

## **REGULATORY APPRAISAL**

### **SOCIAL CARE, WALES**

#### **CHILDREN AND YOUNG PERSONS, WALES**

##### **THE CHILDREN (PERFORMANCES) (AMENDMENT) (WALES) REGULATIONS 2007**

###### **Background**

1. The Children (Performances) Regulations 1968, which were made under section 37 of the Children and Young Persons Act 1963, aim to safeguard the health, welfare and education of children who take part in performances.
2. The 1968 Regulations impose limits on the number of performances in which a child can take part in a year and specify age bands and clear limits on the hours within which children can work, or be available for performances.
3. The 1963 Act provisions and the 1968 Regulations were last amended in 1998 to reflect the requirements of the EC Directive on Protection of Young People at Work. Thus, children employed in advertising (including modelling) and in sport were covered for the first time.

###### **Purpose and intended effect of the measure**

4. These Regulations, which amend The Children (Performances) Regulations 1968, to make the rules governing performances by children less restrictive and also introduce a number of changes to address child protection issues identified in the Clywch Report. Their main purpose remains as safeguarding the health, welfare and education of children taking part in performances.
5. The proposed changes introduced by the Regulations for children 9 + are to:
  - increase the maximum length of time to four hours in which a child may take part in continuous performance or rehearsal without a break; and
  - extend the permitted working hours in the working day and the total number of hours in which these children may be present at the place of performance or rehearsal.
6. Whilst the proposed changes for all children are to:
  - remove the restriction, which prohibits the granting of a licence, if a child has worked a specified number of days in the last 12 months;

- impose additional restrictions on the grant of licences in relation to the suitability of the matron;
  - require a report to be obtained from the head teacher of any school the child attends; this will not entail any additional costs to the licensing authority and
  - add further conditions that apply to all licences, requiring the provision of the script to the matron and adherence to relevant child protection policies, the licensing authority to ensure that the Matron has undertaken child protection training
7. The changes that apply to different age groups are attached in a table at Annex A to the Regulatory Appraisal.

### **Risk Assessment**

8. If these Regulations are not made then Children's safeguarding measures would not be implemented and Welsh children could continue to lose employment opportunities, because of the differences between the Welsh and English Regulations.

### **Options**

#### Option 1: Do Nothing

9. Maintaining the status quo would retain appropriate protection for children, but it could be argued that children from Wales, who are adversely affected by having to adhere to more stringent restrictions than in England, are discriminated against and additional safeguarding measures for children in Wales would not be introduced.

#### Option 2: Make the Legislation

10. Implementing the Regulations would bring equity of treatment for people who put on performances in Wales and tighten up licence application procedures. The changes would also improve safeguards for children by ensuring their chaperone undertakes child protection training.

### **Benefits**

11. By abolishing the limits on the number of performances in which a child can take part in a year, altering the ages at which children may work and extending the times and hours they can work or be available for performances, the rules governing performances by children will be less restrictive and in line with those in England. The Regulations will also improve safeguards for children by ensuring their chaperone undertakes child protection training. Children will be better safeguarded when these Regulations come into force in Wales.

### **Costs**

12. There are no financial implications for the Assembly, local authorities or other statutory bodies arising from the making of these Regulations.

## Consultation

### With Stakeholders

13. A consultation took place on changes to The Children (Performance) Regulations 1968 between September 2006 and December 2006. (These changes had originally been consulted on in 2003). The changes would have aligned the Regulations in Wales with those in England and envisaged the removal of the upper limits on the number of performances children could take part in annually, lowering the age at which children are permitted to work and increasing the times and number of hours to be worked in term time.
14. There were only twelve responses to the approximately 220 consultation documents sent out and it was impossible to get a consensus from the responses. The respondents to that consultation were divided between support for the changes and opposition on grounds of concern that children's welfare would not be promoted by the changes and that children could be at risk of exploitation if the changes were made in Wales. No conclusion was reached pending publication and consideration of the Commissioner's Clywch Report.
15. A further consultation took place on these Regulations between 15 September 2006 and 8 December 2006. A list of consultees and a list of respondents is attached at Annex B to the Regulatory Appraisal. The consultation covered two distinct subject areas:
  - a. The Children's Commissioner for Wales Clywch report; and
  - b. Annual limits on performances by children and related matters
16. The Regulations have to reflect a balance between concerns that Welsh children are not getting employment because they can work less hours than English children, and we have evidence this has happened, against safeguarding children.
17. The Regulations were altered to:
  - make it a requirement that the licensing authority must obtain a report from the head teacher of the child's school on the effect of the granting of the licence on the child's education; and
  - the licensing authority must not approve a matron unless they are satisfied that the matron has:
    - a) been provided by the applicant (or otherwise) with information as to the legal responsibilities of a matron and the law on performances by children; and
    - b) undertaken child protection training to the level recommended by the Local Safeguarding Children Board where such recommendation has been made.

