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WELSH STATUTORY INSTRUMENTS

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**2010 No. 2574**

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

**PART 1**

**INTRODUCTORY**

**Title, commencement and application**

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

(2) These Regulations apply in relation to Wales.

**Interpretation**

2.—(1) In these Regulations—

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) 1989 c. 41.

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

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

“enhanced criminal record certificate” (“*tystysgrif cofnod troseddol fanylach*”) means an enhanced criminal record certificate issued under section 113B of the Police Act 1997<sup>(6)</sup>, which includes suitability information relating to children (within the meaning of section 113BA(2) of that Act), in respect of which less than three years have elapsed since it was issued;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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