



**CYNULLIAD CENEDLAETHOL CYMRU**

**NATIONAL ASSEMBLY FOR WALES**

---

**OFFERYNNAU STATUDOL**

---

---

**STATUTORY INSTRUMENTS**

---

**2004 Rhif 3282 (Cy.285)**

**2004 No. 3282 (W.285)**

**GOFAL CYMDEITHASOL,  
CYMRU**

**SOCIAL CARE,  
WALES**

**PLANT A PHOBL IFANC,  
CYMRU**

**CHILDREN AND YOUNG PERSONS,  
WALES**

**Rheoliadau Atal Dros Dro  
Ddarparwyr Gofal Dydd a  
Gwarchodwyr Plant (Cymru) 2004**

**The Suspension of Day Care  
Providers and Child Minders  
(Wales) Regulations 2004**

**NODYN ESBONIADOL**

**EXPLANATORY NOTE**

*(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)*

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

Gwneir y Rheoliadau hyn o dan Rhan XA o Ddeddf Plant 1989 ac maent yn gymwys i bersonau sy'n gweithredu fel gwarchodwyr plant neu sy'n darparu gofal dydd mewn mangre a leolir yng Nghymru. Maent yn nodi'r amgylchiadau pan gaiff Cynulliad Cenedlaethol Cymru atal dros dro gofrestrriad person, ac yn caniatáu hawl i apelio i'r Tribiwnlys a sefydlwyd gan Ddeddf Amddiffyn Plant 1999. Deuant i rym ar 20 Rhagfyr 2004.

These Regulations are made under Part XA of the Children Act 1989 and apply to persons who act as child minders or provide day care on premises situated in Wales. They set out the circumstances in which a person's registration may be suspended by the National Assembly for Wales and allow for a right of appeal to the Tribunal established under the Protection of Children Act 1999. They come into force on 20 December 2004.

**2004 Rhif 3282 (Cy.285)**

**GOFAL CYMDEITHASOL,  
CYMRU**

**PLANT A PHOBL IFANC,  
CYMRU**

**Rheoliadau Atal Dros Dro  
Ddarparwyr Gofal Dydd a  
Gwarchodwyr Plant (Cymru) 2004**

*Wedi'u gwneud* 8 Rhagfyr 2004

*Yn dod i rym* 20 Rhagfyr 2004

1. Enwi, cychwyn a chymhwyso
2. Dehongli
3. Y pŵer i Atal Cofrestriad Dros Dro
4. Cyfnod yr Atal Dros Dro
5. Hysbysiad o'r Atal Dros Dro, etc.
6. Darpariaethau'r Hysbysiad
7. Diddymu'r Atal Dros Dro
8. Hawliau i Apelio

Mae Cynulliad Cenedlaethol Cymru yn gwneud y Rheoliadau a ganlyn gan arfer y pŵer a roddwyd iddo gan adrannau 79H(1) a (2) a 104(4) o Ddeddf Plant 1989(a):

**Enwi, cychwyn a chymhwyso**

1.-(1) Enw'r Rheoliadau hyn yw'r Rheoliadau Atal Dros Dro Ddarparwyr Gofal Dydd a Gwarchodwyr Plant (Cymru) 2004, a deuant i rym ar 20 Rhagfyr 2004.

(2) Mae'r Rheoliadau hyn yn gymwys i bersonau sydd wedi'u cofrestru fel gwarchodwyr plant neu i ddarparu gofal dydd ar fangre berthnasol yng Nghymru.

---

(a) 1989 p.41; mewnosodwyd adran 79H gan adran 79 o Ddeddf Safonau Gofal 2000 (p.14).

**2004 No. 3282 (W.285)**

**SOCIAL CARE,  
WALES**

**CHILDREN AND YOUNG PERSONS,  
WALES**

**The Suspension of Day Care  
Providers and Child Minders  
(Wales) Regulations 2004**

*Made* 8 December 2004

*Coming into force* 20 December 2004

1. Citation, commencement and application
2. Interpretation
3. Power to Suspend Registration
4. Period of Suspension
5. Notification of Suspension etc.
6. Notice Provisions
7. Lifting of Suspension
8. Rights of Appeal

The National Assembly for Wales makes the following Regulations in exercise of the power conferred on it by sections 79H(1) and (2) and 104(4) of the Children Act 1989(a):

**Citation, commencement and application**

1.-(1) These Regulations may be cited as the Suspension of Day Care Providers and Child Minders (Wales) Regulations 2004 and come into force on 20 December 2004.

