
WELSH STATUTORY INSTRUMENTS

2015 No. 1757

The Children (Performances and Activities) (Wales) Regulations 2015

PART 1

General

Title, commencement and application

1.—(1) The title of these Regulations is the Children (Performances and Activities) (Wales) Regulations 2015 and they come into force on 30 October 2015.

(2) These Regulations apply in relation to—

- (a) the granting of licences in respect of children resident in Wales by local authorities in Wales to take part in performances or activities within Great Britain, where required by section 37(1) of the 1963 Act;
- (b) the granting of licences in respect of children not resident in Great Britain by local authorities in Wales to take part in performances or activities within Great Britain, where the applicant for the licence is resident or has a place of business within the area of that local authority, where required by section 37(1) of the 1963 Act;
- (c) performances in Wales, for which no licence is required by virtue of section 37(3)(a) of the 1963 Act;
- (d) the granting of licences by justices of the peace in Wales under section 25 of the 1933 Act to enable children to take part in performances or activities abroad for profit.

Interpretation

2. In these Regulations—

“the 1933 Act” (“*Deddf 1933*”) means the Children and Young Persons Act 1933;

“the 1963 Act” (“*Deddf 1963*”) means the Children and Young Persons Act 1963;

“activity” (“*gweithgaredd*”) means taking part in a sport, or working as a model in the circumstances specified in section 37(1)(b) of the 1963 Act;

“chaperone” (“*hebryngwr*”) has the meaning given in regulation 17(1);

“day” (“*diwrnod*”) means a period of twenty-four hours beginning and ending at midnight and, for the purposes of regulation 30 and paragraph 13 of Part 2 of Schedule 2, any performance taking place after midnight and before the earliest permitted hour as defined in regulation 23 shall be deemed to have taken place before midnight;

“education authority” (“*awdurdod addysg*”) has the meaning given by section 135(1) of the Education (Scotland) Act 1980(1);

(1) 1980 c. 44. This definition was amended by the Local Government etc. (Scotland) Act 1994 (c. 39), Schedule 13, paragraph 118(9).

“host authority” (“*awdurdod lletyol*”) means the local authority or, in Scotland, the education authority in whose area a performance or activity takes place;

“licence holder” (“*deiliad trwydded*”) means the person to whom a licence is granted by the licensing authority;

“licensing authority” (“*awdurdod trwyddedu*”) means the local authority to which the application for a licence is made and which grants the licence;

“parent” (“*rhiant*”) means a person who has parental responsibility, as defined in section 3 of the Children Act 1989(2), for the child in question;

“rehearsal” (“*ymarfer*”) means, other than for the purposes of paragraph 15 of Part 2 of Schedule 2, any rehearsal for, or preparation for, a performance, being a rehearsal which takes place on the day of the performance or during the period beginning with the first and ending with the last performance;

“school leaving age” (“*oedran gadael ysgol*”) means the age at which a person ceases to be of compulsory school age in accordance with section 8(3) of the Education Act 1996(3); and

“week” (“*wythnos*”) means a period of seven days beginning with the day on which the first performance or activity for which the licence is granted takes place or any seventh day after that.

Revocations

3. The Regulations listed in Schedule 1 are revoked in respect of Wales.

PART 2

Documentation requirements in relation to all licences

Application for licence

- 4.—(1) An application for a licence must—

- (a) be made in writing by—
 - (i) the person responsible for the organisation of the sporting event or, as the case may be, the person who proposes to engage the child as a model; or
 - (ii) the person responsible for the production of the performance in which the child is to take part;
- (b) contain the information specified in Parts 1 and 2 of Schedule 2;
- (c) be signed by the applicant and a parent of the child; and
- (d) be accompanied by the documentation specified in Part 3 of Schedule 2.

(2) The licensing authority may refuse to grant a licence if the application is not received at least twenty-one days before the day on which the first performance or activity, for which the licence is requested, is to take place.

Licence conditions

5. The licensing authority must impose any conditions which it considers necessary in order to ensure that—

(2) 1989 c. 41.

