



Children and Families (Wales) Measure 2010

2010 nawm 1

PART 2

CHILD MINDING AND DAY CARE FOR CHILDREN

Inspection

40 **Inspection**

- (1) The Welsh Ministers may by regulations make provision—
 - (a) for the inspection of child minding provided in Wales by registered persons and of day care provided by registered persons on premises in Wales;
 - (b) for the publication of reports of the inspections in such manner as the Welsh Ministers consider appropriate.
- (2) The regulations may provide for the inspections to be organised by—
 - (a) the Welsh Ministers, or
 - (b) Her Majesty's Chief Inspector of Education and Training in Wales, or any other person, under arrangements made with the Welsh Ministers.
- (3) The regulations may provide that for the purposes of the law of defamation any report published under the regulations is privileged unless the publication is shown to have been made with malice.
- (4) Regulations made under subsection (3) do not limit any privilege subsisting apart from provision in such regulations.

41 Powers of entry

- (1) Any person authorised for the purposes of this subsection by the Welsh Ministers may at any reasonable time enter any premises in Wales on which child minding or day care is at any time provided.
- (2) Any person authorised for the purposes of this subsection by the Welsh Ministers may at any reasonable time enter any premises in Wales if the person has reasonable cause to believe that a child is being looked after on any premises in contravention of this Part.
- (3) Authorisation under subsection (1) or (2)—
 - (a) may be given for a particular occasion or period;
 - (b) may be given subject to conditions.
- (4) A person exercising any power conferred by this section or section 42 must, if so required, produce some duly authenticated document showing that person's authority to do so.

42 Powers of inspection

- (1) A person entering premises under section 41 may (subject to any conditions imposed under section 41(3)(b))—
 - (a) inspect the premises;
 - (b) inspect, and take copies of—
 - (i) any records kept by the person providing the child minding or day care, and
 - (ii) any other documents containing information relating to its provision;
 - (c) seize and remove any document or other material or thing found there which the authorised person has reasonable grounds to believe may be evidence of a failure to comply with any condition or requirement imposed by or under this Part;
 - (d) take measurements and photographs or make recordings;
 - (e) inspect any children being looked after there, and the arrangements made for their welfare;
 - (f) interview in private the person providing the child minding or day care;
 - (g) interview in private any person looking after children, or living or working, on the premises who consents to be interviewed.
- (2) The power in subsection (1)(b) includes—
 - (a) power to require any person holding or accountable for documents or records kept on the premises to produce them, and
 - (b) in relation to records which are kept by means of a computer, power to require the records to be produced in a form in which they are legible and can be taken away.
- (3) The powers in paragraphs (b) and (c) of subsection (1) do not include power—
 - (a) to require a person to produce any record or document in respect of which a claim to legal professional privilege could be maintained in legal proceedings, or
 - (b) to take copies of such a record or document or to seize and remove it.

- (4) In connection with inspecting any such documents, a person authorised for the purposes of section 41 (subject to any conditions imposed under section 41(3)(b))—
- (a) may obtain access to, and inspect and check the operation of, any computer and associated apparatus or material which he or she considers is or has been in use in connection with the documents, and
 - (b) may require a person within subsection (5) to afford him or her such reasonable assistance as may be required for that purpose.
- (5) A person is within this subsection if he or she is—
- (a) the person by whom or on whose behalf the computer is or has been used, or
 - (b) a person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material.
- (6) A person entering premises under section 41 (subject to any conditions imposed under section 41(3)(b)) may require any person to afford him or her such facilities and assistance with respect to matters within the person’s control as are necessary to enable him or her to exercise powers under section 41 or this section.
- (7) Any person who without reasonable excuse—
- (a) obstructs a person exercising any power under section 41 or this section, or
 - (b) fails to comply with any requirement imposed under this section,
- is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

43 Power of constable to assist in exercising powers of entry

- (1) A person authorised to exercise a power of entry under section 41 may apply to a court for a warrant under this section.
- (2) If it appears to the court that the authorised person—
- (a) has attempted to exercise a power conferred on that person under section 41 or 42 but has been prevented from doing so, or
 - (b) is likely to be prevented from exercising any such power,
- the court may issue a warrant authorising any constable to assist the authorised person in exercising the power, using reasonable force if necessary.
- (3) A warrant issued under this section must be addressed to, and executed by, a constable.
- (4) Schedule 11 to the [Children Act 1989 \(c 41\)](#) (jurisdiction of courts) applies in relation to proceedings under this section as if they were proceedings under that Act.
- (5) In this section, “court” means the High Court, a county court or a magistrates’ court; but this is subject to any provision which may be made (by virtue of subsection (4)) by or under Schedule 11 to the Children Act 1989.