.
11. In respect of the premises to be used by an establishment, a statement as to whether at the date the application is made the premises are capable of being used for the purpose of—
 - (a) achieving the aims and objectives set out in the statement of purpose of the establishment; and
 - (b) providing facilities and services in accordance with the statement referred to in paragraph 7,without the need for planning permission, building works, or conversion of the premises and, if the premises are not capable of such use at the date the application is made, details of the permission, works or conversion needed.
12. A statement as to the security arrangements, including arrangements for the purposes of—
 - (a) safeguarding access to information held by the establishment; and
 - (b) restricting access from adjacent premises or, when the premises form part of a building, from other parts of the building.

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13. The name and address of any other establishment of a description specified in section 4(8) (a) of the Act in which the applicant has or has had a business or financial interest, or at which he or she is or has been employed, and details of such interest or employment.

14. Whether any other business is or will be carried on in the same premises as those of the establishment and, if so, details of such business.

Information about staff

15. In respect of any person, other than the applicant, who works at, or is intended to work at the establishment—

- (a) the person's name, sex and date of birth;
- (b) the person's duties and responsibilities in relation to his or her work.

PART III

Further information about staff

16. In respect of any person, other than the applicant, who works at, or is intended to work at the establishment—

- (a) whether the person is, or is intended to be, resident in the premises used as the establishment;
- (b) if he or she is a relative of any person who has made an application in respect of the establishment, his or her relationship to such person;
- (c) whether the person works or is intended to work, on a full-time basis or on a part-time basis and, if on a part-time basis, the number of hours per week for which it is intended that the person will work;
- (d) the date on which the person commenced, or is intended to commence, working at the establishment;
- (e) information as to the person's qualifications, experience and skills in so far as is relevant to the work that the person is to perform;
- (f) a statement by applicant that he or she is satisfied as to the authenticity of the qualifications, and has verified the experience and skills that are referred in sub-paragraph (e);
- (g) a statement as to—
 - (i) the suitability of the person's qualifications for the work that the person is to perform;
 - (ii) whether the person has the skills necessary for such work;
 - (iii) the person's fitness to work, and have regular contact, with service users;
- (h) a statement by the person as to the state of his or her physical and mental health;
- (i) a statement by the applicant that the person is physically and mentally fit for the purposes of the work which he or she is to perform;
- (j) a statement by the applicant as to whether he or she is satisfied as to the person's identity, the means by which the applicant so satisfied himself or herself and whether the applicant has obtained a copy of the person's birth certificate;
- (k) confirmation by the applicant that he or she has a recent photograph of the person;
- (l) a statement by the applicant that he or she has obtained two references relating to the person and that the applicant is satisfied as to the authenticity of those references;

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- (m) details of any criminal offences of which the person has been convicted, including details of any convictions which are spent within the meaning of section 1 of the Rehabilitation of Offenders Act 1974 and which may be disclosed by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, and, in relation to each such offence, a statement by the person—
 - (i) as to whether in his or her view the offence is relevant to his or her suitability to care for, train, supervise or be in sole charge of any person and, if so,
 - (ii) as to why he or she considers that he or she is suitable to perform the work in which he or she is to be employed;
- (n) details of any criminal offences in respect of which he or she has been cautioned by a constable and which, at the time the caution was given, he or she admitted.

SCHEDULE 2

Regulation 4(2)(b)(c)