18. Therefore, if the parent/guardian and head teacher think it is in the child's best interest, the licence will be granted. A summary of consultation responses is attached at Annex C.

#### With Subject Committee

19. These Regulations were notified to the Health and Social Services Committee, via the list of forthcoming legislation, on 16 July 2003 (HSS(2)-03-03(p.5a), item no: HSS-24-(03) and have remained on the list ever since. The Regulations were not identified for detailed scrutiny.

#### **Review**

20. There are currently no plans to formally review these Regulations. They will be monitored by stakeholder feedback on the operation of the Regulations. However, consideration is also being given to Estyn undertaking the monitoring of these Regulations as part of their area inspections.

#### **Summary**

21. These Regulations, amended in light of the consultation, will bring equity of treatment for children in Wales and set in Regulations the existing good practice around consultation with head teachers and child protection training for matrons.

## Annex A

### THE CHILDREN (PERFORMANCES) REGULATIONS 1968

TABLE A (Existing position)

Age of Child	Maximum number of hours permitted at the place of performance or rehearsal	Earliest and latest permitted times at that place	Maximum period of continuous performance	Maximum number of hours performance or rehearsal	Minimum intervals for meals and rest	Minimum number of hours education on school days if being privately taught
13 or over	8	9.00am (or 8.30am provided that the child left by 6.30pm the previous day) to 7.00pm	1 hour	3½	If present at the place of performance or rehearsal for more than 4 consecutive hours 2, one of which must be at least an hour and the other at least 15 minutes.	3
					If at present at the place of performance or rehearsal for more than 8 consecutive hours 3, two of which must each be at least an hour and the other at least 15 minutes.	
5 but under 13	7½	9.00am to 4.30pm or if the child is aged 10 or over 5.00pm	45 minutes	3	If present at the place of performance or rehearsal for more than 2, one of which must be at least 1 hour and the other at least	3

					15 minutes.	
					If at present at the place of performance or rehearsal for more than 8 consecutive hours 3, two of which must each be at least an hour and the others at least 15 minutes.	
Under 5	5	9.30am to 4.30pm	30 minutes	2	Any time during which the child is not taking part in a performance or rehearsal must be used for meals, rest and recreation.	—

*THE CHILDREN (PERFORMANCES) REGULATIONS 1968*

*TABLE B (Proposed changes shown in Bold)*

Age of Child	Maximum number of hours permitted at the place of performance or rehearsal	Earliest and latest permitted times at that place	Maximum period of continuous performance	Maximum number of hours performance or rehearsal	Minimum intervals for meals and rest	Minimum number of hours education on school days if being privately taught
<b>9 or over</b>	<b>9½</b>	<b>7.00am to 7.00pm</b>	1 hour	<b>4</b>	If present at the place of performance or rehearsal for more than 4 consecutive hours 2, one of which must be at least an hour and the other at least 15 minutes.	3
					If at present at the place of performance or rehearsal for more than 8 consecutive hours 3, two of	

					which must each be at least an hour and the other at least 15 minutes	
<b>5 but under 9</b>	7½	<b>9.00am to 4.30pm</b>	45 minutes	3	If present at the place of performance or rehearsal for more than 2, one of which must be at least 1 hour and the other at least 15 minutes.	3
					If at present at the place of performance or rehearsal for more than 8 consecutive hours 3, two of which must each be at least an hour and the others at least 15 minutes.	
Under 5	5	9.30am to 4.30pm	30 minutes	2	Any time during which the child is not taking part in a performance or rehearsal must be used for meals, rest and recreation.	—

## **Annex B - List of Consultees to consultation Sept – Dec 2006**

### **AMENDMENTS TO THE CHILDREN (PERFORMANCES) REGULATIONS 1968**

#### *Local Government*

Chief Executives )  
Directors of Education )  
Directors of Social Services ) Local Authorities in Wales  
Principal Education Welfare Officers )  
Chief Legal Officers )

All Wales Group of Education Welfare Officers  
Welsh Language Board

#### **Education and Teaching Interests**

Association of Teachers and Lecturers  
Independent Schools' Association  
National Association of Head Teachers  
National Governors' Council  
National Union of Teachers, Wales  
National Association of Teachers in Further Education.  
Undeb Cenedlaethol Athrawon Cymru

