
WELSH STATUTORY INSTRUMENTS

2010 No. 2574

The Child Minding and Day Care (Wales) Regulations 2010

PART 6

**SUSPENSION OF A PERSON'S REGISTRATION
UNDER PART 2 OF THE MEASURE**

Interpretation

39. In this Part—

“grounds” (“*seiliau*”) means the reasons or circumstances that cause the Welsh Ministers to believe that the continued provision of child minding or day care for children by a registered person exposes or may expose one or more of the children to whom such care is or may be provided to the risk of harm;

“suspension” (“*ataliad dros dro*”) means the suspension by the Welsh Ministers of a person’s registration on the child minding register or, as the case may be, the day care for children register maintained under Part 2 of the Measure, in accordance with these Regulations. It does not include a voluntary suspension under regulation 46, and “suspend” (“*atal dros dro*”) and “suspended” (“*ataliwyd dros dro*”) are to be interpreted accordingly.

Power to suspend registration

40.—(1) The Welsh Ministers may, in accordance with regulations 41, 42, 43, 44 and 46(8), suspend the registration of any person acting as a child minder or providing day care for children if—

- (a) they have reasonable cause to believe that the continued provision of such care by that person exposes, or may expose, one or more of the children cared for by that person to the risk of harm; and
 - (b) 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 belief of the Welsh Ministers to be investigated; and
 - (b) to allow time for steps to be taken to reduce or eliminate the risk of harm.

Period of suspension

41.—(1) Where the Welsh Ministers exercise their power to suspend the registration of any person in accordance with these Regulations, the suspension begins and ends on such dates as are specified in the notification of suspension given to the registered person in accordance with regulations 42 and 43.

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

(3) Subject to paragraph (4), the exercise by the Welsh Ministers of their power to suspend a person's registration does not prevent them from further exercising that power, at any time, whether during an existing period of suspension or after it has ended, on the same or different grounds.

(4) The Welsh Ministers may not exercise their power to suspend a person's registration so as to give rise to a period of suspension on the same or substantially the same grounds that exceeds 12 weeks in aggregate within any period of 12 months unless—

- (a) it has not been reasonably practicable (for reasons beyond the control of the Welsh Ministers) to complete the investigation or carry out the steps under sub-paragraphs (2)(a) or (2)(b) respectively of regulation 40; or
- (b) the Welsh Ministers have issued proceedings against the registered person under section 34 of the Measure (protection of children in an emergency: cancellation of registration) but the application has not yet been determined by the court.

Notification of suspension, etc

42. The Welsh Ministers must, in accordance with regulation 43, give the registered person written notice of any suspension, and any such notice must—

- (a) include the reasons for the decision;
- (b) include details of the registered person's right of appeal against suspension; and
- (c) where regulation 41(4) applies, state that fact and identify which of the circumstances identified in that regulation applies.

Notice provisions

43.—(1) A notice under these Regulations may be given to the registered person—

- (a) by delivering it to the registered person;
- (b) by sending it by post; or
- (c) subject to paragraph (3), by transmitting it electronically.

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

(3) If the notice is transmitted electronically for the purposes of paragraph (1)—

- (a) the registered person must have stated to the Welsh Ministers their willingness to receive notices transmitted by electronic means and provided an address suitable for that purpose;
- (b) the notice must be sent to the address provided by the registered person; and
- (c) any notice sent in accordance with this paragraph will be deemed to have been received by the registered person on the next working day after the day on which it is sent.

Lifting of suspension

44.—(1) Without prejudice to regulation 41(2), where the Welsh Ministers have suspended a person's registration, they must, whether or not a written request has been made under paragraph (2), lift the suspension at any time, if they no longer have reasonable cause to believe that the grounds for suspension apply.

(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 Welsh Ministers that the suspension be lifted.

(3) Where the Welsh Ministers make a decision to lift or to refuse to lift the suspension of a person's registration, they must within 2 working days and in accordance with regulation 43, send a notice of the decision to the registered person.

(4) Where the Welsh Ministers decide not to lift the suspension of a person's registration, the notice issued in accordance with 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 Welsh Ministers to lift a suspension takes effect as from a specified date, which must be included in the notice referred to in paragraph (3).

Rights of appeal

45.—(1) Save where the person's registration has been suspended voluntarily under regulation 46, a person whose registration has been suspended under these Regulations may appeal to the First-tier Tribunal against the decision of the Welsh Ministers—

- (a) to suspend that person's registration;
- (b) to refuse to lift that suspension when requested to do so in accordance with regulation 44(2).

(2) Subject to paragraph (3), when determining an appeal under paragraph (1), the First-tier Tribunal may—

- (a) confirm the decision of the Welsh Ministers to suspend or, as the case may be, to refuse to lift the suspension;
- (b) direct that the suspension is to cease to have effect, and

for the avoidance of doubt, in any case in which the First-tier 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 First-tier Tribunal must dismiss the appeal.

Voluntary suspension

46.—(1) A registered person may give notice to the Welsh Ministers to suspend their registration on the child minding register or, as the case may be, the day care for children register maintained under Part 2 of the Measure ("a voluntary suspension notice") ("*hysbysiad o ataliad gwirfoddol*").

(2) A voluntary suspension notice must —

- (a) be made in writing;
- (b) contain the following information—
 - (i) the date upon which the period of voluntary suspension begins ("the effective date") ("*y dyddiad dod i rym*"),
 - (ii) where it is known, the date upon which the period of voluntary suspension is to end ("the termination date") ("*y dyddiad terfynu*"),
 - (iii) the reason why the period of voluntary suspension is requested;
- (c) be sent or delivered to the appropriate office not less than five working days before the effective date, or such shorter period before that date as the Welsh Ministers may agree.

(3) A registered person must provide such other information or documents as the Welsh Ministers may reasonably require in relation to the voluntary suspension notice.

(4) If a registered person—

- (a) gives notice in accordance with paragraphs (1) or (8)(b); and

(b) that voluntary suspension notice complies with the requirements in paragraph (2), unless paragraph (5) applies, the Welsh Ministers must suspend, or extend the period of suspension in respect of, that person's registration on the child minding register or, as the case may be, the day care for children register ("voluntary suspension") (*"ataliad gwirfoddol"*).

(5) The Welsh Ministers may not act in accordance with paragraph (4) if—

- (a) the Welsh Ministers have sent, or have given the registered person notice of their decision to suspend that person from the register in accordance with regulation 40; or
- (b) in the case of a person whose registration has been suspended by the Welsh Ministers in accordance with regulation 40 and the person has—
 - (i) made a written request to the Welsh Ministers that the suspension be lifted and that request has not yet been determined; or
 - (ii) appealed to the First-tier Tribunal in accordance with regulation 45 and that appeal has not yet been determined.

(6) Where the Welsh Ministers have acted in accordance with paragraph (4), they must send the registered person written confirmation that their registration on the child minding register or, as the case may be, on the day care for children register has been suspended in accordance with the voluntary suspension notice

(7) There is no right of appeal to the First-tier Tribunal against a decision of the Welsh Ministers to refuse to take action in respect of a notice for voluntary suspension given by the registered person.

(8) A registered person whose registration has been suspended voluntarily may, at any time before the termination date, give notice in writing, which complies, where relevant with the requirements of paragraph (2), to the Welsh Ministers that they require—

- (a) the voluntary suspension to be lifted in advance of the termination date; or requiring
- (b) the period of voluntary suspension to be extended for such further period as the person specifies in the notice.

(9) The fact that a person's registration has been suspended voluntarily in accordance with this regulation does not prevent the Welsh Ministers from exercising their power to suspend that person's registration in accordance with regulation 40.