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WELSH STATUTORY INSTRUMENTS

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**2015 No. 1988**

**The Children (Secure Accommodation)  
(Wales) Regulations 2015**

*Application of section 119 to particular categories of children*

**Placement of a child aged under 13 in secure accommodation**

**13.**—(1) A local authority may not place a child under the age of 13 years in secure accommodation without the prior approval of the Welsh Ministers in relation to the placement of that child.

(2) The Welsh Ministers may make the approval subject to such terms and conditions as they see fit.

**Children to whom section 119 does not apply**

**14.** Section 119 does not apply to a child—

- (a) who is detained under any provision of the Mental Health Act 1983<sup>(1)</sup> or in respect of whom an order has been made under section 90 or 91 of the Powers of the Criminal Courts (Sentencing) Act 2000<sup>(2)</sup> (detention at Her Majesty’s Pleasure or for specified period);
- (b) who is the subject of a child assessment order made under section 43 of the Children Act 1989<sup>(3)</sup> and who is kept away from home pursuant to that order;
- (c) who is aged 16 or 17 and is accommodated under section 76 of the Act;
- (d) who is remanded to youth detention accommodation and is treated as looked after by virtue of section 104(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012<sup>(4)</sup>.

**Detained children to whom section 119 applies subject to modifications: children detained under the Police and Criminal Evidence Act 1984**

**15.**—(1) Section 119 of the Act has effect subject to the modification specified in paragraph (2) in relation to children who are being looked after by a local authority and are aged between 12 and 16 and are detained under section 38(6) of the Police and Criminal Evidence Act 1984<sup>(5)</sup> (detained children).

(2) The modification in paragraph (1) is that, for the words “unless it appears” to the end of subsection (1), there shall be substituted the following words—

“unless it appears that any accommodation other than that provided for the purpose of restricting liberty is inappropriate because —

- (a) the child is likely to abscond from such other accommodation, or

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(1) 1983 c. 20.  
(2) 2000 c. 6.  
(3) 1989 c. 41.  
(4) 2012 c. 10.  
(5) 1984 c.60.

- (b) the child is likely to injure himself or herself or other people if he or she is kept in any such other accommodation.”

**Children to whom section 119 has effect subject to modifications**

**16.**—(1) Subject to regulation 7 and paragraphs (2) and (3) of this regulation section 119 of the Act applies, in addition to children looked after by local authorities (including English local authorities)—

- (a) to children, other than those looked after by a local authority (including an English local authority), who are accommodated by—
- (i) Local Health Boards;
  - (ii) National Health Service Trusts (“NHS Trusts”);
  - (iii) local authorities in the exercise of education functions;
- (b) to children, other than those looked after by a local authority, who are accommodated in care homes or independent hospitals.

(2) In relation to children specified in paragraph (1)(a), section 119 has effect subject to the following modifications—

- (a) in subsection (1) replace the phrase “who is being looked after by a local authority or a local authority in England” with “who is being provided with accommodation by a Local Health Board, an NHS Trust or a local authority in the exercise of education functions”;
- (b) in subsection (2)(c) replace the phrase “by a local authority” with “by a Local Health Board, an NHS Trust or a local authority in the exercise of education functions”.

(3) In relation to the children specified in paragraph (1)(b), section 119 of the Act has effect subject to the following modifications—

- (a) in subsection (1) replace the words “who is being looked after by a local authority or a local authority in England” with the words “who is being provided with accommodation in a care home or an independent hospital”; and
- (b) in subsection (2)(c) replace the phrase “by a local authority” with the words “by a person carrying on a care home or an independent hospital”.

**Disapplication of the Children (Secure Accommodation) Regulations 1991 to Wales**

**17.** Insert into the Children (Secure Accommodation) Regulations 1991(6) the following regulation after regulation 1—

**“Disapplication to Wales**

**1A.**—(1) These Regulations do not apply—

- (a) in relation to the placement of a looked after child by a Welsh local authority;
- (b) in relation to the provider of a children’s home in Wales;
- (c) in relation to an application to a court for authority to place a child in secure accommodation in Wales.

(2) In relation to cases to which paragraph (1) applies refer to section 119 of the Social Services and Wellbeing (Wales) Act 2014 and the Children (Secure Accommodation) (Wales) Regulations 2015.”

## **Revocations**

**18.** The following Regulations are revoked—

- (a) the Children (Secure Accommodation) (Amendment) (Wales) Regulations 2006**(7)**;
- (b) the Children (Secure Accommodation) (Amendment) (Wales) Regulations 2013**(8)**.

## **Disapplication of Regulations in relation to Wales**

**19.** The following Regulations are disapplied in relation to Wales—

- (a) the Children (Secure Accommodation) (No. 2) Regulations 1991**(9)**;
- (b) the Children (Secure Accommodation) (Amendment) Regulations 1992**(10)**;
- (c) the Children (Secure Accommodation) (Amendment) Regulations 1995**(11)**.

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**(7)** S.I. 2006/2986 (W. 276).  
**(8)** S.I. 2013/663 (W. 76).  
**(9)** S.I. 1991/2034.  
**(10)** S.I. 1992/211.  
**(11)** S.I. 1995/1398.