#### **Health Interests**

British Medical Association, Wales  
Healthcare Inspectorate Wales  
Royal College of General Practitioners, Wales  
Royal College of Nursing, Welsh Board

#### **Children's and Voluntary Sector Interests**

Barnardos Cymru  
Children's Commissioner for Wales  
Child Accident Prevention Trust  
Children in Wales  
NSPCC Cymru  
NCH Cymru  
Play Wales  
Wales Council for Voluntary Action  
Equal Opportunities Commission, Wales  
Welsh Language Board  
SCOPE  
Contact a Family

#### **Legal Interests**

Association of Lawyers for Children  
Law Centres' Federation  
Magistrates' Association



### *Churches*

Church in Wales, Board of Social Responsibility  
Cytun

### **Employer and Trade Union Interests**

Association of British Chambers of Commerce  
Association of Police Officers  
Confederation of British Industry, Wales  
Royal Society for the Prevention of Accidents  
Wales Trade Union Cymru

### **Entertainment and Modelling Interests**

British Arts Festival Association  
The British Association of Leisure Parks, Piers & Attractions  
[The Agents' Association of Great Britain](#)  
World Federation of Tourist Guide Associations  
National Museums' Association

### **Broadcasting**

National Film Theatre  
BBC Wales  
Producers Alliance for Cinema and Television  
ITV, Wales and West  
S4C  
TAC  
Sgrin  
Equity  
Welsh Broadcasting Trust

### **Arts and Theatre**

Arts Council of Wales  
Community Music, Wales  
Cardiff School of Music  
Drama Association of Wales  
The Film Academy Wales  
Musician's Union  
National Eisteddfodd of Wales  
National Youth Arts Wales  
Urdd Gobaith Cymru  
Voluntary Arts Network  
Wales Association of the Performing Arts  
Welsh Amateur Music Federation  
Whats on Wales

### **Theatre, dance and performance companies**

Actorsworkshop  
Antic Corporation  
Anvil Productions  
Apricot Theatre

Arad Goch  
Bara Caws  
Bitesize Theatre  
Brightling Sea  
Cardiff International Festival of Musical Theatre  
Carlson Dance Company  
Centre for Performance Research  
Clwyd Theatr Cymru Theatre for Young People  
Common Pulse Theatre  
Community Dance Wales  
Theatr Felinfach  
Dawns i Bawb  
Department of Theatre Film and Television  
Diversions Dance Wales  
Earthfall  
eddie ladd  
Elan Wales  
Equilibre  
Everyman Theatre Cardiff  
Fair Play Comedy Theatre  
Found Reality  
Fran Wen  
Gaia Independent Arts Productions Limited  
Gavin Skerritt  
Good Cop Bad Cop  
Green Ginger  
Gwent Theatre  
Hijinx Theatre  
Independent Ballet Wales  
India Dance Wales  
Jo Shapland  
Llwyfan Gogledd Cymru  
Los Kaos  
Lurking Truth  
Mappa Mundi  
Marc Rees / R.I.P.E (Rees International Projects Enterprise)  
Masquerade  
Moving Being Productions  
Music Theatre Wales  
Nofit State Circus  
Powys Dance  
Propwash Theatre  
Red Button3, Thomas Street  
Rosebud Productions  
Royal Welsh College of Music and Drama  
Sgript Cymru  
Sherman Theatre Company  
Simon Whitehead  
Sioned Huws  
Small World Theatre

Spectacle Theatre  
Stageworks Theatre Company  
Steel Wasp Theatre Co  
Striking Attitudes  
The K Zone  
Theatr Bwcibo  
Theatr Ffynnon  
Theatr Genedlaethol Cymru  
Theatr Iolo  
Theatr na n'Og  
Theatr Powys  
Theatr y Byd  
Theatr y Dyfodol  
Torch Theatre  
Trading Faces  
U-Man Zoo  
Vagabondi Puppets  
Volcano Theatre Company  
Wales Theatre Company  
Welsh Fargo Stage Company  
Welsh Independent Dance  
Welsh National Opera  
Y Gymraes

*Privately owned theatres in Wales*

Aberystwyth Arts Centre  
Beaufort Theatre and Ballroom  
Blackwood Miners Institute  
Blaengarw Workmans' Hall  
Chapter Arts Centre  
Coliseum  
Cwmni Theatre Gwynedd  
Dylan Thomas Theatre  
Grand Theatre, Swansea  
Llandoverly Theatre  
Llanover Hall Youth Arts Centre  
New Theatre  
North Wales, ECTARC  
Parc and Dare Theatre  
Pavilion Theatre  
Penyrheol Theatre  
Pontardawe Arts Centre  
Rhydycar Leisure Centre  
Sherman Theatre  
St Donats' Art Centre  
Taliesin Arts Centre  
The Flash Leisure Centre  
The Muni  
The Royal International Pavilion  
Theatr Ardudwy Cyf.

