

WELSH STATUTORY INSTRUMENTS

2010 No. 2839

The Child Minding and Day Care Exceptions (Wales) Order 2010

PART 3

Day care for children exceptions

8. A person who provides care for children [^{F1}under the age of twelve] on premises other than domestic premises is not providing day care for the purposes of the 2010 Measure in the circumstances set out [^{F2}in articles 9 to 16 of this Order.]

Textual Amendments

- F1** Words in [art. 8](#) substituted (1.4.2016) by [The Child Minding and Day Care Exceptions \(Wales\) \(Amendment\) Order 2016 \(S.I. 2016/96\)](#), arts. 1(2), [4\(a\)](#)
- F2** Words in [art. 8](#) substituted (1.4.2016) by [The Child Minding and Day Care Exceptions \(Wales\) \(Amendment\) Order 2016 \(S.I. 2016/96\)](#), arts. 1(2), [4\(b\)](#)

Commencement Information

- I1** [Art. 8](#) in force at 1.4.2011, see [art. 1\(1\)](#)

9. A person does not provide day care where the care is provided by that person on the premises in question on fewer than 6 days in any calendar year and the person has notified the Welsh Ministers in writing before the first occasion on which the premises concerned are used in that year.

Commencement Information

- I2** [Art. 9](#) in force at 1.4.2011, see [art. 1\(1\)](#)

10. A person does not provide day care where the period or the total of the periods in any one day on which children are cared for on premises does not exceed two hours.

Commencement Information

- I3** [Art. 10](#) in force at 1.4.2011, see [art. 1\(1\)](#)

11. A person does not provide day care where the care is provided to a child [^{F3}who receives a care home service, within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016, at a place where such services are provided wholly or mainly to children and in respect of which a person is registered under Part 1 of that Act].

Textual Amendments

- F3** Words in [art. 11](#) substituted (2.4.2018) by [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments to Secondary Legislation\) Regulations 2018 \(S.I. 2018/48\)](#), reg. 1(2), [Sch. 1 para. 25\(2\)](#)

Commencement Information

- I4** [Art. 11](#) in force at 1.4.2011, see [art. 1\(1\)](#)

[^{F4}**11A.** A person does not provide day care where the care is provided to a child who receives a secure accommodation service (within the meaning of the Regulation and Inspection of Social Care (Wales) Act 2016) at a place where such services are provided and in respect of which a person is registered under Part 1 of the Act.]

Textual Amendments

- F4** [Art. 11A](#) inserted (29.4.2019) by [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments to Secondary Legislation\) Regulations 2019 \(S.I. 2019/237\)](#), reg. 1(2), [Sch. 1 para. 19\(2\)](#)

12. A person does not provide day care where the care is provided to a child accommodated in—

- (a) [^{F5}place at which a care home service, within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016, is provided wholly or mainly to persons aged 18 or over],
- (b) a hospital as a patient,
- (c) a [^{F6}place at which a residential family centre service, within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016, is provided], or

as part of the activity of the establishment in question, whether by the provider of the establishment directly or by a person employed on the provider's behalf.

Textual Amendments

- F5** Words in [art. 12\(a\)](#) substituted (2.4.2018) by [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments to Secondary Legislation\) Regulations 2018 \(S.I. 2018/48\)](#), reg. 1(2), [Sch. 1 para. 25\(3\)\(a\)](#)
- F6** Words in [art. 12\(c\)](#) substituted (2.4.2018) by [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments to Secondary Legislation\) Regulations 2018 \(S.I. 2018/48\)](#), reg. 1(2), [Sch. 1 para. 25\(3\)\(b\)](#)

Commencement Information

- I5** [Art. 12](#) in force at 1.4.2011, see [art. 1\(1\)](#)

13.—(1) A person does not provide day care where the care is provided at a hotel, guest house or other similar establishment for a child staying in that establishment where—

- (a) the provision only takes place between 6 pm and 2 am; and
- (b) the person or, as the case may be, any individual employed by the person, who is providing the care is doing so for no more than two different clients at the same time.

(2) For the purposes of sub-paragraph (1)(b), a “client” (“*cleient*”) is a person at whose request (or persons at whose joint request) care is provided for a child.

Commencement Information

I6 Art. 13 in force at 1.4.2011, see **art. 1(1)**

14.—(1) A person does not provide day care where care is provided to children at a school and the provision of care is incidental to the provision of education.

(2) In this article “school” (“*ysgol*”) means—

(i) a maintained school within the meaning of section 39 of the Education Act 2002⁽¹⁾; [^{F7}or]

(ii) an independent school; ^{F8}...

^{F8}(iii)

Textual Amendments

F7 Word in **art. 14(2)** inserted (1.9.2021) by **The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Consequential Amendments) (No. 2) Regulations 2021 (S.I. 2021/933)**, regs. 1, **3(2)(a)**

F8 **Art. 14(2)(iii)** and word omitted (1.9.2021) by virtue of **The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Consequential Amendments) (No. 2) Regulations 2021 (S.I. 2021/933)**, regs. 1, **3(2)(b)**

Commencement Information

I7 Art. 14 in force at 1.4.2011, see **art. 1(1)**

15.—(1) Subject to paragraph (2), a person does not provide day care where the person provides coaching or tuition in an activity of a type listed in paragraph (3) and any care provided to them is incidental to the provision of that coaching or tuition.

(2) The exception in this article does not apply if—

(a) the children are below the age of 5 and attend for longer than four hours per day; or,

(b) the person offers coaching or tuition in more than two of the types of activity listed in paragraph (3).

(3) The types of activity are —

(a) sport;

(b) performing arts;

(c) arts and crafts;

(d) school study or homework support;

(e) religious or cultural study.

Commencement Information

I8 Art. 15 in force at 1.4.2011, see **art. 1(1)**

(1) 2002 c. 32.

- [^{F9}16.—(1) A person does not provide child minding or day care if and to the extent that—
- (a) the person solely provides a youth service for young persons who have attained the age of eleven; and
 - (b) any care provided is incidental to the provision of that youth service.
- (2) In this article “youth service” (“*gwasanaeth ieuectid*”) means an activity of a type listed in paragraph (3).
- (3) For the purposes of paragraph (2), the type of activity are those—
- (a) that encourage, enable or assist young persons who have attained the age of 11 to participate effectively in:
 - (i) leisure and recreational activities;
 - (ii) education and training;
 - (iii) the life of their communities; and
 - (b) where no payment or a nominal payment only is required from young persons to participate in such activity.]

Textual Amendments

- F9** Art. 16 inserted (1.4.2016) by *The Child Minding and Day Care Exceptions (Wales) (Amendment) Order 2016 (S.I. 2016/96)*, arts. 1(2), 5

Changes to legislation:

There are currently no known outstanding effects for the The Child Minding and Day Care Exceptions (Wales) Order 2010, PART 3.