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WELSH STATUTORY INSTRUMENTS

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**2011 No. 577 (W.82) (C.20)**

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

The Children and Families (Wales) Measure 2010  
(Commencement No.2, Savings and Transitional Provisions)  
(Amendment) and (Consequential Amendments) Order 2011

Made - - - -

1 March 2011

The Welsh Ministers, in exercise of the powers conferred by sections 74(2)(c) and 75(3) of the Children and Families (Wales) Measure 2010(1), make the following Order:

**Title and interpretation**

1.—(1) The title of this Order is the Children and Families (Wales) Measure 2010 (Commencement No.2, Savings and Transitional Provisions) (Amendment) and (Consequential Amendments) Order 2011.

(2) In this Order “the Commencement No. 2 Order” (“*Gorchymyn Cychwyn Rhif 2*”) means the Children and Families (Wales) Measure 2010 (Commencement No.2, Savings and Transitional Provisions) Order 2010(2).

**Amendment of the Commencement No.2 Order**

2.—(1) With effect from 4 March 2011, the Commencement No.2 Order is amended as follows.

(2) After article 4, insert the following—

**“Consequential amendments to miscellaneous subordinate legislation**

5. Schedule 4, which contains amendments to miscellaneous subordinate legislation in consequence of the commencement of the provisions specified in Schedule 1, has effect and comes into force on 1 April 2011.”

(3) After Schedule 3, insert Schedule 4 which is set out in the Schedule to this Order.

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(1) 2010 nawm 1.

(2) S.I.2010/2582 (W.216) (C.123).

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1 March 2011

*Huw Lewis*  
Deputy Minister for Children, under authority  
of the Minister for Children, Education and  
Lifelong Learning, one of the Welsh Ministers

SCHEDULE

Article 2(2)

SCHEDULE TO BE INSERTED AS SCHEDULE  
4 TO THE COMMENCEMENT NO. 2 ORDER

“SCHEDULE 4

Article 5

CONSEQUENTIAL AMENDMENTS TO  
MISCELLANEOUS SUBORDINATE LEGISLATION

**Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975**

1.—(1) The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975<sup>(3)</sup> is amended as follows.

(2) In article 2—

- (a) in paragraph (a) of the definition of “child minding”, for “section 79A of the Children Act 1989” substitute “section 19 of the Children and Families (Wales) Measure 2010”, and
- (b) in paragraph (a) of the definition of “day care”, for “section 79D(5) of the Children Act 1989” substitute “section 23(1) of the Children and Families (Wales) Measure 2010”.

**Non-Domestic Rating (Demand Notices) (Wales) Regulations 1993**

2.—(1) The Non-Domestic Rating (Demand Notices) (Wales) Regulations 1993<sup>(4)</sup> are amended as follows.

(2) Schedule 2 (explanatory information for supply with rate demand notices) is amended as follows—

- (a) in Part I, in paragraph 1, under the heading “Small Business Rate Relief”, in paragraph (f), for “Part XA of the Children Act 1989” substitute “Part 2 of the Children and Families (Wales) Measure 2010”, and
- (b) in Part II, in paragraph 1, under the heading “Rhyddhad Ardrethi i Fusnesau Bach”, in paragraph (dd), for “Ran XA o Deddf Plant 1989” substitute “Ran 2 o Fesur Plant a Theuluoedd (Cymru) 2010”.

**Social Security Benefit (Computation of Earnings) Regulations 1996**

3.—(1) The Social Security (Computation of Earnings) Regulations 1996<sup>(5)</sup> are amended as follows.

(2) In Schedule 2 (childcare charges to be deducted in the calculation of earnings), in paragraph 2, in the definition of “relevant child care charges”—

- (a) in paragraph (e), for “Part XA of the Children Act 1989” substitute “Part 2 of the Children and Families (Wales) Measure 2010”, and
- (b) for paragraph (f) substitute—
  - “(f) by a person who is excepted from registration under Part 2 of the Children and Families (Wales) Measure 2010 because the child care that person provides is in a school referred to in article 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010;”.