(2) These Regulations apply in relation to persons who are registered to act as child minders or to provide day care on relevant premises in Wales.

---

(a) 1989 c.41; section 79H was inserted by section 79 of the Care Standards Act 2000 (c.14).

## Dehongli

2.-(1) Yn y Rheoliadau hyn, onid yw'r cyd-destun yn mynnu fel arall-

ystyr "y Cynulliad Cenedlaethol" ("*the National Assembly*") yw Cynulliad Cenedlaethol Cymru;

ystyr "y Ddeddf" ("*the Act*") yw Deddf Plant 1989 ac mae unrhyw gyfeiriadau at adrannau yn cyfeirio at adrannau'r Ddeddf honno;

mae i "gofal dydd" ("*day care*") yr un ystyr ag sydd i "day care" yn adran 79A(6);

mae i "gorchymyn costau" ("*costs order*") yr un ystyr ag sydd i "costs order" yn Rheoliadau Amddiffyn Plant ac Oedolion Hawdd eu Niweidio a Thribiwnlys Safonau Gofal 2002(a);

ystyr "person cofrestredig" ("*registered person*") yw person sy'n gweithredu fel gwarchodwr plant neu sy'n darparu gofal dydd ac sydd wedi'i gofrestru o dan adran 79F;

ystyr "swyddfa briodol" ("*appropriate office*") yw-

- (a) os pennwyd swyddfa o dan baragraff (2) mewn perthynas ag unrhyw berson cofrestredig, y swyddfa honno;
- (b) unrhyw un o swyddfeydd y Cynulliad Cenedlaethol mewn unrhyw achos arall; ac

ystyr "y Tribiwnlys" ("*the Tribunal*") yw'r tribiwnlys a sefydlwyd gan adran 9 o Ddeddf Amddiffyn Plant 1999(b).

(2) Caiff y Cynulliad Cenedlaethol bennu swyddfa a reolir ganddo yn swyddfa briodol mewn perthynas â pherson cofrestredig.

(3) Yn y Rheoliadau hyn, mae cyfeiriad at -

- (a) rheoliad â rhif yn gyfeiriad at y rheoliad yn y Rheoliadau hyn sy'n dwyn y rhif hwnnw;
- (b) paragraff â rhif mewn rheoliad yn gyfeiriad at y paragraff yn y rheoliad hwnnw;
- (c) is-baragraff â rhif neu lythyren mewn paragraff yn gyfeiriad at yr is-baragraff sy'n dwyn y rhif hwnnw neu'r llythyren honno yn y paragraff hwnnw.

## Y pŵer i atal cofrestriad dros dro

3.-(1) Caiff y Cynulliad Cenedlaethol, yn unol â rheoliadau 4, 5, 6 a 7, atal dros dro gofrestrriad unrhyw berson sy'n gweithredu fel gwarchodwr plant neu sy'n darparu gofal dydd os oes sail resymol i'r Cynulliad Cenedlaethol gredu y byddai neu y gallai parhau â'r ddarpariaeth gwarchod plant neu ofal dydd wneud un

---

(a) O.S. 2002/816.

(b) 1999 p.14.

## Interpretation

2.-(1) In these regulations, unless the context otherwise requires-

"the Act" ("*y Ddeddf*") means the Children Act 1989 and any references to sections are references to sections of that Act;

"appropriate office" ("*swyddfa briodol*") means -

- (a) if an office has been specified under paragraph (2) in relation to any registered person, that office;
- (b) in any other case, any office of the National Assembly;

"costs order" ("*gorchymyn costau*") has the same meaning as in the Protection of Children and Vulnerable Adults and Care Standards Tribunal Regulations 2002(a);

"day care" ("*gofal dydd*") has the same meaning as in section 79A(6);

"the National Assembly" ("*y Cynulliad Cendlaethol*") means the National Assembly for Wales;

"registered person" ("*person cofrestredig*") means a person who acts as a child minder or who provides day care and who is registered under section 79F; and

"the Tribunal" ("*y Tribiwnlys*") means the tribunal established by section 9 of the Protection of Children Act 1999(b).

