

*Draft Order laid before Senedd Cymru under section 74(5) of the Children and Families (Wales) Measure 2010, for approval by resolution of Senedd Cymru.*

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DRAFT WELSH STATUTORY  
INSTRUMENTS

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**2026 No. (W. )**

**SOCIAL CARE, WALES**

**CHILDREN AND YOUNG  
PERSONS, WALES**

**The Child Minding and Day Care  
Exceptions (Wales) Order 2026**

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order is made under Part 2 of the Children and Families (Wales) Measure 2010 (“the Measure”), and revokes and replaces the Child Minding and Day Care Exceptions (Wales) Order 2010 (S.I. 2010/2839) (“the 2010 Order”).

Part 2 of the Measure provides for the registration and inspection of child minders and day care providers in Wales by the Welsh Ministers.

Sections 21(1) and 23(1) of the Measure require a child minder and a person providing day care for children to register with the Welsh Ministers. Section 19(2) of the Measure states that a person provides “child minding” if that person looks after one or more children under the age of 12 on domestic premises for reward. Section 19(3) of the Measure states that a person provides “day care for children” if the person provides care at any time for children under the age of 12 on premises other than domestic premises.

It is an offence under section 21(5) of the Measure for a person to act as a child minder without being registered as a child minder by the Welsh Ministers. Section 23(2) of the Measure makes it an offence for a person to provide day care without being registered to provide day care by the Welsh Ministers.

This Order sets out exceptions to what constitutes “child minding” and “day care for children” for the

purposes of Part 2 of the Measure. The Order is made in accordance with powers given to the Welsh Ministers in section 19(4) and (5) of the Measure to specify circumstances in which a person whose activity would otherwise amount to “child minding” or “provision of day care” is excepted from the requirement to register.

Part 1 of this Order contains definitions of certain terms used in the Order.

Part 2 sets out various circumstances in which a person is not providing “child minding” for the purposes of Part 2 of the Measure. Where any of the circumstances set out in Part 2 of the Order apply, a person is not required to register as a child minder with the Welsh Ministers.

Part 3 sets out the circumstances in which a person is not providing “day care” for the purposes of Part 2 of the Measure. Where any of the circumstances set out in Part 3 of the Order apply, a person is not required to register as a day care provider with the Welsh Ministers.

Part 4 revokes the 2010 Order, and makes provision for transitional arrangements.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with this Order. A copy can be obtained from the Department of Health and Social Services, Welsh Government, Cathays Park, Cardiff, CF10 3NQ and is published on [www.gov.wales](http://www.gov.wales).

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**2026 No. (W. )**

**SOCIAL CARE, WALES**

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**The Child Minding and Day Care  
Exceptions (Wales) Order 2026**

*Made* \*\*\*

*Laid before Senedd Cymru* \*\*\*

*Coming into force* \*\*\*

The Welsh Ministers make the following Order in exercise of the powers conferred by sections 19(4) and (5) and 74(2) of the Children and Families (Wales) Measure 2010(1) (“the Measure”).

A draft of this Order was laid before Senedd Cymru(2) under section 74(5) of the Measure and has been approved by a resolution of Senedd Cymru.

**PART 1**

**Preliminary**

**Title and commencement**

**1.—**(1) The title of this Order is the Child Minding and Day Care Exceptions (Wales) Order 2026.

(2) This Order comes into force on \*\*\*.

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(1) 2010 nawm 1.

(2) References in the Measure to “the National Assembly for Wales” now have effect as references to Senedd Cymru by virtue of section 150A(2) of the Government of Wales Act 2006 (c. 32).