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(3) S.I.1975/1023.

(4) S.I. 1993/252.

(5) S.I. 1996/2745.

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### **Housing Renewal Grants Regulations 1996**

4.—(1) The Housing Renewal Grants Regulations 1996<sup>(6)</sup> are amended in relation to Wales as follows.

(2) In regulation 19(7) (treatment of child care charges)—

(a) in sub-paragraph (f), for “Part XA of the Children Act 1989” substitute “Part 2 of the Children and Families (Wales) Measure 2010”, and

(b) for sub-paragraph (g) substitute—

“(g) by a person who is excepted from registration under Part 2 of the Children and Families (Wales) Measure 2010 because the child care that person provides is in a school or establishment referred to in article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010;”.

### **Police Act 1997 (Criminal Records) Regulations 2002**

5.—(1) The Police Act 1997 (Criminal Records) Regulations 2002<sup>(7)</sup> are amended as follows.

(2) Regulation 2 (interpretation) is amended as follows—

(a) in the definition of “child minding”, for “section 79A(2) of the Children Act 1989” substitute “section 19(2) of the Children and Families (Wales) Measure 2010”, and

(b) in the definition of “day care”, for “section 79A(6) of the Children Act 1989” substitute “section 19(3) of the Children and Families (Wales) Measure 2010”.

(3) In paragraph (g) of regulation 5A (enhanced criminal record certificates: prescribed purposes), for “Part XA of the Children Act 1989” substitute “Part 2 of the Children and Families (Wales) Measure 2010”.

### **Disqualification from Caring for Children (England) Regulations 2002**

6.—(1) The Disqualification from Caring for Children (England) Regulations 2002<sup>(8)</sup> are amended as follows.

(2) In regulation 2(10) (grounds for disqualification)—

(a) omit “or” where it appears after sub-paragraph (c), and

(b) at the end of sub-paragraph (d) substitute a semi colon for the full stop and insert the following —

“or

(e) Part 2 of the Children and Families (Wales) Measure 2010.”.

### **Independent Schools (Provision of Information) (Wales) Regulations 2003**

7.—(1) The Independent Schools (Provision of Information) (Wales) Regulations 2003<sup>(9)</sup> are amended as follows.

(2) In Part 2 of the Schedule (information required in an application), in paragraph 3(7), for “paragraph 1(2) of Schedule 9A to the Children Act 1989” substitute “article 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010<sup>(10)</sup>”.

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<sup>(6)</sup> S.I. 1996/2890.

<sup>(7)</sup> S.I. 2002/233.

<sup>(8)</sup> S.I. 2002/635.

<sup>(9)</sup> S.I. 2003/3230 (W.310).

<sup>(10)</sup> S.I. 2010/2839 (W.233).

### **Disqualification from Caring for Children (Wales) Regulations 2004**

**8.**—(1) The Disqualification from Caring for Children (Wales) Regulations 2004<sup>(11)</sup> are amended as follows.

(2) In regulation 3 (interpretation)—

(a) in paragraph (1), omit the definitions of—

(i) “appropriate office” (“*swyddfa briodol*”), and

(ii) “disqualified” (“*wedi'i ddatgymhwysu / wedi'u datgymhwysu*);

(b) omit paragraph (2); and

(c) re-number the existing provision in paragraph (1) as regulation 3.

(3) In Part II of the Schedule, in paragraph 28 (refusal of registration, disqualification and cancellation of registration for provision of nurseries, day care or for child minding), after sub-paragraph (c), insert—

“(ca) Part 2 of the Children and Families (Wales) Measure 2010;”.

### **Government of Maintained Schools (Wales) Regulations 2005**

**9.**—(1) The Government of Maintained Schools (Wales) Regulations 2005<sup>(12)</sup> are amended as follows.

(2) In Schedule 5 (qualifications and disqualifications), in paragraph 9(bc) (persons whose employment is prohibited or restricted), for “Part XA of the Children Act 1989” substitute “Part 2 of the Children and Families (Wales) Measure 2010”.