(2) The National Assembly may specify an office controlled by it as the appropriate office in relation to a registered person.

(3) In these Regulations a reference -

- (a) to a numbered regulation is to the regulation in these Regulations bearing that number;
- (b) in a regulation to a numbered paragraph is to the paragraph in that regulation;
- (c) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

## Power to suspend registration

3.-(1) The National Assembly may, in accordance with regulations 4, 5, 6 and 7, suspend the registration of any person acting as a child minder or providing day care if there is reasonable cause for the National Assembly to believe that the continued provision of child minding or day care by that person exposes or

---

(a) S.I. 2002/816.

(b) 1999 c.14.

neu fwy o'r plant y darperir y gofal ar eu cyfer, neu y gellid darparu'r gofal ar eu cyfer, yn agored i risg o niwed, ac mai at un o'r dibenion a nodir ym mharagraff (2) y gwneir yr atal dros dro.

(2) Dibenion yr atal dros dro yw-

- (a) rhoi amser i ymchwilio i'r amgylchiadau sy'n sail i gred y Cynulliad Cenedlaethol; a
- (b) rhoi amser i gymryd camau er mwyn lleihau neu ddileu'r risg o niwed.

### Cyfnod yr atal dros dro

4.-(1) Os yw'r Cynulliad Cenedlaethol yn atal cofrestriad unrhyw berson dros dro o dan reoliad 3, bydd cyfnod yr atal dros dro yn dechrau ac yn gorffen ar y dyddiad hynny a bennir yn yr hysbysiad y mae'n ofynnol ei roi i'r person cofrestredig o dan reoliad 5.

(2) Ni chaniateir i'r dyddiad a bennir fel y dyddiad y daw'r cyfnod atal dros dro i ben fod yn fwy na 6 wythnos ar ôl dyddiad dechrau'r cyfnod.

(3) Yn ddarostyngedig i baragraff (4), nid yw'r ffaith bod cofrestriad unrhyw berson wedi'i atal dros dro ar unrhyw adeg yn rhwystru'r Cynulliad Cenedlaethol rhag atal dros dro gofrestrriad y person hwnnw ymhellach ar unrhyw adeg, boed hynny yn ystod cyfnod blaenorol o atal dros dro neu ar ôl iddo ddod i ben, a boed hynny ar yr un sail neu ar sail wahanol.

(4) Ac eithrio pan fo paragraff (5) yn gymwys, ni chaiff y Cynulliad Cenedlaethol arfer ei bŵer i atal dros dro gofrestrriad person yn y fath fodd fel y byddai effaith hynny yn golygu bod cofrestriad y person hwnnw wedi'i atal dros dro am gyfnod a fyddai'n hwy na chyfanswm o 12 wythnos o fewn unrhyw gyfnod o 12 mis, gan gynnwys unrhyw gyfnod arall pan yr ataliwyd cofrestriad y person hwnnw dros dro, boed hynny ar yr un sail neu ar sail sy'n sylweddol yr un fath.

(5) Bydd y paragraff hwn yn gymwys os oes un neu fwy o'r amgylchiadau a ganlyn yn gymwys ar yr adeg pan fo'r Cynulliad Cenedlaethol yn arfer ei bŵer i atal dros dro gofrestrriad person:

- (a) ni chyflawnwyd yr archwiliad y cyfeirir ato yn rheoliad 3(2)(a) eto;
- (b) ni chymerwyd yr holl gamau y cyfeirir atynt yn rheoliad 3(2)(b) eto; neu
- (c) mae'r Cynulliad Cenedlaethol wedi penderfynu cymryd camau yn erbyn y person cofrestredig o dan adran 79K o'r Ddeddf (gwneud cais i ynad heddwch am gael amddiffyn plant mewn argyfwng) ond ni phenderfynwyd ar y cais eto,

ar yr amod, ym mhob achos, nad oedd yr amgylchiad o dan sylw wedi codi oherwydd i'r Cynulliad Cenedlaethol fethu â chymryd y camau hynny yr oedd

may expose one or more of the children to whom it is or may be provided to the risk of harm and the purpose of the suspension is for one or both of the purposes set out in paragraph (2).

