

2008 No. 2689 (W. 238)

SOCIAL CARE, WALES

**CHILDREN AND YOUNG PERSONS,
WALES**

**The Suspension of Day Care
Providers and Child Minders
(Wales) (Amendment) Regulations
2008**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Suspension of Day Care Providers and Child Minders (Wales) Regulations 2004 (“the 2004 Regulations”).

The 2004 Regulations set out the circumstances in which a person registered as a child minder or provider of day care may have their registration suspended and allows for a right of appeal against suspension.

Under the 2004 Regulations appeals were made to the Tribunal established by section 9 of the Protection of Children Act 1999 (“the Tribunal”). The appeal provisions are set out in regulation 8 of the 2004 Regulations.

Pursuant to the Tribunals, Courts and Enforcement Act 2007 the existing functions of the Tribunal have been transferred to the First-tier Tribunal, which shall be governed by new Tribunal Procedures Rules made pursuant to section 22 of the 2007 Act.

These regulations amend the 2004 Regulations to take account of these changes. They provide that any reference to the Tribunal in the 2004 Regulations shall be replaced by reference to the First-tier Tribunal and insert into regulation 2 of the 2004 Regulations a definition of the First-tier Tribunal.

These Regulations also amend regulation 8(3) of the 2004 Regulations which provided that the Tribunal may strike out an appeal and make a costs order as

defined in the Protection of Children and Vulnerable Adults and Care Standards Tribunal Regulations 2002.

This provision has been removed because the new First-tier Tribunal's power to award costs is provided for, and will be regulated, by the 2007 Act itself and the Tribunal Procedure Rules to be made under section 22 of the 2007 Act.

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(Wales) (Amendment) Regulations
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Made 8 October 2008

Laid before the National Assembly for Wales

10 October 2008

Coming into force 3 November 2008

The Welsh Ministers make these Regulations in exercise of the powers conferred by sections 79H(1) and (2) and 104(4) of the Children Act 1989⁽¹⁾.

Title and commencement

1.—(1) The title of these Regulations is the Suspension of Day Care Providers and Child Minders (Wales) (Amendment) Regulations 2008 and they come into force on 3 November 2008.

(2) These Regulations apply in relation to Wales.

Amendment of the Suspension of Day Care Providers and Child Minders (Wales) Regulations 2004

2.—(1) The Suspension of Day Care Providers and Child Minders (Wales) Regulations 2004⁽²⁾ are amended in accordance with the following provisions of this regulation.

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- (1) 1989 c.41. Functions of the National Assembly for Wales under section 79(H)(1) and (2) and 104(4) of the Children Act 1989 were transferred to the Welsh Ministers by operation of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (W.285).
- (2) S.I. 2004/3282.

- (2) In regulation 2 (interpretation) —
- (a) omit the definitions of “costs order” and “the Tribunal”;
 - (b) insert the following definition in the appropriate place in alphabetical order —
““First-tier Tribunal” (*“Tribiwnlys Haen Cyntaf”*) has the same meaning as in the Tribunals, Courts and Enforcement Act 2007;”.⁽¹⁾
- (3) In regulation 8 (rights of appeal) –
- (a) in paragraphs (1) and (2) for “Tribunal”, in each place, substitute “First-tier Tribunal”; and
 - (b) in paragraph (3) for “Tribunal:” and subparagraphs (a) and (b) substitute “First-tier Tribunal shall dismiss the appeal.”.

Jane Hutt

Minister for Children, Education, Lifelong Learning
and Skills, one of the Welsh Ministers

8 October 2008

(1) 2007 c.15.