### **Housing Benefit Regulations 2006**

**10.**—(1) The Housing Benefit Regulations 2006<sup>(13)</sup> are amended as follows.

(2) In regulation 28(8) (treatment of child care charges)—

(a) in sub-paragraph (c), for “Part 10A of the Children Act 1989” substitute “Part 2 of the Children and Families (Wales) Measure 2010”, and

(b) for sub-paragraph (d) substitute—

“(d) by a person who is excepted from registration under Part 2 of the Children and Families (Wales) Measure 2010 because the child care that person provides is in a school or establishment referred to in article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010;”.

### **Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006**

**11.**—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006<sup>(14)</sup> are amended as follows.

(2) In regulation 31(8) (treatment of child care charges)—

(a) in sub-paragraph (c), “for Part 10A of the Children Act 1989” substitute “Part 2 of the Children and Families (Wales) Measure 2010”, and

(b) for sub-paragraph (d) substitute—

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<sup>(11)</sup> S.I. 2004/2695 (W.235).

<sup>(12)</sup> S.I. 2005/2914 (W.211).

<sup>(13)</sup> S.I. 2006/213.

<sup>(14)</sup> S.I. 2006/214.

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- “(d) by a person who is excepted from registration under Part 2 of the Children and Families (Wales) Measure 2010 because the child care that person provides is in a school or establishment referred to in article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010;”.

#### **Council Tax Benefit Regulations 2006**

**12.**—(1) The Council Tax Benefit Regulations 2006<sup>(15)</sup> are amended as follows.

(2) In regulation 18(8) (treatment of child care charges)—

- (a) in sub-paragraph (c), for “Part 10A of the Children Act 1989” substitute “Part 2 of the Children and Families (Wales) Measure 2010”, and
- (b) for sub-paragraph (d) substitute—

- “(d) by a person who is excepted from registration under Part 2 of the Children and Families (Wales) Measure 2010 because the child care that person provides is in a school or establishment referred to in article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010;”.

#### **Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006**

**13.**—(1) The Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006<sup>(16)</sup> are amended as follows.

(2) In regulation 21(8) (treatment of child care charges)—

- (a) in sub-paragraph (c), for “Part 10A of the Children Act 1989” substitute “Part 2 of the Children and Families (Wales) Measure 2010”, and
- (b) for sub-paragraph (d) substitute the following—

- “(d) by a person who is excepted from registration under Part 2 of the Children and Families (Wales) Measure 2010 because the child care that person provides is in a school or establishment referred to in article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010;”.

#### **Criminal Defence Service (Financial Eligibility) Regulations 2006**

**14.**—(1) The Criminal Defence Service (Financial Eligibility) Regulations 2006<sup>(17)</sup> are amended as follows.

(2) In regulation 2(1) (interpretation), in the definition of “child care costs” —

- (a) in paragraph (d), for “Part XA of the Children Act 1989” substitute “Part 2 of the Children and Families (Wales) Measure 2010”, and
- (b) for paragraph (e) substitute—

- “(e) persons referred to in article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010, in schools or establishments referred to in those articles;”.

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<sup>(15)</sup> S.I. 2006/215.  
<sup>(16)</sup> S.I. 2006/216.  
<sup>(17)</sup> S.I. 2006/2492.

### **Tax Credits (Approval of Child Care Providers) (Wales) Scheme 2007**

**15.**—(1) The Tax Credits (Approval of Child Care Providers) (Wales) Scheme 2007(**18**) is amended as follows.

(2) In article 5(3)(a) (qualifying child care), for “Part 10A of the 1989 Act” substitute “Part 2 of the Children and Families (Wales) Measure 2010”.

(3) In article 11(2) (appeals), for “section 79M of the 1989 Act” substitute “section 37 of the Children and Families (Wales) Measure 2010”.