## Interpretation

### 2. In this Order—

“the 2014 Act” (“*Deddf 2014*”) means the Social Services and Well-being (Wales) Act 2014<sup>(1)</sup>;

“the 2016 Act” (“*Deddf 2016*”) means the Regulation and Inspection of Social Care (Wales) Act 2016<sup>(2)</sup>;

“domestic premises” (“*mangre ddomestig*”) means any premises which are wholly or mainly used as a private dwelling;

“domiciliary support service” (“*gwasanaeth cymorth cartref*”) has the meaning given by paragraph 8 of Schedule 1 to the 2016 Act;

“employed” (“*wedi ei gyflogi*”) means employed either under a contract of employment or under a contract for services;

“local authority” (“*awdurdod lleol*”) means the council of a county or county borough in Wales;

“Local Health Board” (“*Bwrdd Iechyd Lleol*”) means a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006<sup>(3)</sup>;

“the Measure” (“*y Mesur*”) means the Children and Families (Wales) Measure 2010;

“parent” (“*rhiant*”) includes any person who has parental responsibility for a child or has care of a child;

“parental responsibility” (“*cyfrifoldeb rhiant*”) has the meaning given in section 3 of the Children Act 1989<sup>(4)</sup>;

“premises” (“*mangre*”) includes any area and any vehicle;

“relative” (“*perthynas*”), in relation to a person, means a step-parent, grandparent, brother, sister, uncle, aunt or first cousin (including any person who is in that relationship by virtue of a marriage or civil partnership or an enduring family relationship).

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(1) 2014 anaw 4.

(2) 2016 anaw 2.

(3) 2006 (c. 42).

(4) 1989 (c. 41).

## PART 2

### Child minding exceptions

#### Exception to registration

3. Articles 4 to 9 of this Order specify the circumstances where a person providing care for a child under the age of 12 on domestic premises for reward is not required to register as a child minder for the purposes of Part 2 of the Measure.

#### Time-limited provision

4.—(1) A person looking after a child does not act as a child minder where that person looks after a child for—

- (a) a single period of 2 hours or less, or
- (b) periods which total 2 hours or less,

per day.

(2) Paragraph (1) does not apply to a provider who is registered as a child minder under Part 2 of the Measure but whose registration is suspended under regulation 40(1) of the Child Minding and Day Care (Wales) Regulations 2010<sup>(1)</sup>.

#### Primary carers, relatives and cohabitants

5.—(1) A person looking after a child does not act as a child minder if that person—

- (a) is a parent of the child;
- (b) is a relative to the child;
- (c) is a foster carer for the child;
- (d) is living in the same household as the child.

(2) The exception in this article does not apply where a person falling within paragraph (1)(b) or (d)—

- (a) looks after the child on premises other than the child's home, and
- (b) intends to look after other children to whom that person is not related or in whose household they do not live.

(3) In this article, “foster carer” includes a person—

- (a) with whom a child has been placed by a local authority in accordance with the Care Planning, Placement and Case Review (Wales) Regulations 2015<sup>(2)</sup>;
- (b) approved as a foster parent in accordance with regulation 8 of the Fostering Panels

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(1) S.I. 2010/2574 (W. 214).

(2) S.I. 2015/1818 (W. 261).

(Establishment and Functions) (Wales) Regulations 2018<sup>(1)</sup>;

- (c) who fosters a child privately within the meaning of section 66 of the Children Act 1989.

#### **Care provision in the child's home by parental agreement**

**6.**—(1) A person does not act as a child minder where that person—

- (a) looks after—
  - (i) a child or children of the parents (“the first parents”) wholly or mainly in the home of the first parents, or
  - (ii) a child or children of the first parents and in addition a child or children of different parents (“the second parents”), wholly or mainly in the home of the first or second parents or in both homes, and
- (b) makes the arrangements for the child or children to be looked after under an agreement with the parents of the child or children.

(2) In this article, “an agreement” includes a contract of employment or a contract for services, whether oral or in writing.

#### **Other care provision in the child's home**

**7.**—(1) A person does not act as a child minder where that person looks after a child as part of the activity of a domiciliary support service provided to the child or the child's carer—

- (a) under Part 4 of the 2014 Act, and
- (b) under arrangements made—
  - (i) by the child's parent;
  - (ii) by or on behalf of a local authority;
  - (iii) by or on behalf of a Local Health Board.

(2) Paragraph (1) applies whether the care is provided by the provider of the domiciliary support service directly or by a person employed on the provider's behalf.

(3) In this article, “carer” has the meaning given by section 3 of the 2014 Act.

