
WELSH STATUTORY INSTRUMENTS

2016 No. 312 (W. 102)

**SOCIAL CARE, WALES
CHILDREN AND YOUNG PERSONS, WALES**

**The Children (Secure Accommodation)
(Wales) (Amendment) Regulations 2016**

Made - - - - 3 March 2016

Coming into force in accordance with regulation 1(2)

The Welsh Ministers, in exercise of the powers conferred by section 22(8)(b) and section 118(7) of the Care Standards Act 2000⁽¹⁾, sections 87, 119(2) and (7) and 196(2) of the Social Services and Well-being (Wales) Act 2014⁽²⁾ make the following Regulations.

In accordance with section 196(6) of the Social Services and Well-being (Wales) Act 2014, a draft of this instrument was laid before and approved by a resolution of the National Assembly for Wales.

Title, commencement and application

1.—(1) The title of these Regulations is the Children (Secure Accommodation) (Wales) (Amendment) Regulations 2016.

(2) These Regulations come into force on 6 April 2016 immediately after the coming into force of The Children (Secure Accommodation) (Wales) Regulations 2015⁽³⁾.

(3) These Regulations apply in relation to Wales.

Amendment of the Children (Secure Accommodation) (Wales) Regulations 2015

2.—(1) The Children (Secure Accommodation) (Wales) Regulations 2015 are amended in accordance with the following provisions of this regulation.

(1) [2000 c.14](#). Section 22 confers the regulation-making power on “the appropriate Minister”. Section 121(1) defines this to mean, in relation to Wales, the National Assembly for Wales. The functions of the National Assembly for Wales were transferred to the Welsh Ministers by section 162 and paragraph 30 of Schedule 11 of the Government of Wales Act 2006. Section 22(9) of the Care Standards Act 2000 requires that where regulations are made under section 22 they are subject to consultation except for amending regulations which do not, in the opinion of the Welsh Ministers effect any substantial change in the regulations being amended. As the amendments made do not effect substantial changes, the Welsh Ministers have not consulted on these regulations.

(2) 2014 anaw 4.

(3) [S.I. 2015/1988 \(W.298\)](#)

(2) In regulation 1, for the definition of “secure accommodation” substitute the following paragraph—

““secure accommodation” (*“llety diogel”*) means accommodation—

- (a) which is provided for the purpose of restricting the liberty of children to whom the criteria in paragraphs (a) and (b) of section 119(1) apply, and
- (b) which is situated in either Wales or England unless the contrary is indicated.”.

(3) In paragraph (1) of regulation 2—

- (a) after the words “local authority” insert “or a local authority in England”; and
- (b) after the words “secure accommodation” insert “in Wales”.

(4) In regulation 7, after paragraph (2) insert the following paragraph—

“(3) Any authorisation in respect of such a child must not exceed 28 days on any one occasion without further authorisation.”.

(5) In paragraph (1) of regulation 9, after the words “children’s home” insert “in Wales”.

(6) In regulation 12—

- (a) after the words “children’s home” insert “in Wales”,
- (b) in paragraph (c), after the words “local authority” insert “or local authority in England”.

(7) In regulation 14, omit paragraph (c).

(8) In paragraph (1) of regulation 15, for “16” substitute “17”.

(9) In paragraph (1) of regulation 16, for “regulation 7” substitute “regulation 14”.

3 March 2016

Mark Drakeford
Minister for Health and Social Services, one of
the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Children (Secure Accommodation) (Wales) Regulations 2015 (“the Principal Regulations”) and come into force at the same time on 6 April 2016.

The amendments to regulations 1, 2, 9 and 12 of the Principal Regulations make changes to ensure that the requirements imposed on Welsh local authorities in relation to placements in secure accommodation apply regardless of whether they place children in Wales or in England. The amendments to regulation 1 amend the definition of “secure accommodation” so that where the words are used they refer to accommodation whether in Wales or England unless the contrary is indicated. The amendments to regulations 2, 9 and 12 insert words to make clear that in those regulations the references to “secure accommodation” are limited to Wales.

The effect of the amendment to regulation 7 is to ensure that a child who is remanded to local authority accommodation and who is placed in secure accommodation cannot be placed for longer than 28 days without reverting to the court.

The amendment to regulation 14 removes the prohibition on local authorities applying to court for authority to place 16 and 17 year olds in secure accommodation where the 16 and 17 year olds are accommodated under section 76 of the Social Services and Well-being (Wales) Act 2014.

The amendment to regulation 15 is made to reflect an amendment made to the effect of section 38 of the Police and Criminal Evidence Act 1984 so that the obligation on a custody officer in section 38(6) to move arrested juveniles to local authority accommodation has now been extended to children under 18 years of age. This amendment therefore aligns the provisions of regulation 15 of the Principal Regulations accordingly so that the lower threshold applies to all such children.

The amendment to regulation 16 corrects an erroneous cross reference.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.