DOCUMENTS TO BE SUPPLIED ON AN APPLICATION FOR REGISTRATION AS A PERSON WHO CARRIES ON AN ESTABLISHMENT

Documents concerning applicant

1. The responsible person's birth certificate.
2. Certificates or other suitable evidence relating to the responsible person's professional or technical qualifications, so far as such qualifications are relevant to providing services for persons for whom services are to be provided at the establishment.
- 3.—(1) Subject to sub-paragraph (2), a report by a general medical practitioner as to whether the responsible person is physically and mentally fit to carry on an establishment of the same description as the establishment.
(2) Where the responsible person is unable to obtain the report referred to in sub-paragraph (1), a statement by the responsible person as to the state of his or her physical and mental health..
4. The following documents in relation to the responsible person—
 - (a) a criminal record certificate—
 - (i) which has been issued under section 113 of the Police Act 1997(14); and
 - (ii) the application for which was countersigned by the National Assembly, including, where applicable, the matters specified in section 113(3A)(a) and (b) and (3C)(a) and (b) of that Act;
 - (b) an enhanced criminal records certificate—
 - (i) which has been issued under section 115 of that Act; and
 - (ii) the application for which was countersigned by the National Assembly, including, where applicable, the matters specified in section 115(6A) (a) and (b) and (6B) (a) and (b) of that Act.
5. Where the applicant is an organisation, copies of the last two annual reports it was required to produce.

(14) 1997 c. 50. Sections 113(3A) and 115(6A) were added by section 8(1) and (2) of the Protection of Children Act 1999 (c. 14) and amended by section 104 and 116 of, and paragraph 25(1) and (2) of Schedule 4 to, the Care Standards Act 2000 (c. 14). Sections 113(3C) and 115(6B) are to be added to the Police Act 1997 by section 90(1) and (2) of the Care Standards Act 2000 on a date to be appointed.

6. Where the organisation is a subsidiary of a holding company, the name and address of the registered or principal office and the last two annual reports (if any) of the holding company and of any other subsidiary of that holding company.

7. The last annual accounts (if any) of the establishment.

8. Except where the applicant is a local authority or NHS trust, a reference from a bank expressing an opinion as to the applicant's financial standing.

9. A certificate of insurance for the applicant in respect of liability which may be incurred by him or her in relation to the establishment in respect of death, injury, public liability, damage or other loss.

Criminal record certificates in respect of staff

10.—(1) A statement confirming that—

(a) the documents specified in sub-paragraph (2) have been issued—

(i) in the case of any applicant, to every person, other than the applicant, who works, or is intended to work, for the purposes of the establishment; and

(ii) where the applicant is an organisation, to the responsible individual, and

(b) the applicant will make the documents so issued available for inspection by the National Assembly if the National Assembly so requires.

(2) The following documents are specified—

(a) if the position in which the person works, or is intended to work, for the purposes of the establishment falls within section 113 (3B) of the Police Act 1997, either—

(i) if the position falls within section 115(3) of that Act, an enhanced criminal record certificate issued to the person under section 115 of that Act; or

(ii) in any other case, a criminal record certificate issued to the person under section 113 of that Act,

including the matters specified in, as the case may be, section 115(6A)(a) and (b) or 113(3A)(a) and (b) of that Act;

(b) if the position in which the person works, or is intended to work, for the purposes of the establishment falls within section 113(3D) of the Police Act 1997, either—

(i) if the position falls within section 115(4) of that Act, an enhanced criminal record certificate issued to the person under section 115 of that Act; or

(ii) in any other case, a criminal record certificate issued to the person under section 113 of that Act,

including the matters specified in, as the case may be, section 115(6B)(a) and (b) or 113(3C)(a) and (b) of that Act;

(c) if the position in which the person works, or is intended to work, for the purposes of the establishment does not fall within section 113(3B) or (3D) of the Police Act 1997, a criminal record certificate issued to the person under section 113 of that Act.

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SCHEDULE 3

Regulation 4(3)

