
STATUTORY INSTRUMENTS

2011 No. 985 (W.142)

NATIONAL HEALTH SERVICE, WALES

The Child Measurement Programme (Wales) Regulations 2011

<i>Made</i>	- - - -	<i>28 March 2011</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>30 March 2011</i>
<i>Coming into force</i>	- -	<i>1 August 2011</i>

The Welsh Ministers, in exercise of the powers conferred on them in sections 12, 13, 203 and 204, of and paragraph 7B of Schedule 1 to, the National Health Service (Wales) Act 2006(1), make the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Child Measurement Programme (Wales) Regulations 2011.

(2) These Regulations come into force on 1 August 2011 and they apply in relation to Wales.

Interpretation

2. In these Regulations —

“the Act” (“*y Ddeddf*”) means the National Health Service (Wales) Act 2006;

“authorised person” (“*person awdurdodedig*”) means (i) the relevant child’s parent, (ii) a person authorised in writing by the relevant child’s parent, or (iii) a person that the relevant child wishes to accompany them;

“the Child Measurement Programme for Wales” (“*Rhaglen Mesur Plant Cymru*”) means the annual programme under which relevant children are weighed and measured in schools;

“height measure” (“*mesurydd taldra*”) means a stadiometer on which a person stands to be measured by means of a vertical rule and a sliding horizontal rod or paddle;

“parent” (“*rhiant*”) in relation to a relevant child includes any person who has parental responsibility for, or has care of, the child and, in determining whether a person has care of the child, any absence of the child at a hospital or boarding school and any other temporary absence shall be disregarded;

“parental responsibility” (“*cyfrifoldeb rhiant*”) has the same meaning as in section 3 of the Children Act 1989;

(1) 2006 c. 42. Paragraph 7B was inserted by section 144 of the Health and Social Care Act 2008(c. 14); and *see* section 206(1) for the definition of “regulation”.

“process” (“*prosesu*”) and “processed” (“*proseswyd*”) are to be interpreted in accordance with the meaning of “processing” in section 1(1) of the Data Protection Act 1998;

“reception year” (“*blwyddyn dderbyn*”) means the school year in which the majority of the children are aged either 4 or 5 years;

“relevant child” (“*plentyn perthnasol*”) means a child in the reception year or year 4;

“relevant health professional” (“*proffesiynolyn iechyd perthnasol*”) means a registered medical practitioner, a registered nurse or registered midwife;

“relevant person” (“*person perthnasol*”) means (i) a relevant healthcare professional where a Local Health Board has made arrangements with local authorities and proprietors of schools which are not maintained by a local authority, and (ii) in all other cases, a relevant healthcare professional or a person approved by the Welsh Ministers;

“scales” (“*clorian*”) means an electronic device on which a person stands to be weighed;

“school year” (“*blwyddyn ysgol*”) has the same meaning as in section 579(1) of the Education Act 1996; and

“year 4” (“*blwyddyn 4*”) means the school year in which the majority of the children are aged either 8 or 9 years.

Gathering and further processing height and weight information by Local Health Boards

3.—(1) Subject to paragraph (3) and to any directions given by the Welsh Ministers, the functions of the Welsh Ministers under paragraph 7A(1) and (2) of Schedule 1 to the Act, to make arrangements with local authorities⁽²⁾ and proprietors of schools which are not maintained by a local authority to weigh and measure children, are to be exercisable by Local Health Boards in relation to schools present in their area.

(2) Each Local Health Board may, as provided for under arrangements made under paragraph 7A(1) or (2) of Schedule 1 to the Act, weigh and measure children and further process resulting information for the purposes of the Child Measurement Programme for Wales where the conditions set out in regulation 5 are met.

(3) The functions in paragraphs 7A(1) and (2) of Schedule 1 to the Act exercisable by a Local Health Board may, by arrangement with that board and subject to such restrictions and conditions as it may think fit, be exercised by another Local Health Board.

Gathering and further processing height and weight information Welsh Ministers

4. The Welsh Ministers may, as provided for under arrangements made under paragraph 7A(1) or (2) of Schedule 1 to the Act, weigh and measure children and further process resulting information for the purposes of the Child Measurement Programme for Wales where the conditions set out in regulation 5 are met.

Conditions

5.—(1) The conditions for the purpose of regulation 3(2) and 4 are —

- (a) the child to be weighed and measured is a relevant child who is able and willing to stand unaided on scales and under a height measure;
- (b) a parent of the relevant child has not withdrawn the child from participation in the weighing and measuring exercise;

(2) The term 'local authorities' in Schedule 1 of the Act was substituted for 'local education authorities' by paragraph 61 of Schedule 2 to the Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158).

