
WELSH STATUTORY INSTRUMENTS

2002 No. 919

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

**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;

“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(1) 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(2) 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(3) 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—

(1) S.I.2002/324

(2) S.I. 2002/327

(3) S.I. 2002/325

- (i) if an office has been specified under regulation 2(2) of the Part XA Regulations 2002(4) 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(5);

“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(6);

“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—

- (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—

(4) S.I. 2002/812

(5) 1985 c. 6; section 736 was substituted by section 144(1) of the Companies Act 1989 (c. 40).

(6) S.I. 2002/ 812

- (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).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(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(7) 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 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(8) 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(9) 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.

(7) 1997 c. 50.

(8) 1974 c. 53.

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

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.

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⁽¹⁰⁾.

(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;

⁽¹⁰⁾ 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.

(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.

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**(11)**

28th March 2002

Rhodri Morgan
Assembly First Minister