INFORMATION AND DOCUMENTS TO BE SUPPLIED ON AN APPLICATION FOR REGISTRATION AS THE MANAGER OF AN ESTABLISHMENT

PART I

Information

1. The applicant's full name, date of birth, address and telephone number.
2. Details of the applicant's professional or technical qualifications, and experience of managing an establishment, so far as such qualifications and experience are relevant to providing services for persons for whom services are to be provided at the establishment.
3. Details of the applicant's professional training relevant to carrying on or managing an establishment.
4. Details of the applicant's employment history, including the name and address of the applicant's present employer and of any previous employers.
5. Details of any business the applicant carries on or manages or has carried on or managed.
6. The name and addresses of two referees—
 - (a) who are not relatives of the applicant;
 - (b) each of whom is able to provide a reference as to the applicant's competence to carry on an establishment of the same description as the establishment; and
 - (c) one of whom has employed the applicant for a period of at least 3 months,but the requirement for the name and address of a referee who has employed the applicant for a period of at least 3 months shall not apply where it is impracticable to obtain a reference from a person who fulfils that requirement.
7. The name, address, telephone number, facsimile number, and electronic mail address (if any) of the establishment.
8. Where any certificate or information on any matters referred to in paragraph 12 or 13 is not available to the applicant because any provision of the Police Act 1997 has not been brought into force, details of any criminal offences—
 - (i) of which the applicant has been convicted, including details of any convictions which are spent within the meaning of section 1 of the Rehabilitation of Offenders Act 1974 and which may be disclosed by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975; or
 - (ii) in respect of which he has been cautioned by a constable and which, at the time the caution was given, he admitted.

PART II

Documents

9. The applicant's birth certificate.

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10. Certificates or other suitable evidence relating to the applicant’s professional or technical qualifications, so far as such qualifications are relevant to providing services for persons for whom services are to be provided at the establishment.

11.—(1) Subject to sub-paragraph (2), a report by a general medical practitioner as to whether the applicant is physically and mentally fit to carry on an establishment of the same description as the establishment.

(2) Where the applicant is unable to obtain the report referred to in sub-paragraph (1), a statement by the applicant as to the state of his or her physical and mental health.

12. A criminal record certificate—

- (a) which has been issued to the applicant under section 113 of the Police Act 1997(15), and
- (b) the application for which was countersigned by the National Assembly,

including, where applicable, the matters specified in section 113(3A) (a) and (b) and (3C)(a) and (b) of that Act.

13. An enhanced criminal record certificate—

- (a) which has been issued to the applicant under section 115 of that Act; and
- (b) the application for which was countersigned by the National Assembly,

including, where applicable, the matters specified in section 115(6A) (a) and (b) and (6B) (a) and (b) of that Act.

SCHEDULE 4

Regulation 4(4)

INFORMATION TO BE SUPPLIED ON AN APPLICATION FOR REGISTRATION IN RESPECT OF A CARE HOME

1. In this Schedule “service user” means any person accommodated in the care home who is in need of nursing or personal care by reason of disability, infirmity, past or present illness, past or present mental disorder or past or present dependence on alcohol or drugs.

2. Details of the accommodation available for—

- (a) service users; and
- (b) persons working at the care home.

3. Whether it is proposed to provide nursing at the care home.

4. Whether it is proposed to provide at the care home accommodation, nursing or personal care to service users who are children.

5. The maximum number of service users for whom the care home is proposed to be used, and the number of such users by reference to—

- (a) their sex;
- (b) the reason or reasons for their need of nursing or personal care as mentioned in paragraph 1 of this Schedule;
- (c) service users who are children.

(15) 1997 c. 50. 1997 c. 50. Sections 113(3A) was added by section 8(1) of the Protection of Children Act 1999 (c. 14) and amended by section 116 of, and paragraph 25(1) of Schedule 4 to, the Care Standards Act 2000 (c. 14). Section 113(3C) was added by section 90(1) of the Care Standards Act 2000.

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SCHEDULE 5

Regulation 4(4)

INFORMATION TO BE SUPPLIED ON AN APPLICATION FOR REGISTRATION IN RESPECT OF A CHILDREN'S HOME

1. The following details about the children who are intended to be accommodated at the children's home—
 - (a) their age range;
 - (b) their sex;
 - (c) the maximum number of such children;
 - (d) whether the children to be accommodated are selected by reference to other criteria than age or sex, and if so those criteria.
2. The organisational structure of the children's home.
3. The facilities and services to be provided within the children's home for the children accommodated.
4. The arrangements for protecting and promoting the health of any children accommodated.
5. The fire precautions and emergency procedures.
6. The arrangements to allow children to follow religious observance.
7. The arrangements for contact between a child and his or her parents, relatives and friends.
8. Details as to the use of restraint and discipline, the circumstances in which they will be used, and who is permitted to authorise such use.
9. The procedure for dealing with any unauthorised absence of a child from the children's home.
10. The arrangements for allowing children in the children's home to raise issues, and the procedure for dealing with complaints.
11. The arrangements for the education of any child accommodated.
12. The arrangements for dealing with reviews of the placement plans of any children accommodated.