#### **Provision of care in the course of friendship**

**8.**—(1) A person does not act as a child minder where that person looks after a child in the course of a

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<sup>(1)</sup> S.I. 2018/1333 (W. 260).

friendship with the parent of that child and where no payment is made.

(2) In this article, “payment” means a payment of money or money’s worth but does not include the provision of goods or services.

### **Child minding assistants**

9. A person does not act as a child minder where that person is employed to look after children or otherwise works under the direction and control of a child minder registered by the Welsh Ministers under Part 2 of the Measure.

## **PART 3**

### **Day care for children exceptions**

#### **Exception to registration**

10. Articles 11 to 20 of this Order specify the circumstances where a person providing care for a child under the age of 12 on premises other than domestic premises is not required to register to provide day care for the purposes of Part 2 of the Measure.

#### **Time-limited provision**

11.—(1) A person does not provide day care where the person provides care to a child for—

- (a) a single period of 2 hours or less, or
- (b) periods which total 2 hours or less,

per day.

(2) Paragraph (1) does not apply to a person who is registered as a provider of day care under Part 2 of the Measure but whose registration is suspended under regulation 40(1) of the Child Minding and Day Care (Wales) Regulations 2010.

#### **Occasional provision**

12. A person does not provide day care where

- (a) the person provides care to a child on particular premises for 5 days or fewer in any calendar year, and
- (b) the person has notified the Welsh Ministers in writing before the first occasion on which the premises concerned are used in that year.

#### **Provision of care by parental agreement**

13.—(1) A person does not provide day care where the person—

- (a) provides care to—
  - (i) the child or children of parents (“the first parents”) on non-domestic premises nominated by the first parents, or
  - (ii) the child or children of the first parents and in addition for a child or children of different parents (“the second parents”) on non-domestic premises nominated by the first and second parents, and
- (b) makes the arrangements for the child or children to be looked after under an agreement with the parents of the child or children.

(2) In this article, “an agreement” includes a contract of employment or a contract for services, whether oral or in writing.

#### **Provision of care at other regulated accommodation-based services**

**14.—**(1) A person does not provide day care where the person provides care to a child—

- (a) as part of a care home service at a place registered to provide that service under Part 1 of the 2016 Act<sup>(1)</sup>,
- (b) as part of a residential family centre service at a place registered to provide that service under Part 1 of the 2016 Act,
- (c) as part of a secure accommodation service at a place registered to provide that service under Part 1 of the 2016 Act,
- (d) as part of a special school residential service at a place registered to provide that service under Part 1 of the 2016 Act,
- (e) in a hospital as a patient,

and the care is provided as part of the primary activity of the establishment in question.

(2) Paragraph (1) applies whether the care is provided by the provider of the establishment directly or by a person employed on the provider’s behalf.

(3) In this article—

“care home service” (“*gwasanaeth cartref gofal*”) has the meaning given by paragraph 1 of Schedule 1 to the 2016 Act;

“residential family centre service” (“*gwasanaeth canolfan breswyl i deuluoedd*”) has the meaning given by paragraph 3 of Schedule 1 to the 2016 Act;

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(1) 2016 anaw 2.



“secure accommodation service” (*“gwasanaeth llety diogel”*) has the meaning given by paragraph 2 of Schedule 1 to the 2016 Act;

“special school residential service” (*“gwasanaeth preswyl ysgol arbennig”*) has the meaning given in regulation 2 of the Regulated Services (Special School Residential Services) (Wales) Regulations 2023<sup>(1)</sup>.

### **Provision of care by domiciliary support service provider**

**15.**—(1) A person does not provide day care where the person looks after a child as part of the activity of a domiciliary support service provided to the child or the child’s carer—

- (a) under Part 4 of the 2014 Act, and
- (b) under arrangements made—
  - (i) by the child’s parent;
  - (ii) by or on behalf of a local authority;
  - (iii) by or on behalf of a Local Health Board.

(2) Paragraph (1) applies whether the care is provided by the provider of the domiciliary support service directly or by a person employed on the provider’s behalf.

