

SCHEDULE 2

Article 2

TRANSITIONAL PROVISIONS IN RELATION TO CHILD MINDING AND PROVISION OF DAY CARE

Interpretation

1.—(1) In this Schedule—

“the operational date” means 1st April 2002;

“the original registration” refers to a registration under Part X;

“transfer” in relation to registration refers to the process for which provision is made in paragraph 3(1) and “transferred” shall be construed accordingly;

(2) In this Schedule, unless the contrary intention appears, a reference—

(a) to a numbered paragraph is to the paragraph in this Schedule bearing that number;

(b) in a paragraph to a numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that number;

(c) to a Part, section or Schedule is to a Part or section of or a Schedule to the 1989 Act, as the case may be.

General savings for things done before the operational date and transitional provisions

2.—(1) Unless in this Schedule the contrary intention appears, the coming into force of section 79(5) of the 2000 Act shall not affect:

(a) any act done, any notice served, any application made, any decision taken, any authorisation or consent given or any grant; or

(b) any requirements or limitations of time; or

(c) any legal proceedings commenced; or

(d) any order made by a court;

under or in relation to Part X or Schedule 9 before the operational date.

(2) Unless in this Schedule the contrary intention appears, in so far as any thing done under or in relation to Part X or Schedule 9 could have been done under Part XA or Schedule 9A, it shall have effect from the operational date as if done under Part XA or Schedule 9A, as the case may be.

(3) For the purposes of paragraph (2)—

(a) where an appeal under Part X was to a court, and the court has not considered the appeal before the operational date, such appeal (except for an appeal against refusal of consent under paragraph 2 of Schedule 9 which shall continue before a court) shall be continued after the operational date before the Tribunal (as defined in section 79B(8)) in accordance with section 79M as if it were an appeal against the taking of any step mentioned in section 79L(1) or against an order under section 79K as the case may be, and

(b) “requirements” for the purposes of sections 72 and 73 shall be treated after the operational date as conditions which may be imposed under section 79F(3).

(4) Where an appeal against refusal of consent under paragraph 2 of Schedule 9 is upheld by a court after the operational date, the appellant shall be treated as if such consent applied immediately before the operational date for the purposes of the Disqualification from Caring for Children (Wales) Regulations 2002.

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

Transfer of registration

3.—(1) A person who, immediately before the operational date, was registered under section 71 shall, for the purposes of Part XA, be treated with effect from the operational date as having applied for and having been granted registration.

(2) The registration under sub-paragraph (1) shall be for child minding or for providing day care on specified premises according to the purpose of the original registration under section 71.

(3) Where a person's registration is transferred pursuant to sub-paragraph (1), any requirements that were imposed upon the person under section 72 or, as the case may be, section 73, in relation to the registration and that were extant immediately before the operational date shall, in so far as they would be capable of being imposed by the National Assembly as conditions to which the registration is subject, have effect from the operational date as if they were such conditions and had been duly imposed by the National Assembly on that date.

(4) The treatment of—

- (a) a person as registered under Part XA, pursuant to sub-paragraph (1), and
- (b) requirements imposed by local authorities as conditions imposed by the National Assembly, pursuant to sub-paragraph (3)

shall be without prejudice to any opinion subsequently formed by the National Assembly as to whether the person is or will continue to be a person qualified for registration as a child minder or as a provider of day care, as the case may be, or to any decision which the National Assembly may subsequently take as to the imposition, removal or variation of conditions upon the registration.

Certificates of registration in respect of transferred registrations

4.—(1) This paragraph applies in relation to any person whose registration is transferred under paragraph 3(1).

(2) The transfer shall not constitute a grant of registration for the purposes of paragraph 6(1) of Schedule 9A.

(3) A certificate issued by a local authority to that person in relation to the original registration under section 71 which was current immediately before the operational date shall, subject to sub-paragraphs (4) and (5) of this paragraph, have effect for all purposes as if it was issued on the operational date pursuant to paragraph 6(1) of Schedule 9A.

(4) Paragraph 6(2) of Schedule 9A shall not have effect in relation to a certificate to which sub-paragraph (3) refers.

(5) For the purposes of paragraph 6(3) of Schedule 9A (providing for the issue of amended certificates due to change of circumstances) and without prejudice to its effect otherwise, the occasion of the first inspection following the operational date by an authorised inspector of—

- (a) child minding, or
- (b) day care on any premises

provided by a person to whom this paragraph applies shall be taken to constitute a change of circumstances for the purposes of that paragraph in relation to the registration concerned.

Duties of local authorities in relation to transfer

5.—(1) All documents and records relating to the registration of any person whose registration is transferred under paragraph 3(1) which are in the possession of a local authority immediately before the operational date shall be passed to the National Assembly upon the operational date.

(2) Any documents or records relating to the registration of a person mentioned in sub-paragraph (1) which come into the possession of a local authority on or after the operational date

(other than documents or records sent to the authority by the National Assembly) shall be provided to the National Assembly as soon as practicable after their receipt.

Section 71 applications in progress at the operational date

6.—(1) This paragraph applies where an application for registration made to a local authority under section 71 prior to the operational date has neither been granted nor refused by the local authority by that date.

(2) With effect from the operational date and subject to sub-paragraph (5), the application shall be treated as having been duly made under section 79E.

(3) All documents and records relating to the application which are in the possession of the local authority immediately before the operational date shall be provided to the National Assembly upon the operational date.

(4) Any documents or records relating to the application which come into the possession of the local authority on or after the operational date (other than information or documents sent to the authority by the National Assembly) shall be provided to the National Assembly as soon as reasonably practicable after their receipt.

(5) The National Assembly may make any enquiry, and require the applicant to produce any information that it considers reasonably necessary, having regard in particular to any prescribed requirements as to the contents of applications under section 79E.

(6) Payment by the applicant to the local authority before the operational date of any fee required under paragraph 1(3) of Schedule 9 to accompany the application shall be taken to discharge in full any requirement to pay a fee under section 79F in relation to such an application.