SCHEDULE 6

Regulation 4(4)

INFORMATION TO BE SUPPLIED ON AN APPLICATION FOR REGISTRATION IN RESPECT OF AN INDEPENDENT HOSPITAL OR INDEPENDENT CLINIC

1. The nature of the services to be provided including, in particular, details of any listed services within the meaning of section 2 of the Act.
2. The equipment and facilities to be provided.
3. The number of patient beds to be provided.
4. The anticipated number of patients to be treated annually.
5. The arrangements made for the supply of blood and blood products.
6. The arrangements made for the provision of pathology and radiology services.
7. The number of registered medical practitioners who are to be involved in the treatment of patients.

8. Details of any services which are to be provided to children.

SCHEDULE 7

Regulation 17(d)

INFORMATION TO BE SUPPLIED ON AN APPLICATION FOR REGISTRATION AS A CHILD MINDER OR AS A PROVIDER OF DAY CARE

PART I

Information about the applicant

1. Where the applicant is an individual—
 - (a) the applicant's full name, date of birth, address and telephone number;
 - (b) details of the applicant's professional or technical qualifications, and experience, so far as such qualifications and experience are relevant to looking after children under the age of eight;
 - (c) details of the applicant's employment history, including the name and address of his or her present employer and of any previous employers;
 - (d) details of any business the applicant carries on or has carried on;
 - (e) the name and addresses of two referees—
 - (i) who are not relatives of the applicant;
 - (ii) each of whom is able to provide a reference as to the applicant's competence to carry on an establishment of the same description as the establishment; and
 - (iii) one of whom is the applicant's most recent employer;
 - (f) where any certificate or information on any matters referred to in paragraph 4 of Schedule 2 is not available to the responsible person because any provision of the Police Act 1997 has not been brought into force, details of any criminal offences—
 - (i) of which the responsible person has been convicted, including details of any convictions which are spent within the meaning of section 1 of the Rehabilitation of Offenders Act 1974 and which may be disclosed by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975; or
 - (ii) in respect of which he or she has been cautioned by a constable and which, at the time the caution was given, he or she admitted.
2. Where the applicant is an organisation—
 - (a) the name of the organisation and the address of the registered office or principal office of the organisation;
 - (b) the full name, date of birth, address and telephone number of the responsible individual;
 - (c) details of the professional or technical qualifications of the responsible individual and his or her experience, so far as such qualifications and experience are relevant to supervising the provision of care to children under the age of eight;
 - (d) if the organisation is a subsidiary of a holding company, the name and address of the registered or principal office of the holding company and of any other subsidiary of that holding company.
3. In every case—

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- (a) a reference from a bank expressing an opinion as to the applicant's financial standing;
- (b) a statement as to whether the responsible person has been adjudged bankrupt, or sequestration of his or her estate has been ordered, or he or she has made a composition or arrangement with, his or her creditors;
- (c) a statement as to the applicant's ability to ensure that the child minding or provision of day care, as the case may be, is financially viable.

PART II

Further information

4. The name, address, telephone number, facsimile number (if any), and electronic mail address (if any) of the premises at which the children are to be looked after ("the premises").

5. A description of the premises, and the facilities provided or to be provided for children to be looked after there including a statement as to whether the premises are purpose-built or have been converted for use as an establishment.

6. The proposed hours for which the applicant wishes to register as a child minder or provider of day care.

7. The statement of purpose.

8. A description of the area in which the premises are located and as to access to the premises.

9. In respect of the premises, a statement as to whether at the date the application is made the premises are capable of being used for the purpose of—

- (a) achieving the aims and objectives set out in the statement of purpose; and
- (b) providing the facilities described pursuant to paragraph 5.

without the need for planning permission, building works, or conversion of the premises and, if the premises are not capable of such use at the date the application is made, details of the permission, works or conversion needed.

10. A statement as to the security arrangements, including arrangements for the purposes of—

- (a) safeguarding access to information held at the premises; and
- (b) restricting access from adjacent premises or, when the premises form part of a building, from other parts of the building.