(3) 1996 c. 56.

- (a) the child is fit to take part in the performance or activity;
- (b) proper provision is made to secure the child's health and wellbeing; and
- (c) proper provision is made to ensure that the child's education will not suffer.

6. Where the applicant requests a licence for a child to take part in a particular activity, performance or rehearsal, but is unable to specify the dates upon which the child will take part in that activity, performance or rehearsal at the time of the application, if the licensing authority decides to grant the licence, it must impose a condition that the child may only take part in that particular activity, performance or rehearsal for a specified number of days within a six month period.

7.—(1) Where the licensing authority considers that the information provided by the applicant is insufficient to enable it to decide whether to issue a licence or whether to issue a licence subject to conditions, the licensing authority must request additional information or documentation to enable it to make such a decision.

(2) In particular, the licensing authority may—

- (a) request that the child is medically examined;
- (b) interview any proposed private teacher;
- (c) interview the applicant, the child, the child's parents, or the proposed chaperone, as appropriate.

Form of licence

8.—(1) A licence must include—

- (a) the name of the child;
- (b) the name of the parents of the child;
- (c) the name of the applicant;
- (d) the names, times, nature and location of the activity or performance (and location of any of any rehearsal if different) for which the licence has been granted;
- (e) the dates of the activity, performance or rehearsal, or instead of the dates, the number of days on which the child will participate in the activity, performance or rehearsal and the period, not exceeding six months, in which the activities, performances or rehearsals may take place in accordance with regulation 6;
- (f) any conditions, which the licensing authority considers necessary for the grant of the licence; and
- (g) a statement that the licence is subject to the restrictions and conditions contained within these Regulations.

(2) A photograph of the child must be attached to the licence.

Particulars that a licensing authority must provide in respect of a licence

9. The licensing authority must send a copy of the licence to the parent who signed the application form.

10. Where a performance or activity is to take place in the area of a host authority other than the licensing authority, in accordance with section 39(3) of the 1963 Act, the licensing authority must send to that host authority a copy of the application form, licence, any additional information or documentation obtained by it under regulation 7 and, where the licensing authority approves any arrangements for the child's education, details of the days during the period of the licence on

which the child subject to the licence would ordinarily be required to attend school if that child were attending a school maintained by the licensing authority.

Records to be kept by the licence holder under section 39(5) of the 1963 Act

11. For six months from the date of the last performance or activity to which the licence relates, the licence holder must retain the records specified in—

- (a) Part 1 of Schedule 3, where the licence is granted in respect of a performance; or
- (b) Part 2 of Schedule 3, where the licence is granted in respect of an activity.

Production of licence

12. The licence holder must, on request, produce the licence at all reasonable hours during the period beginning with the first and ending with the last performance or activity to which the licence relates, at the place of performance (or any place of rehearsal), or the place where the activity to which the licence relates takes place, to an authorised officer of the host authority or a constable.

Child protection policy

13. The licence holder must ensure that the policy or policies enclosed with the application are adhered to.

Letter from head teacher

14.—(1) Subject to paragraph (2), a licensing authority must not grant a licence in respect of a child who attends school unless it—

- (a) has received a letter from the head teacher of that school dealing with any matter relevant to the authority's consideration of section 37(4) of the 1963 Act; and
- (b) has taken account of that letter.

(2) The requirement in paragraph (1) does not apply where the authority is satisfied that the production of a letter has not been practicable.

PART 3

General requirements applicable to all licensed performances or activities

Education

15.—(1) The licensing authority must not grant a licence unless it—

- (a) is satisfied that the child's education will not suffer by reason of taking part in the performances or activities;
- (b) has approved the arrangements (if any) for the education of the child during the period to which the licence applies; and
- (c) has approved the place where the child is to receive education, subject to such conditions as it considers necessary to ensure that the place is suitable for the child's education.

(2) The licence holder must ensure that any arrangements approved by the licensing authority for the child's education are carried out.