(2) The purposes of the suspension are-

- (a) to allow time for the circumstances giving rise to the National Assembly's belief to be investigated; and
- (b) to allow time for steps to be taken to reduce or eliminate the risk of harm.

### Period of suspension

4.-(1) If the National Assembly suspends the registration of any person under regulation 3, the suspension begins and ends on such dates as are specified in the notice required to be given to the registered person under regulation 5.

(2) The date specified as the date on which the suspension ends may not be more than 6 weeks after the date on which it begins.

(3) Subject to paragraph (4), the fact that a person's registration has at any time been suspended does not prevent the National Assembly from further suspending that person's registration at any time, whether during a previous period of suspension or after it has ended and whether on the same grounds or on different grounds.

(4) The National Assembly may not, unless paragraph (5) applies, exercise its power to suspend a person's registration in such a way that the effect of doing so would be that the person's registration would be suspended for a period which, taken together with any other period for which that person's registration has been suspended on the same or substantially the same grounds, exceeds a total of 12 weeks within any period of twelve months.

(5) This paragraph applies if, at the time when the National Assembly exercises its power to suspend a person's registration, one or more of the following circumstances applies;

- (a) the investigation referred to in regulation 3(2)(a) has not yet been completed;
- (b) the steps referred to in regulation 3(2)(b) have not yet all been taken; or
- (c) the National Assembly has decided to take action against the registered person under section 79K of the Act (application to a justice of the peace for protection of children in an emergency) but the application has not yet been determined,

provided, in each case, the circumstance in question is not due to any failure on the part of the National Assembly to take such steps as were reasonably

yn rhesymol ymarferol iddo eu cymryd.

(6) Rhaid i unrhyw hysbysiad a roddir i berson cofrestredig o dan reoliad 5, sy'n gosod cyfnod o atal dros dro na fyddai gan y Cynulliad Cenedlaethol y pŵer i'w fynnu os nad oedd paragraff (5) yn gymwys, ddatgan y ffaith honno, a rhaid nodi pa un o'r amgylchiadau a geir yn y paragraff hwnnw sy'n gymwys.

(7) Mae cyfeiriadau yn y rheoliad hwn at y sail dros atal dros dro gofrestrriad person yn gyfeiriadau at yr amgylchiadau sydd wedi arwain y Cynulliad Cenedlaethol i gredu y byddai caniatáu i'r person hwnnw barhau i ddarparu gofal plant neu ofal dydd yn gadael, neu y gallai adael, un neu fwy o'r plant sy'n derbyn y gofal, neu a allai dderbyn y gofal, yn agored i'r risg o niwed.

### **Hysbysiad o'r atal dros dro, etc.**

5. Rhaid i'r Cynulliad Cenedlaethol, yn unol â rheoliad 6, roi hysbysiad ysgrifenedig o unrhyw atal cofrestriad dros dro a wneir o dan y Rheoliadau hyn i'r person cofrestredig, a rhaid i unrhyw hysbysiad o'r fath gynnwys y rhesymau dros wneud y penderfyniad a manylion am hawl y person cofrestredig i apelio yn erbyn yr atal dros dro.

### **Darpariaethau'r hysbysiad**

6.-(1) Gellir rhoi hysbysiad o dan y Rheoliadau hyn drwy ei draddodi yn bersonol i'r person cofrestredig, ei anfon drwy'r post, wedi'i gyfeirio'n briodol, mewn llythyr cofrestredig neu drwy'r gwasanaeth cofnodi'r dosbarthiad, neu drwy ei drosglwyddo yn electronig.

(2) Bernir y bydd hysbysiad at berson cofrestredig o dan y Rheoliadau hyn wedi'i gyfeirio'n briodol os yw'r llythyr wedi'i gyfeirio at y person cofrestredig yn y cyfeiriad cartref yr hysbysodd y person cofrestredig y Cynulliad Cenedlaethol ohono yn y gorffennol naill ai adeg gwneud cais am gofrestru neu ers hynny.