11. Whether any other business or activity is or will be carried on in the premises at the same time as children are looked after there under the proposed registration and, if so, details of such business or activity.

Information about staff

12. In respect of any person, other than the applicant, who works at, or is intended to work at the premises for the applicant—

- (a) the person's name, sex and date of birth;
- (b) the person's duties and responsibilities in relation to his or her work.

PART III

Further information about staff

13. In respect of any person, other than the applicant, who works at, or is intended to work at the premises—

- (a) whether the person is, or is intended to be, resident in the premises;
- (b) if he or she is a relative of any person who has made an application, his or her relationship to such person;
- (c) whether the person works or is intended to work, on a full-time basis or on a part-time basis and, if on a part-time basis, the number of hours per week for which it is intended that the person will work;
- (d) the date on which the person commenced, or is intended to commence, work;
- (e) information as to the person's qualifications, experience and skills in so far as is relevant to the work that the person is to perform;
- (f) a statement by the applicant that he or she is satisfied as to the authenticity of the qualifications, and has verified the experience and skills that are referred in subparagraph (e);
- (g) a statement as to—
 - (i) the suitability of the person's qualifications for the work that the person is to perform;
 - (ii) whether the person has the skills necessary for such work;
 - (iii) the person's fitness to work, and have regular contact, with children under the age of eight;
- (h) a statement by the person as to the state of his or her physical and mental health;
- (i) a statement by the applicant that the person is physically and mentally fit for the purposes of the work which he or she is to perform;
- (j) a statement by the applicant as to whether he or she is satisfied as to the person's identity, the means by which the applicant so satisfied himself or herself and whether the applicant has obtained a copy of the person's birth certificate;
- (k) confirmation by the applicant that he or she has a recent photograph of the person;
- (l) a statement by the applicant that he or she has obtained two references relating to the person and that the applicant is satisfied as to the authenticity of those references;
- (m) details of any criminal offences of which the person has been convicted, including details of any convictions which are spent within the meaning of section 1 of the Rehabilitation of Offenders Act 1974 and which may be disclosed by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, and, in relation to each such offence, a statement by the person—
 - (i) as to whether in his or her view the offence is relevant to his or her suitability to care for children under the age of eight and, if so,
 - (ii) as to why he or she considers that he or she is suitable to perform the work in which he or she is to be employed;
- (n) details of any criminal offences in respect of which he or she has been cautioned by a constable and which, at the time the caution was given, he or she admitted.

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SCHEDULE 8

DOCUMENTS TO BE SUPPLIED ON AN APPLICATION FOR REGISTRATION AS A CHILD MINDER OR AS A PROVIDER OF DAY CARE

Documents concerning applicant

1. The responsible person's birth certificate.
2. Certificates or other suitable evidence relating to the responsible person's professional or technical qualifications, so far as such qualifications are relevant to looking after children under the age of eight.
- 3.—(1) Subject to sub-paragraph (2), a report by a general medical practitioner as to whether the responsible person is physically and mentally fit to look after children under the age of eight.
(2) Where the responsible person is unable to obtain the report referred to in sub-paragraph (1), a statement by the responsible person as to the state of his or her physical and mental health..
4. The following documents in relation to the responsible person—
 - (a) a criminal record certificate—
 - (i) which has been issued under section 113 of the Police Act 1997⁽¹⁶⁾; and
 - (ii) the application for which was countersigned by the National Assembly, including, where applicable, the matters specified in section 113(3A)(a) and (b) and (3C)(a) and (b) of that Act;
 - (b) an enhanced criminal records certificate—
 - (i) which has been issued under section 115 of that Act; and
 - (ii) the application for which was countersigned by the National Assembly, including, where applicable, the matters specified in section 115(6A) (a) and (b) and (6B) (a) and (b) of that Act.
5. Where the applicant is an organisation, copies of the last two annual reports it was required to produce.
6. Where the organisation is a subsidiary of a holding company, the name and address of the registered or principal office and the last two annual reports (if any) of the holding company and of any other subsidiary of that holding company.
7. The last annual accounts (if any).
8. A reference from a bank expressing an opinion as to the applicant's financial standing.
9. A certificate of insurance for the applicant in respect of liability which may be incurred by him or her in respect of death, injury, public liability, damage or other loss occurring in relation to the proposed child minding or the provision of day care, as the case may be.