- (c) the weighing and measuring exercise is conducted in a room or screened area where information on the measurements is secure and cannot be seen or heard by anyone who is not assisting in the conduct of the exercise or overseeing it; and
- (d) the arrangements are managed by a relevant person.

(2) For the purposes of regulation 5(1)(c) an authorised person accompanying a relevant child is deemed to be 'assisting' in the conduct of the exercise.

Parental involvement

6. A Local Health Board and the Welsh Ministers while conducting a weighing and measuring exercise for the purposes of the Child Measurement Programme for Wales under arrangements made under paragraph 7A(1) or (2) of Schedule 1 to the Act must take steps to give each parent of a relevant child to whom such exercise relates a reasonable opportunity to withdraw their child from participation in the exercise.

Additional purposes for which information may be processed

7.—(1) Information gathered in accordance with these Regulations may be further processed by or on behalf of the Welsh Ministers or by or on behalf of a Local Health Board with a view to —

- (a) releasing it, together with advisory material relating to children's weight, to a parent of the relevant child to whom it relates;
- (b) providing advice to a parent of the relevant child in relation to such information;
- (c) releasing the information to a relevant health professional for use in accordance with good practice for the provision of care and treatment of a particular child;
- (d) releasing the information in a form in which the child cannot be identified for use, in accordance with good practice, for surveillance, research, monitoring or audit and the planning of health services.

(2) Information gathered and further processed in accordance with these Regulations by or on behalf of the Welsh Ministers may be released to a Local Health Board with a view to —

- (a) releasing it, together with advisory material relating to children's weight, to a parent of the relevant child to whom it relates;
- (b) providing advice to a parent of the relevant child in relation to such information;
- (c) releasing the information to a relevant health professional for use in accordance with good practice for the provision of care and treatment of a particular child;
- (d) releasing the information in a form in which the child cannot be identified for use, in accordance with good practice, for surveillance, research, monitoring or audit and the planning of health services.

Guidance

8. Any person who is exercising functions in relation to any weighing or measuring to which these Regulations apply or in relation to information resulting from such weighing and measuring must have regard to any guidance given from time to time by the Welsh Ministers.

28 March 2011

Edwina Hart
Minister for Health and Social Services, one of
the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations which apply to Wales are made under the National Health Service (Wales) Act 2006 (“the Act”). They provide for the functions of the Welsh Ministers under paragraph 7A(1) and (2) of Schedule 1 to the Act, to make arrangements with local authorities and proprietors of independent schools to provide for the weighing and measuring of children in schools, to be exercisable by Local Health Boards.

Regulation 2 includes definitions of parent (which includes carers) and relevant child (defined as a child in reception year or year 4).

Regulation 3 provides for the functions of the Welsh Ministers under paragraph 7A(1) and (2) of Schedule 1 to the Act to be exercisable by Local Health Boards. It also specifies that conditions have to be met to enable Local Health Boards to weigh and measure children and further process the resulting information for the purposes of the Child Measurement Programme for Wales (CMP) (an annual programme under which children are weighed and measured in schools).

Regulation 4 provides that certain conditions have to be met when the Welsh Ministers weigh and measure children and further process the resulting information for the purposes of the CMP.

Regulation 5 sets out the conditions referred to in regulation 3 and 4. The conditions provide that the children must be able and willing to stand unaided to be measured and weighed, other than those who have been withdrawn from the CMP by their parents. The regulation also specifies the manner in which the information is to be gathered.

Regulation 6 makes provision for parents to have an opportunity to “opt-out” their child from the CMP.

Regulation 7 sets out the purposes for which information gathered under the Regulations may be further processed. Those purposes are: the release of height and weight information, together with related advisory material, to the parent of a child who has participated in the CMP; providing advice to such a parent in relation to such information; the release of the information to relevant health professionals where the information will be used for the provision of care and treatment of a particular child; and, the release of such information, in a form in which an individual child cannot be identified, for surveillance, research, monitoring or audit (including research into the causes and effects of weight related problems and the facilities and treatments which might be made available to such persons) and the planning of health services. This regulation also enables the Welsh Ministers or a person on behalf of the Welsh Ministers to release the height and weight information to a Local Health Board.

Regulation 8 provides that any person exercising functions in relation to the weighing or measuring to which these regulations apply or in relation to information resulting from such weighing or measuring must have regard to any guidance issued by the Welsh Ministers.