(3) Trosglwyddir hysbysiad yn electronig at ddibenion paragraff (1) pan gaiff y manylion a gynhwyswyd yn yr hysbysiad eu trosglwyddo o system gyfrifiadurol a weithredir gan y Cynulliad Cenedlaethol i system gyfrifiadurol a weithredir gan y person cofrestredig drwy ddull electronig i unrhyw rif neu gyfeiriad a ddefnyddir at ddibenion cyfathrebu'n electronig a hysbyswyd i'r Cynulliad Cenedlaethol gan y person hwnnw.

### **Diddymu'r atal dros dro**

7.-(1) Heb ragfarn i reoliad 4(2), pan fydd y Cynulliad Cenedlaethol wedi atal dros dro gofrestrriad person, rhaid iddo ddiddymu'r atal dros dro ar unrhyw adeg, boed a wnaed cais ysgrifenedig o dan baragraff (2) ai peidio, os na fydd ganddo bellach sail resymol dros gredu bod y rhesymau dros yr atal dros dro yn gymwys.

practicable for it to take.

(6) Any notice given to a registered person under regulation 5 which imposes a period of suspension which the National Assembly would not, if paragraph (5) did not apply, have power to impose must state that fact and must identify which of the circumstances identified in that paragraph applies.

(7) References in this regulation to the grounds for suspending a person's registration are references to the circumstances which cause the National Assembly to believe that the continued provision of child minding or day care by that person exposes or may expose one or more of the children to whom it is or may be provided to a risk of harm.

### **Notification of suspension, etc**

5. The National Assembly must, in accordance with regulation 6, give the registered person written notice of any suspension of registration made under these Regulations and any such notice must include the reasons for the decision and details of the registered person's right of appeal against suspension.

### **Notice Provisions**

6.-(1) A notice under these Regulations may be given by being delivered personally to the registered person, sent, properly addressed, by post in a registered letter or by the recorded delivery service or by being transmitted electronically.

(2) A notice to a registered person under these Regulations is to be deemed to be properly addressed if it is addressed to the registered person at the home address notified previously by the registered person to the National Assembly upon the registered person's application for registration or subsequently.

(3) A notice is transmitted electronically for the purposes of paragraph (1) where the particulars contained in the notice are transmitted by electronic means from a computer system operated by the National Assembly to a computer system operated by the registered person at any number or address used for the purposes of electronic communications notified by that person to the National Assembly.

### **Lifting of suspension**

7.-(1) Without prejudice to regulation 4(2), where the National Assembly has suspended a person's registration, it must, whether or not a written request has been made under paragraph (2), lift the suspension at any time if it no longer has reasonable cause to believe that the grounds for suspension apply.

(2) Caiff person y mae ei gofrestrriad wedi'i atal dros dro yn unol â'r Rheoliadau hyn wneud cais ysgrifenedig i swyddfa briodol y Cynulliad Cenedlaethol ar unrhyw adeg i gael diddymu'r atal dros dro.

(3) Pan fo'r Cynulliad Cenedlaethol yn penderfynu diddymu neu beidio â diddymu'r atal dros dro ar gofrestrriad person, rhaid iddo anfon hysbysiad o'i benderfyniad at y person cofrestredig yn syth ac yn unol â rheoliad 6.

(4) Pan fo'r Cynulliad Cenedlaethol yn penderfynu peidio â diddymu'r atal dros dro ar gofrestrriad person, rhaid i'r hysbysiad o dan baragraff (3) gynnwys y rhesymau dros wneud y penderfyniad a manylion am hawl y person cofrestredig i apelio yn erbyn y penderfyniad.

(5) Bydd unrhyw benderfyniad gan y Cynulliad Cenedlaethol i ddiddymu'r atal dros dro yn effeithiol o ddyddiad penodol, a rhaid nodi'r dyddiad hwnnw yn yr hysbysiad ysgrifenedig y cyfeirir ato ym mharagraff (3).

### **Hawliau i apelio**

8.-(1) Caiff person y mae ei gofrestrriad wedi ei atal dros dro o dan y Rheoliadau hyn apelio i'r Tribiwnlys yn erbyn-

- (a) penderfyniad y Cynulliad Cenedlaethol i atal cofrestriad y person hwnnw dros dro;
- (b) gwrthodiad y Cynulliad Cenedlaethol i ddiddymu'r atal dros dro pan ofynnir iddo wneud hynny yn unol â rheoliad 7(2).