(3) The licensing authority must not approve any arrangements for the education of a child by a private teacher unless it is satisfied—

- (a) with the proposed course of study for the child;
 - (b) that the proposed course of study will be delivered by a suitable private teacher;
 - (c) that the private teacher will teach no more than six children (including the child in question) at any time, or twelve children if all the children being taught have reached a similar standard in the subject being taught to the child in question; and
 - (d) that the child will, during the period to which the licence applies, receive education for periods, which when aggregated, total not less than three hours on each day on which the child would be required to attend school if the child were attending a school maintained by the licensing authority.
- (4) The requirements of paragraph (3)(d) are deemed to have been met if the licensing authority is satisfied that the child will receive education—
- (a) for not less than six hours a week;
 - (b) during each complete period of four weeks, or if there is a period of less than four weeks, during that period, for periods not less than the aggregate periods of education required by paragraph (3)(d) in respect of the period;
 - (c) on days on which the child would be required to attend school if the child were a pupil attending a school maintained by the licensing authority; and
 - (d) for not more than five hours on any such day.
- (5) For the purposes of this regulation, any period of education does not include—
- (a) any period which takes place other than during the hours when a child is permitted to be present at a place of performance or rehearsal under regulation 23; and
 - (b) any period of less than thirty minutes.

Earnings

16. The licensing authority may include a condition in the licence that any or all of the sums earned by the child for taking part in the performance or activity be dealt with in a particular manner by the licence holder.

Chaperones

17.—(1) A licensing authority must approve a person to be a chaperone to—

- (a) have care and control of the child; and
- (b) safeguard, support and promote the wellbeing of the child,

whilst the child is taking part in an activity, performance, or rehearsal or whilst the child is living elsewhere than the place the child would otherwise live during the period to which the licence applies.

(2) Paragraph (1) does not apply if the child is being cared for by the child's parent or a teacher who would ordinarily provide the child's education.

(3) The maximum number of children a chaperone may take care of at any one time is—

- (a) twelve; or
- (b) where the person approved to act as a chaperone is the private teacher of the child in question, three.

(4) The licensing authority must not approve a person as a chaperone unless it is satisfied that the person—

- (a) has undertaken child protection training;

- (b) is suitable and competent to exercise proper care and control of a child of the age and sex of the child in question; and
- (c) will not be prevented from carrying out duties towards the child by duties towards other children.

(5) Where a child suffers any injury or illness while under the care of the chaperone, the licence holder must ensure that the parent of the child named in the application form and the licensing and host authorities are notified immediately of such injury or illness.

(6) The licensing authority may if it thinks fit, grant a licence subject to a condition requiring the holder of the licence to provide the chaperone with a current copy of the script for the production concerned.

(7) A condition imposed under paragraph (6) must be set out in the licence.

Accommodation

18.—(1) Where a child is required to live somewhere other than where that child would usually live during the period to which the licence applies by reason of taking part in the performance or activity for which the licence is obtained, the licensing authority must approve that place as being suitable for that child.

- (2) The licensing authority's approval may be subject to any of the following conditions—
 - (a) that transport will be provided for the child between the place of performance, rehearsal or activity, and the accommodation;
 - (b) that suitable arrangements are made for meals for the child; and
 - (c) any other condition conducive to the welfare of the child in connection with that accommodation.

Place of performance and place of rehearsal

19.—(1) The licensing authority must approve any place where the child will perform, rehearse or take part in any activity.

(2) The licensing authority must not approve the place of performance, rehearsal or activity unless it is satisfied that, having regard to the age of the child and the nature, time and duration of the performance, rehearsal or activity—

- (a) suitable arrangements have been made for—
 - (i) the provision of meals for the child;
 - (ii) the child to dress for the performance, rehearsal or activity; and
 - (iii) the child's rest and recreation, when not taking part in a performance, rehearsal or activity;
- (b) the place has suitable and sufficient toilets and washing facilities; and
- (c) the child will be adequately protected against inclement weather.