Criminal record certificates in respect of staff

- 10.—(1) A statement confirming that—
 - (a) the documents specified in sub-paragraph (2) have been issued—

(16) 1997 c. 50. Sections 113(3A) and 115(6A) were added by section 8(1) and (2) of the Protection of Children Act 1999 (c. 14) and amended by section 104 and 116 of, and paragraph 25(1) and (2) of Schedule 4 to, the Care Standards Act 2000 (c. 14). Sections 113(3C) and 115(6B) are to be added to the Police Act 1997 by section 90(1) and (2) of the Care Standards Act 2000 on a date to be appointed.

- (i) in the case of any applicant, to every person, other than the applicant, who works, or is intended to work, for the applicant; and
 - (ii) where the applicant is an organisation, to the responsible individual, and
 - (b) the applicant will make the documents so issued available for inspection by the National Assembly if the National Assembly so requires.
- (2) The following documents are specified—
- (a) if the position in which the person works, or is intended to work, falls within section 113(3B) of the Police Act 1997, either—
 - (i) if the position falls within section 115(3) of that Act, an enhanced criminal record certificate issued to the person under section 115 of that Act; or
 - (ii) in any other case, a criminal record certificate issued to the person under section 113 of that Act,including the matters specified in, as the case may be, section 115(6A)(a) and (b) or 113(3A)(a) and (b) of that Act;
 - (b) if the position in which the person works, or is intended to work, does not fall within section 113(3B) of the Police Act 1997, a criminal record certificate issued to the person under section 113 of that Act.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Care Standards Act 2000 (“the Act”) and apply to Wales only. Part I of the Act establishes the National Assembly for Wales (“the National Assembly”) as the registration authority for the purposes of the Act in relation to Wales. Part II provides for the registration and inspection by the National Assembly of the following descriptions of establishments and agencies: children’s homes, independent hospitals, independent hospitals in which treatment or nursing (or both) are provided for persons liable to be detained under the Mental Health Act 1983, independent clinics and independent medical agencies and care homes (sections 1 to 3 of the Act); and residential family centres, domiciliary care agencies, fostering agencies, nurses agencies and voluntary adoption agencies (section 4 of the Act). Part VI inserts a new Part XA and Schedule 9A into the Children Act 1989 (“the 1989 Act”) relating to child minding and the provision of day care for children under eight.

These Regulations make provision in relation to the registration of care homes, children’s homes, independent hospitals and independent clinics, child minders and providers of day care.

Under Part II of the Act, the National Assembly has the function of granting or refusing applications for registration under the Act. It may grant registration subject to conditions and may vary or remove any condition or impose an additional condition. It also has power to cancel registration. Regulations 4 to 15 make provision in relation to registration under Part II of the Act.

Regulations 4 and 5 of, and Schedules 1 to 6 to, these Regulations specify the information and documents that are to be provided by an applicant for registration.

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Regulation 6 requires the responsible person to attend an interview. Regulations 7 and 8 require the applicant to give notice of certain changes that take place, or details of staff engaged, after the application for registration is made and before it is determined.

Regulation 9 specifies the particulars that any certificate of registration is to contain.

Regulation 10 requires a person who is registered in respect of an establishment to return the certificate to the National Assembly if the registration is cancelled. Failure to comply with that requirement is an offence under regulation 11.

Regulation 12 makes provision in respect of an application by the registered person to apply for the variation or removal of a condition in relation to his or her registration.

Regulation 13 requires the registered person to report the relevant circumstances to the National Assembly if it appears that the establishment or agency is likely to cease to be financially viable.

Regulation 14 specifies certain grounds on which the National Assembly may cancel a person's registration. Other grounds on which registration may be cancelled are specified by section 14 of the Act.

Regulation 15 provides for the registered person to apply for his or her registration to be cancelled.

Part VI of the Regulations make provision in relation to registration of child minders and providers of day care for children under eight.