(2) Yn ddarostyngedig i baragraff (3), mewn apêl o dan baragraff (1), caiff y Tribiwnlys-

- (a) cadarnhau penderfyniad y Cynulliad Cenedlaethol i atal cofrestriad dros dro neu, yn ôl y digwydd, wrthod diddymu'r atal dros dro;
- (b) cyfarwyddo bod yr atal dros dro yn peidio â bod yn effeithiol

ac, er mwyn osgoi unrhyw amheuaeth, caiff y Tribiwnlys arfer hefyd ei bŵer o dan (b) mewn unrhyw achos y mae'n arfer ei bŵer o dan (a) os yw'n fodlon nad yw amodau'r atal dros dro wedi'u bodloni bellach, a hynny ar adeg gwneud ei benderfyniad.

(3) Os nad yw'r atal cofrestriad person dros dro, y gwnaed apêl yn ei gylch o dan baragraff (1), bellach yn effeithiol:

- (a) rhaid i'r Tribiwnlys ddileu'r apêl; a
- (b) caiff y Tribiwnlys wneud gorchymyn costau.

(2) A person whose registration has been suspended under these Regulations may, at any time, make a written request to the appropriate office of the National Assembly that the suspension be lifted.

(3) Where the National Assembly makes a decision to lift or to refuse to lift the suspension of a person's registration, it must immediately and in accordance with regulation 6, send a notice of the decision to the registered person.

(4) Where the National Assembly decides not to lift the suspension of a person's registration, the notice under paragraph (3) must include the reasons for the decision and details of the registered person's right of appeal against the decision.

(5) Any decision by the National Assembly to lift a suspension takes effect as from a specified date which must be included in the written notice referred to in paragraph (3).

### **Rights of Appeal**

8.(1) A person whose registration has been suspended under these Regulations may appeal to the Tribunal against-

- (a) the National Assembly's decision to suspend that person's registration;
- (b) the National Assembly's refusal to lift that suspension when requested to do so in accordance with regulation 7(2).

(2) Subject to paragraph (3), on an appeal under paragraph (1), the Tribunal may-

- (a) confirm the National Assembly's decision to suspend registration or, as the case may be, to refuse to lift the suspension;
- (b) direct that the suspension shall cease to have effect

and, for the avoidance of doubt, in any case in which the Tribunal exercises its power under (a) it may also exercise its power under (b) if at the time of making its determination it is satisfied that the conditions for suspension are no longer met.

(3) If the suspension of a person's registration against which an appeal has been made under paragraph (1) is no longer in effect, the Tribunal:

- (a) must strike out the appeal; and
- (b) may make a costs order.

Llofnodwyd ar ran Cynulliad Cenedlaethol Cymru o dan adran 66(1) o Ddeddf Llywodraeth Cymru 1998(a).

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(a).

8 Rhagfyr 2004

8 December 2004

*D. Elis-Thomas*

Llywydd y Cynulliad Cenedlaethol

The Presiding Officer of the National Assembly

---

(a) 1998 p.38.

---

(a) 1998 c.38.

**2004 Rhif 3282 (Cy.285)**

**GOFAL CYMDEITHASOL,  
CYMRU**

**PLANT A PHOBL IFANC,  
CYMRU**

Rheoliadau Atal Dros Dro  
Ddarparwyr Gofal Dydd a  
Gwarchodwyr Plant (Cymru) 2004

**2004 No. 3282 (W.285)**

**SOCIAL CARE,  
WALES**

**CHILDREN AND YOUNG PERSONS,  
WALES**

The Suspension of Day Care  
Providers and Child Minders  
(Wales) Regulations 2004

© Hawlfraint y Goron 2004

Argraffwyd a chyhoeddwyd yn y Deyrnas Unedig gan The Stationery Office Limited o dan awdurdod ac arolygiaeth Carol Tullo, Rheolwr Gwasg Ei Mawrhydi ac Argraffydd Deddfau Seneddol y Frenhines.

**£3.00**

W173/12/04

ON

© Crown copyright 2004

Printed and Published in the UK by the Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

ISBN 0-11-091052-4



9 780110 910529