(3) The licensing authority may give its approval subject to such conditions as it considers necessary.

(4) In paragraph (2)(a)(ii), arrangements for a child who has attained the age of five years to dress for a performance, rehearsal or activity are not suitable unless such a child can dress only with children of the same sex as the child in question.

Travel arrangements and time

20.—(1) The licence holder must ensure that suitable arrangements (having regard to the child’s age) are made to get the child home or to any other destination after the last performance or rehearsal, or the conclusion of any activity on any day.

(2) The licensing authority must—

- (a) have regard to the length of time which the child will spend travelling to and from the place of performance or rehearsal when giving its approval; and
- (b) include any conditions that it considers necessary in relation to the earliest and latest times that the child can be at the place of performance or rehearsal.

PART 4

Restrictions in relation to all performances

Application of this Part

21. The requirements in this Part apply to all licensed performances and to all performances, which are exempted from the requirement to obtain a licence, under section 37(3)(a) of the 1963 Act.

Employment

22. A child taking part in a performance must not be employed in any other employment on the day of that performance or the following day.

Earliest and latest times at place of performance or rehearsal

23.—(1) Table 1 sets out the earliest and latest times a child may be at a place of performance or rehearsal.

(2) This regulation does not apply where the place of performance or rehearsal is the place where the child ordinarily lives or receives education.

Table 1

<i>Age of child</i>	<i>Earliest time</i>	<i>Latest time</i>
Birth until child reaches 5	07:00	22:00
5 to school leaving age	07:00	23:00

Attendance at place of performance or rehearsal and hours of performance

24.—(1) Table 2 sets out the maximum number of hours a child may be at a place of performance or rehearsal, may perform or rehearse in one day and may perform or rehearse continuously.

(2) When calculating the number of hours on any day during which a child is present at a place of performance or rehearsal, any periods of education required to comply with arrangements approved under regulation 15 must be taken into account, even if that education is provided elsewhere than at the place of performance or rehearsal.

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

Table 2

<i>Age of child</i>	<i>Maximum number of hours in one day at place of performance or rehearsal</i>	<i>Maximum total number of hours of performance or rehearsal in one day</i>	<i>Maximum continuous number of hours of performance or rehearsal in one day</i>
Birth until child reaches 5	5	2	0.5
5 until child reaches 9	8	3	2.5
9 to school leaving age	9.5	5	2.5

Breaks on any day on which a child is performing or rehearsing

- 25.—(1) When a child under the age of five is present at the place of performance or rehearsal—
- (a) any breaks must be for a minimum duration of fifteen minutes, except that where a child is present for four or more consecutive hours, any such breaks must include at least one break of forty-five minutes used for the purpose of a meal; and
 - (b) any break must be used for the purposes of meals, rest, education or recreation.
- (2) When a child aged five or over is present at the place of performance or rehearsal for more than four, but less than eight consecutive hours, the child must have a minimum of:
- (a) one meal break of a minimum duration of forty-five minutes; and
 - (b) one other break of a minimum duration of fifteen minutes.
- (3) When a child aged five or over is present at the place of performance or rehearsal for eight or more consecutive hours, the child must have:
- (a) the breaks required under paragraph (2); and
 - (b) at least one other break of a minimum duration of fifteen minutes.
- (4) Subject to paragraph (5), a child must have a break of a minimum duration of one and a half hours between the child's participation in consecutive performances where on the same day—
- (a) the child performs the same part or takes the place of another performer in more than one instance of the same performance including rehearsals, falling within section 37(2)(a) or (b) of the 1963 Act, for which a licence has been obtained;
 - (b) the child is taking part in performances under different licences granted in respect of the child; or
 - (c) the child is taking part in a performance for which a licence has been obtained and in a performance for which a licence is not required under section 37(3)(a) of the 1963 Act.
- (5) Where the earlier performance or rehearsal is less than one hour in duration, and—
- (a) the following performance or rehearsal takes place at the same place of performance or rehearsal; or
 - (b) there is no time required for travel between the earlier and consecutive performance or rehearsal,

the break between those performances (or rehearsals) may be reduced to a minimum of forty-five minutes.