### **School Governance (Constitution) (England) Regulations 2007**

**16.**—(1) The School Governance (Constitution) (England) Regulations 2007(**19**) are amended as follows.

(2) In Schedule 6 (qualifications and disqualifications), in paragraph 9(d) (persons whose employment is prohibited or restricted), for “Part 10A of the Children Act 1989” substitute “Part 2 of the Children and Families (Wales) Measure 2010”.

### **School Governance (New Schools) (England) Regulations 2007**

**17.**—(1) The School Governance (New Schools) (England) Regulations 2007(**20**) are amended as follows.

(2) In Schedule 2 (qualifications and disqualifications), in paragraph 8(d) (persons whose employment is prohibited or restricted), for “Part 10A of the Children Act 1989” substitute “Part 2 of the Children and Families (Wales) Measure 2010”.

### **School Organisation (Requirements as to Foundations) (England) Regulations 2007**

**18.**—(1) The School Organisation (Requirements as to Foundations) (England) Regulations 2007(**21**) are amended as follows.

(2) In the Schedule (individuals disqualified from acting as charity trustees of a foundation), in paragraph 1(d), for “Part 10A of the Children Act 1989” substitute “Part 2 of the Children and Families (Wales) Measure 2010”.

### **Education (Pupil Referral Units) (Management Committees etc.) (England) Regulations 2007**

**19.**—(1) The Education (Pupil Referral Units) (Management Committees etc.) (England) Regulations 2007(**22**) are amended as follows.

(2) In Schedule 2 (qualifications and disqualifications), in paragraph 8(d) (persons whose employment is prohibited or restricted), for “Part 10A of the Children Act 1989” substitute “Part 2 of the Children and Families (Wales) Measure 2010”.

### **The Childcare Act 2006 (Local Authority Assessment) (Wales) Regulations 2008**

**20.**—(1) The Childcare Act 2006 (Local Authority Assessment) (Wales) Regulations 2008(**23**) are amended as follows.

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(18) [S.I. 2007/226 \(W.20\)](#).

(19) [S.I. 2007/957](#).

(20) [S.I. 2007/958](#).

(21) [S.I. 2007/1287](#).

(22) [S.I. 2007/2978](#).

(23) [S.I. 2008/169 \(W. 22\)](#).

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- (2) In regulation 2(1), in the definition of “childcare” (“*gofal plant*”)—
- (a) for “part 10A of the Children Act 1989” substitute “Part 2 of the Children and Families (Wales) Measure 2010, and
  - (b) for “part 10A” substitute “Part 2”.

**Childcare (Early Years and General Childcare Registers) (Common Provisions) Regulations 2008**

21. In regulation 5(2)(h) of the Childcare (Early Years and General Childcare Registers) (Common Provisions) Regulations 2008(24) (prescribed descriptions of information), for paragraph (i) substitute—

- “(i) the Welsh Ministers in pursuance of their functions as registration authority under Part 2 of the Children and Families (Wales) Measure 2010;”.

**Non-Domestic Rating (Small Business Relief) (Wales) Order 2008**

22.—(1) The Non-Domestic Rating (Small Business Relief) (Wales) Order 2008(25) is amended as follows.

(2) In article 8(a) (conditions for relief – the child care conditions), for “Part XA of the Children Act 1989” substitute “Part 2 of the Children and Families (Wales) Measure 2010”.

**Childcare (Disqualification) Regulations 2009**

23. In paragraph 19 of Schedule 1 to the Childcare (Disqualification) Regulations 2009(26) (orders etc. relating to the care of children)—

- (a) omit “or” where it appears after sub-paragraph (h), and
- (b) at the end of sub-paragraph (i) substitute a semi colon for the full stop and insert the following—
  - “or,
  - (j) Part 2 of the Children and Families (Wales) Measure 2010.”.

