

Explanatory Memorandum to the Play Sufficiency Assessment (Wales) Regulations 2012

This Explanatory Memorandum has been prepared by the Department for Health, Social Services and Children and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Play Sufficiency Assessment (Wales) Regulations 2012. I am satisfied that the benefits outweigh any costs.

Gwenda Thomas

Deputy Minister for Children and Social Services

06 October 2012

1. Description

1.1. These Regulations place a duty on Local Authorities to assess for sufficient play opportunities in their area.

1.2. These Regulations have been developed under Section 11 of the Children and Families (Wales) Measure with exception of subsection (3) and (4).

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

2.1. There are no matters of special interest to the Constitutional and Legislative Affairs Committee.

3. Legislative background

3.1. Section 11 of the Children and Families (Wales) Measure provides that the Welsh Ministers may place a duty on Local Authorities in Wales to assess for and secure sufficient play opportunities for children in their areas. Section 11 states:

- 11(1) that a Local Authority must assess the sufficiency of play opportunities in its area for children in accordance with regulations.
- 11 (2) what the regulations may include.

Not yet in force

- *11 (3) that a Local Authority must secure sufficient play opportunities in its area for children, so far as reasonably practicable, having regard to its assessment under subsection (1).*

Not yet in force

- *11 (4) that the Local Authority must publish information about play opportunities in the authority's area for children, and keep the information published up to date.*
- *11 (5) that in performing its duties under this section, a Local Authority must have regard (among other things) to the needs of children who are disabled persons (within the meaning of section 1 of the Disability Discrimination Act 1995 [c. 50]) and to the needs of children of different ages.*
- *11 (6) that "play" includes any recreational activity and "sufficient", in relation to play opportunities, means sufficient having regard to quantity and quality.*

3.2. *Subsections 11 (3) and 11(4) have not yet been commenced.*

3.3. *These Regulations follow the negative resolution procedure.*

4. Purpose & intended effect of the legislation

4.1. The purpose of the Regulations and the statutory Guidance that will give detail to this duty is to firstly set out what the Welsh Government wants to achieve in creating a play friendly environment for children in Wales and secondly what Local Authorities need to do in complying with this duty. They set out the detail for conducting the Play Sufficiency Assessments and the matters that need to be taken into account.

4.2. These recognise that the factors that affect play cover a wide range of policy areas including planning; traffic; management of open space and community safety and therefore need to be considered in so far as they contribute to children's play opportunities. Play also contributes to a wide range of agendas that seek to benefit children including health and well-being; and education, particularly the Foundation Phase, so it is necessary to consider how play is effectively embedded in these policy/service delivery areas.

4.3. The overall purpose of the regulations is to develop an accurate picture of play opportunities for children throughout Wales; a well evidenced assessment of the sufficiency of play in each Local Authority; and the development of action plans with associated costs which each Local Authority will use to achieve the second part of the duty, to secure sufficient play opportunities for children in their areas once it is commenced.

4.4. The benefits for children from having access to sufficient play opportunities are enhanced health; physical, personal and social skills and creativity. Play can also help mitigate the negative effects of poverty on children's lives.

4.5. Increased play and recreational activities for children also benefit the family and wider community. It is intended that the duty will result in environments that are safe and attractive for all and communities that value all members and work collectively to meet their needs.

4.6. Wales is the first country in the world to establish such a duty within its legislative framework. We will continue to work with all stakeholders to make this legislation fit for the purpose of creating a play friendly Wales with all the benefits that this will offer to our children.

5. Consultation

5.1. The details of the consultation undertaken are included in the Regulatory Impact Assessment (RIA) below.

6. Regulatory Impact Assessment

6.1. Option 1 – Do Nothing

If we were to do nothing, we would not be supporting the Government's commitment to improve opportunities for all children and young people to play in safety and, in particular, to support improved access to play for children with disabilities.

Option 1 – Cost

There would be no new cost implications from this option.

Option 1 – Benefits

There would be no benefits from this option.

6.2. Option 2 – Make the Legislation

By making the regulations Local Authorities will have clear responsibilities and duties to ensure that they undertake a play sufficiency assessment.

Option 2 – Cost

£484,000 has been allocated from the Children, Young People and Families budget for the financial year 2012-13 to support Local Authorities in conducting the first Play Sufficiency Assessment. These will be completed by March 2013.

Option 2 – Benefits

The benefits will be two fold: well evidenced play sufficiency assessments and action plans with associated costs to enable Local Authorities to increase play opportunities for all children in the future.

7. Guidance

7.1. Statutory Guidance will be issued alongside the Regulations and will support Local Authorities in fulfilling their duties under this section of the Measure. There will also be a non-statutory toolkit and pro-forma for completion, which will be developed in conjunction with Play Wales. This has been designed to assist Local Authorities in completing the initial assessment and action plan.

8. Consultation

8.1. A formal 12 week consultation was launched on 2 April 2012 which engaged with Local Authority Officers and Members, together with third sector organisations and other interested stakeholders. The consultation asked for views on the draft Regulations and the draft Statutory Guidance.

8.2. The 12 week consultation closed on 25 June 2012. There were a total number of 81 respondents. Thirty two (44%) of the respondents indicated agreement that the regulations and statutory guidance clearly set out the matters to be considered. The respondents who wanted greater clarity were primarily concerned about the relation between freely chosen play and adult led recreational activities. The Play Sufficiency

Duty is underpinned by the Children and Families (Wales) Measure 2010. In Section 11(6) of the Measure Play is defined for as including “any recreational activity”. The summary report responds to this concern in more detail.

8.3. In response to the comments and suggestions put forward during the consultation period the Regulations and the Statutory Guidance have been amended accordingly. A summary of the amendments can be viewed in the Summary Report, which has been made available on the Welsh Governments web site.

9. Competition Assessment

9.1. There are no market implications associated with the making of these Regulations. It has no impact on business, charities or the voluntary sector.

10. Summary

10.1. The making of these Regulations is necessary to ensure that children have the opportunity to play, and support children’s right as set out in article 31 of the UNCRC. The commencement of this duty may also help mitigate the negative effects of poverty on children’s lives and help to build their resilience.