



# Children and Families (Wales) Measure 2010

## 2010 nawm 1

### PART 2

#### CHILD MINDING AND DAY CARE FOR CHILDREN

##### *Procedural safeguards*

#### **36 Procedure for taking certain steps**

- (1) This section applies if the Welsh Ministers propose to take any of the following steps under this Part—
  - (a) refuse an application for registration;
  - (b) impose a new condition on a person's registration;
  - (c) vary or remove any condition imposed on a person's registration;
  - (d) refuse to grant an application for the variation or removal of any such condition;
  - (e) cancel a person's registration.
- (2) This section does not apply to action taken under section 34 or 35.
- (3) The Welsh Ministers must give to the applicant for registration or (as the case may be) the registered person, notice of their intention to take the step in question.
- (4) The notice must—
  - (a) give the Welsh Ministers' reasons for proposing to take the step, and
  - (b) inform the person concerned of that person's rights under this section.
- (5) The Welsh Ministers may not take the step until the end of the period of 28 days beginning with the day on which they give notice under subsection (3) unless the applicant for registration or (as the case may be) the registered person notifies the Welsh Ministers they wish to object to the step being taken.

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*Status: This is the original version (as it was originally enacted).*

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- (6) If the recipient of a notice under subsection (3) (“the recipient”) gives notice to the Welsh Ministers that the recipient wishes to object to the step being taken, the Welsh Ministers must give the recipient an opportunity to object before taking the step.
- (7) An objection made under subsection (5) may be made orally or in writing and in either case may be made by the recipient or the recipient’s representative.
- (8) If the Welsh Ministers decide to take the step, they must give the recipient notice of their decision (whether or not the recipient informed the Welsh Ministers that the recipient wished to object to the step being taken).
- (9) The taking of a step mentioned in paragraph (b), (c) or (e) of subsection (1) does not have effect until—
  - (a) the expiry of the time within which an appeal may be brought under section 37, or
  - (b) if such an appeal is brought, the time when the appeal is determined (and the taking of the step is confirmed).
- (10) Subsection (9) does not prevent such a step having effect before the expiry of the time within which an appeal may be brought if the person concerned notifies the Welsh Ministers that the person does not intend to appeal.
- (11) If the Welsh Ministers give notice to an applicant for registration under this Part that they intend to refuse the application, the application may not be withdrawn without the consent of the Welsh Ministers.
- (12) In this section and in section 37, “a new condition” means a condition imposed otherwise than at the time of the person’s registration.

### **37 Appeals**

- (1) An applicant for registration or (as the case may be) a registered person may appeal to the First-tier Tribunal against the taking of any of the following steps by the Welsh Ministers under this Part—
  - (a) refusal of an application for registration;
  - (b) imposition of a new condition on registration;
  - (c) variation or removal of any condition imposed on registration;
  - (d) refusal of an application to vary or remove any such condition;
  - (e) cancellation of registration.
- (2) The following persons may also appeal to the First-tier Tribunal—
  - (a) an applicant for registration or (as the case may be) a registered person in respect of a determination made by the Welsh Ministers under this Part of a prescribed description;
  - (b) a registered person against whom an order is made under section 34;
  - (c) a registered person who is given a notice under section 35.
- (3) On an appeal the First-tier Tribunal must either—
  - (a) confirm the taking of the step, the making of the other determination, the making of the order, or the giving of the notice (as the case may be), or
  - (b) direct that it does not have, or ceases to have, effect.

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- (4) Unless the First-tier Tribunal has confirmed the taking of a step mentioned in subsection (1)(a) or (e) or the making of an order under section 34 cancelling a person's registration, the Tribunal may also do either or both of the following—
- (a) impose conditions on the registration of the person concerned;
  - (b) vary or remove any condition previously imposed on the person's registration.