**Supreme Court Fees Order 2009**

24.—(1) The Supreme Court Fees Order 2009(27) is amended as follows.

(2) In Schedule 2 (remissions and part remissions), in paragraph 5(4) (disposable monthly income), in the definition of “child care costs”—

- (a) in paragraph (d), for “Part XA of the Children Act 1989” substitute “Part 2 of the Children and Families (Wales) Measure 2010”, and
- (b) in paragraph (e), for “paragraph 1 or 2 of Schedule 9A to the Children Act 1989” substitute “article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010”.

**Criminal Defence Service (Contribution Orders) Regulations 2009**

25.—(1) The Criminal Defence Service (Contribution Orders) Regulations 2009(28) are amended as follows.

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(24) [S.I. 2008/976](#).

(25) [S.I. 2008/2770 \(W.246\)](#).

(26) [S.I. 2009/1547](#).

(27) [S.I. 2009/2131](#).

(28) [S.I. 2009/3328](#).



- (2) In regulation 2(1) (interpretation), in the definition of “child care costs” —
- (a) in paragraph (d), for “Part XA of the Children Act 1989” substitute “Part 2 of the Children and Families (Wales) Measure 2010”, and
  - (b) for paragraph (e) substitute—
    - “(e) persons referred to in article 11, 12 or 14 of the Child Minding and Day Care Exceptions (Wales) Order 2010, in schools or establishments referred to in those articles;”.

### **Federation of Maintained Schools and Miscellaneous Amendments (Wales) Regulations 2010**

**26.**—(1) The Federation of Maintained Schools and Miscellaneous Amendments (Wales) Regulations 2010<sup>(29)</sup> are amended as follows.

(2) In Schedule 7 (qualifications and disqualifications), in paragraph 9(d) (persons whose employment is prohibited or restricted), for “Part XA of the Children Act 1989” substitute “Part 2 of the Children and Families (Wales) Measure 2010”.

### **Child Minding and Day Care (Disqualification) (Wales) Regulations 2010**

**27.** The Child Minding and Day Care (Disqualification) (Wales) Regulations 2010<sup>(30)</sup> are amended as follows—

- (a) in regulation 2(1) (interpretation)—
  - (i) in the appropriate place in the alphabetical order, insert—
    - ““the Measure” (“*y Mesur*”) means the Children and Families (Wales) Measure 2010;”, and
    - (ii) in the definition of “disqualified” (“*wedi ei anghymhwyso / wedi eu hanghymhwyso*”) for “Part 10A of the Act” substitute “Part 2 of the Measure”;
- (b) in regulation 2(2), for “Part 10A of the Act” substitute “Part 2 of the Measure”;
- (c) for regulation 10 (prescribed determination) substitute the following—

#### **“Prescribed determination**

**10.** For the purposes of section 37(2)(a) of the Measure (appeals), a determination by the Welsh Ministers as to whether to give consent to waive disqualification under regulation 9(1) is a prescribed determination.”;

- (d) in regulation 11(1) (duty of disclosure), for “Part 10A of the Act” substitute “Part 2 of the Measure”;
- (e) in paragraph 20 of Schedule 1 (orders etc relating to the care of children)—
  - (i) after sub-paragraph (h) omit “or”, and
  - (ii) at the end of sub-paragraph (i) substitute a semi colon for the full stop and insert the following—
    - “or,
    - (j) Part 2 of the Measure.”.”

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<sup>(29)</sup> S.I. 2010/638 (W.64).

<sup>(30)</sup> S.I. 2010/1703 (W.163).

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## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the Children and Families (Wales) Measure 2010 (Commencement No.2, Savings and Transitional Provisions) Order 2010 (“the Commencement No.2 Order”) to make provision for amendments to secondary legislation consequential upon the repeal of Part XA of and Schedule 9A to the Children Act 1989.

Article 2 inserts article 5 (consequential amendments to miscellaneous subordinate legislation) and Schedule 4 into the Commencement No. 2 Order.