Minimum breaks overnight

26. Subject to regulation 30, a child must have an overnight break of a minimum duration of twelve hours between attendance at a place of performance or rehearsal.

PART 5

Restrictions and exceptions in relation to all licensed performances

Application of this Part

27. The restrictions and exceptions in this Part apply to all licensed performances.

Maximum number of consecutive days on which a child may take part in performances or rehearsals

28. A child must not take part in performances or rehearsals on more than six consecutive days.

Break in performances

29.—(1) A child who takes part in performances, other than circus performances, on the maximum number of consecutive days permitted by regulation 28 for a period of eight consecutive weeks, must not take part in any performance or rehearsal during the fourteen days following the last performance.

(2) This requirement does not apply if the number of days specified in the licence on which the child may perform is fewer than sixty.

Night-work

30.—(1) Subject to paragraph (2), a licensing authority may permit a child to take part in a performance before the earliest and after the latest times set out in regulation 23.

(2) Where a licensing authority permits a child to take part in a performance before the earliest and after the latest times set out in regulation 23—

- (a) the number of hours during which the child takes part in a performance between the latest and earliest times must be included when calculating the maximum number of hours that the child may take part in a performance or rehearsal in compliance with regulation 24;
- (b) the child must not take part in any other performance or rehearsal until at least sixteen hours have elapsed since the end of the child's part in the performance; and
- (c) where the child takes part in a performance between the latest and earliest times on two consecutive days, the licensing authority must not permit the child to take part in any further performance in the hours between the latest and earliest times during the seven days immediately following those two days.

Chaperone discretion

31.—(1) The chaperone in charge of a child may allow that child to take part in a performance for a period not exceeding one hour immediately following the latest time specified in regulation 23 provided that—

- (a) the total number of hours during which the child takes part in a performance or rehearsal, including the period not exceeding one hour, does not exceed the maximum number of hours permitted under regulation 24;

- (b) it appears to the chaperone that the welfare of the child will not be prejudiced; and
- (c) it appears to the chaperone that the conditions requiring the child to take part in a performance after the latest time specified arose in circumstances outside the control of the licence holder.

(2) Where the chaperone allows a child to take part in a performance after the latest time specified in regulation 23, the licence holder must ensure that the chaperone notifies the licensing and host authorities no later than the following day and provides the reason for this decision.

(3) The chaperone in charge of a child may allow one of the breaks for a meal, required under regulation 25, to be reduced where the child is taking part in a performance or rehearsal outdoors, provided that—

- (a) the duration of the break is not less than thirty minutes; and
- (b) the maximum number of hours during which the child may take part in a performance or rehearsal under regulation 24 is not exceeded.

PART 6

Licences to perform and participate in activities abroad

Form of licence

32. A licence granted under section 25 of the 1933 Act must include—

- (a) the name of the child;
- (b) the name of the applicant;
- (c) details of the engagement that the child is going abroad to fulfil;
- (d) the date on which the licence is granted and upon which it will expire;
- (e) details of any security given by the applicant in accordance with section 25(6) of the 1933 Act;
- (f) details of any conditions considered necessary for the grant of the licence; and
- (g) the signature of the person granting the licence.

Information to be provided to consular officer

33. Where a licence under section 25 of the 1933 Act is granted, renewed or varied, the particulars which the justice of the peace must send to the Welsh Ministers for transmission to the proper consular officer are—

- (a) the name and address of the child;
- (b) the date, place of birth and nationality of the child;
- (c) the name and address of the applicant for the licence;
- (d) the name and address of the parent of the child;
- (e) details of the engagement, including where and for how long the child is to participate;
- (f) a copy of the contract of employment or other document showing the terms and conditions on which the child is engaged; and
- (g) a copy of the licence.

7 October 2015

Huw Lewis
Minister for Education and Skills, one of the
Welsh Ministers