

DRAFT WELSH STATUTORY
INSTRUMENTS

2012 No. (W.)

**CHILDREN AND YOUNG
PERSONS, WALES**

**The Breaks for Carers of Disabled
Children (Wales) Regulations 2012**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are the first regulations to be made in relation to Wales under paragraph 6 of Schedule 2 to the Children Act 1989, which imposes duties on local authorities, as part of the range of services they provide to families, to provide breaks from caring to assist parents and others who provide care for disabled children.

Sub-paragraphs (1)(c) and (2) of paragraph 6 of Schedule 2 to the Children Act 1989 were inserted by the Children and Young Persons Act 2008 (section 25).

The Regulations, which come into force on 28 June 2012, prescribe the manner in which local authorities must make provision for short breaks for the carers of disabled children in their area. Local authorities must have regard to—

- (a) the needs of those carers who would be able to provide care more effectively if they had breaks from caring, and
- (b) the needs of those carers who would be unable to continue to provide care unless a break were offered to them (regulation 3).

They require that local authorities provide a range of short breaks services (regulation 4), and that local authorities, in consultation with carers in their area, prepare, publish, and keep under review a “short breaks services statement” setting out what services are available, the categories of carer who may be eligible to gain access to them, and how they are

designed to meet the needs of carers in the area (regulation 5).

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result a regulatory impact assessment has been prepared as to the likely costs and benefits in complying with these Regulations. A copy can be obtained from the Welsh Government at: Cathays Park, Cardiff, CF10 3NQ.

2012 No. (W.)

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**The Breaks for Carers of Disabled
Children (Wales) Regulations 2012**

Made

Coming into force

28 June 2012

The Welsh Ministers make the following Regulations in exercise of the powers conferred by paragraph 6(2) of Schedule 2 to the Children Act 1989⁽¹⁾.

These are the first regulations to be made under paragraph 6(2) of Schedule 2 to that Act, prescribing for the purposes of paragraph 6(1)(c) of Schedule 2, how the duty is to be exercised.

In accordance with section 104A(3)(2) of that Act, a draft of these Regulations was laid before, and approved by resolution of, the National Assembly for Wales.

Title, commencement and application

1.—(1) The title of these Regulations is the Breaks for Carers of Disabled Children (Wales) Regulations 2012.

(2) These Regulations come into force on 28 June 2012.

(3) These Regulations apply in relation to Wales.

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- (1) 1989 c.41. Paragraph 6(2) was inserted by section 25 of the Children and Young Persons Act 2008 (c.23) (“the 2008 Act”). The power in paragraph 6(2) is expressed to be exercisable by the “appropriate national authority”. The “appropriate national authority” is defined by section 30A of the Children Act 1989 as meaning, in relation to Wales, the Welsh Ministers. Section 30A was inserted by section 39 of and paragraphs 1 and 22 of Schedule 3 to the 2008 Act.
- (2) Section 104A(3) was inserted by section 39 of and paragraphs 1 and 26 of Schedule 3 to the 2008 Act.

Interpretation

2. In these Regulations—

“the 1989 Act” (“*Deddf 1989*”) means the Children Act 1989;

“carer” (“*gofalwr*”) means a person who provides care for a disabled child and who is—

- (a) the child’s parent, or
- (b) a person who is not the child’s parent but who has parental responsibility⁽¹⁾ for that child; and

“disabled” (“*anabl*”) has the meaning given in section 17(11) of the 1989 Act⁽²⁾.

Duty to make provision

3. In performing its duty under paragraph 6(1)(c) of Schedule 2 to the 1989 Act⁽³⁾, a local authority must have regard to the needs of those carers—

- (a) who would be unable to continue to provide care for the disabled child unless breaks from caring were given to them; and
- (b) who would be able to provide care for the disabled child more effectively if breaks from caring were given to them to allow them to—
 - (i) undertake education, training or any regular leisure activity,
 - (ii) meet the needs of other children in the family more effectively, or
 - (iii) carry out day to day tasks which they must perform in order to run their household.

Types of services which must be provided

4.—(1) In performing its duty under paragraph 6(1)(c) of Schedule 2 to the 1989 Act, a local authority must provide, so far as it is reasonably practicable, a range of services which is sufficient to assist carers to continue to provide care or to do so more effectively.

(2) The provision that a local authority must provide in accordance with paragraph (1) must include, as appropriate, a range of—

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- (1) “parental responsibility” is defined in section 3 of the Children Act 1989 (c.41).
 - (2) That is, that a child is disabled “if he is blind, deaf or dumb or suffers from mental disorder of any kind or is substantially and permanently handicapped by illness, injury or congenital deformity or such other disability as may be prescribed”.
 - (3) Paragraph 6(1)(c) (inserted by section 25 of the 2008 Act) requires local authorities to provide services designed to assist individuals who provide care for disabled children to continue to do so, or to do so more effectively, by giving them breaks from caring.

- (a) day-time care in the homes of disabled children or elsewhere,
- (b) overnight care in the homes of disabled children or elsewhere,
- (c) educational or leisure activities for disabled children outside their homes, and
- (d) services available to assist carers in the evenings, at weekends and during the school holidays.

5.—(1) A local authority must by, 27 September 2012, prepare a statement for carers in its area (a “short breaks services statement”) setting out details of—

- (a) the range of services provided in accordance with regulation 4,
- (b) any criteria by which eligibility for those services will be assessed, and
- (c) how the range of services is designed to meet the needs of carers in its area.

(2) The local authority must publish its short breaks services statement, including by placing a copy of the statement on its website.

(3) The local authority must keep its short breaks services statement under review and, where appropriate, revise the statement.

(4) In preparing and revising its short breaks services statement, the local authority must have regard to the views of carers in its area.

Name

Deputy Minister for Children and Social Services
under authority of the Minister for Health and Social
Services, one of the Welsh Ministers

Date