(3) In this article, “carer” has the meaning given by section 3 of the 2014 Act.

### **Provision of care at a school**

**16.**—(1) A person does not provide day care where the person provides care at a school to a child who has attained the age of 3 and the care provided is incidental to the provision of education.

- (2) In this article, “school” means—
- (i) a maintained school within the meaning of section 39 of the Education Act 2002<sup>(2)</sup>, or
  - (ii) an independent school.

### **Coaching or tuition provision**

**17.**—(1) A person does not provide day care where the person provides coaching or tuition to a child in an activity of a type listed in paragraph (3), and any care provided is incidental to the provision of that coaching or tuition.

(2) The exception in this article applies where the child—

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(1) S.I. 2023/1327 (W. 238).  
(2) 2002 (c. 32).

- (a) has attained the age of 5;
  - (b) is yet to attain the age of 5 and is accompanied by their parent if attending for more than 2 hours per day.
- (3) The types of activity are—
- (a) sport;
  - (b) expressive and creative arts;
  - (c) educational support (including support in those areas of learning and experience set out in section 3(1) of the Curriculum and Assessment (Wales) Act 2021)<sup>(1)</sup>;
  - (d) religious or cultural study.

### **Youth services**

**18.**—(1) A person does not provide day care where the person provides a youth service for a child who has attained the age of 11, and any care provided is incidental to the provision of that youth service.

(2) In this article, “youth service” means activity of a type listed in paragraph (3).

- (3) The types of activity are those—
- (a) that encourage, enable or assist a child who has attained the age of 11 to participate effectively in—
    - (i) leisure and recreational activities;
    - (ii) education and training;
    - (iii) the life of their communities, and
  - (b) where no payment or a nominal payment only is required from children to participate in such activity.

### **Transitional youth services**

**19.**—(1) A person does not provide day care where the person provides a transitional youth service for a child who has attained the age of 10 or 11, and any care provided is incidental to the provision of that transitional youth service.

(2) In this article, “transitional youth service” means a service providing educational, personal and social support to a child during their transition from primary to secondary education, and where no payment or a nominal payment only is required from participating children.

### **Childcare workers**

**20.**—(1) A person does not provide day care where that person is employed as a childcare worker by a

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(1) 2021 asc 4.

person registered to provide day care under Part 2 of the Measure.

(2) In this article, “childcare worker” means a person employed in the circumstances falling within section 79(3)(m) of the 2016 Act<sup>(1)</sup> to provide “childcare” as defined in section 79(3A) of the 2016 Act<sup>(2)</sup>.

## PART 4

### Revocation

**21.**—(1) The Child Minding and Day Care Exceptions (Wales) Order 2010 is revoked<sup>(3)</sup>.

### Transitional provision

**22.**—(1) Where a person who, immediately before the coming into force of this Order, was providing a service but was exempted from the requirement to register because the service fell within an exception specified in the Child Minding and Day Care Exceptions (Wales) Order 2010, makes an application to the Welsh Ministers for registration under Part 2 of the Measure by \*\*\*, the person is not to be treated as acting in contravention of section 21(1) (duty of child minders to register) or section 23(1) (duty of day care providers to register) of the Measure during the application period.

(2) In this article, “application period” means the period—

- (a) beginning with the day on which this Order comes into force, and
- (b) ending on—
  - (i) the date on which the Welsh Ministers determine the application for registration, or
  - (ii) where that determination is subject to an appeal under section 37 of the Measure, the date on which the appeal is determined.

### *Name*

Dawn Bowden, Minister for Children and Social Care, under the authority of the Cabinet Secretary for Health and Social Care, one of the Welsh Ministers

### *Date*

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- (1) 2016 anaw 2. Section 79(3)(m) was inserted by the Health and Social Care (Wales) Act 2025 (asc 1), section 18(2)(a)(ii); the amendment is not yet in force.
  - (2) 2016 anaw 2. Section 79(3A) was inserted by the Health and Social Care (Wales) Act 2025 (asc 1), section 18(2)(b); the amendment is not yet in force.
  - (3) S.I. 2010/2839 (W. 233).