Theatr Brycheiniog  
Theatr Colwyn  
Theatr Felinfach  
Theatr Gogledd Cymru  
Theatr Gwynedd  
Theatr Hafren  
Theatr Mwldan  
Theatr Twm o'r Nant  
Theatr y Castell  
Ucheldre Centre  
Welsh Independent Dance  
Welsh Folk Dance Society  
Wyeside Arts Centre  
Ystradgynlais Miners Welfare and Community Hall Trust Ltd

### **LIST OF RESPONDEES**

BBC Cymru  
Blaenau Gwent County Borough Council  
City and County of Swansea  
Cwmni Da  
Flintshire County Council  
National Operatic and Dramatic Society  
Newport City Council  
NSPCC  
Rhondda Cynon Taf County Council  
Sherman Theatre  
Teledwyr Annibynnol Cymru (TAC)  
Vale of Glamorgan County Council  
Welsh Language Board  
Wrexham County Council

## Annex C – Summary of Consultation Responses

### CHILDREN’S PERFORMANCE REGULATION CONSULTATION 2006

<u>ISSUE</u>	<u>COMMENTS</u>	<u>RESPONDEE</u>
Consulting with head teachers	Timing could be a problem particularly during school holidays during school holidays	Wrexham County Council, National Dramatic and Operatic Association, TAC
Consulting with head teachers	Concern that if they have to consult for every performance as opposed to every performance the child is absent from school would lead to lots of extra work.	Conwy Borough Council
Consulting with head teachers	Usually parents’ approach the head teacher on behalf of the production team and the LEA receives agreement that a child may attend with the application. The document refers to a report what is envisaged being in the report other than agreement. Getting a report could lead to delays as the LEA is rarely given 21 days notice.	City and County of Swansea
Consulting with head teachers	Already do obtain reports from head teachers	Blaenau Gwent County Borough Council, Newport City Council
Copies of the script to be provided to the matron	In practice the matron, parent or guardian would be provided with part script for a scene or a sequence of scenes in a drama or an episode in a series but	BBC Wales

	not always a full script. Suggest that the wording “script or relevant part of the script” be used. Also suggest that seeing the script as a term of the licence is not an invitation for third party review and that editorial independence needs to be respected.	
Copies of the script to be provided to the matron	Disagree – places L:EA and chaperone in the position of censor, having child protection policies should be enough.	National Operatic and Dramatic Association
Copies of the script to be provided to the matron	The rationale for a production needs to be considered by all parties – young people, guardians and chaperone – all who need to be clear about the material itself and the rationale behind it.	Sherman Theatre
Copies of the script to be provided to the matron	Judgement difficult to make and could be very subjective	City and County of Swansea, Rhondda Cynon Taf, TAC
Alignment of hours with England	Agree	BBC Wales, Conwy Borough Council, City and County of Swansea, Rhondda Cynon Taf, National Operatic and Dramatic Association, TAC
Alignment of hours with England	Accept the change in respect of 13 and over but not 9-13. Different ages have different requirements	Sherman Theatre
Provision of training	Agree	Sherman Theatre, Newport City Council

for chaperones on law on performances by children		
Child protection training	Responsibility should be given to the LA's to approve and arrange.	Wrexham County Council, National Dramatic and Operatic Association.
Child Protection Policy of the production company	Could potentially cause delays	City and County of Swansea
General	Generally welcome the guidance (!)	Flintshire Local Education Authority
General	Agree with all the suggested amendments	Sheila Kelly, Vale of Glamorgan CBC
General	There is a disparity between how LEA's handle applications	Cwmni Da, TAC
General	Believe that the welfare of children must come first but in order to encourage companies to apply for licences bureaucracy should be kept at a minimum.	Cwmni Da
General	Agree about the issue of providing relevant training to chaperones however ad hoc nature of application could be a potentially problematic for training	Rhondda Cynon Taf CBC

	providers.	
General	Regulations and administrative processes should reflect the individuals language of choice	Welsh Language Board
General	Would welcome introducing powers in the future that place a duty on matrons to safeguard and protect children in their care.	NSPCC