
WELSH STATUTORY INSTRUMENTS

2004 No. 2695

**The Disqualification from Caring for
Children (Wales) Regulations 2004**

Citation, commencement and application

1.—(1) These Regulations may be cited as the Disqualification from Caring for Children (Wales) Regulations 2004 and shall come into force on 20 October 2004.

(2) These Regulations apply in relation to Wales.

Revocation

2. The Disqualification from Caring for Children (Wales) Regulations 2002⁽¹⁾ are hereby revoked.

Interpretation

3.—(1) In these Regulations —

“the Act” (“*y Ddeddf*”) means the Children Act 1989;

“the 2000 Act” (“*Deddf 2000*”) means the Criminal Justice and Court Services Act 2000⁽²⁾;

“appropriate office” (“*swyddfa briodol*”) means —

(a) if an office has been specified under paragraph (2) in relation to any person, that office;

(b) in any other case, any office of the National Assembly;

“disqualification order”, “qualifying sentence”, “relevant order” and “senior court” (“*gorchymyn datgymhwyso*”, “*dedfryd gymhwysol*”, “*gorchymyn perthnasol*”, “*prif lys*”) have the same meanings as in section 30 of the 2000 Act;

“disqualified” (“*wedi'i ddatgymhwyso/ wedi'u datgymhwyso*”) means disqualified for registration under Part XA of the Act for child minding or providing day care;

“the National Assembly” (“*y Cynulliad Cenedlaethol*”) means the National Assembly for Wales;

“offence against a child” (“*tramgwydd yn erbyn plentyn*”) in relation to offences committed in England and Wales has the meaning given in section 26 of the 2000 Act;

“rehabilitation period” (“*cyfnod adsefydlu*”) has the same meaning as in the Rehabilitation of Offenders Act 1974⁽³⁾;

“Tribunal” (“*Tribiwnlys*”) means the Tribunal established by section 9 of the Protection of Children Act 1999⁽⁴⁾.

(2) The National Assembly may specify an office controlled by it as the appropriate office in relation to any registered person or applicant for registration under Part XA of the Act.

(1) S.I.2002/896 (W.102).

(2) 2000 c. 43.

(3) 1974 c. 53.

(4) 1999 c. 14.

Disqualification from fostering a child privately

4.—(1) For the purposes of section 68 of the Act (persons disqualified from being private foster parents) a person is disqualified from fostering a child privately if —

- (a) that person has been convicted of any offence mentioned in Part I of the Schedule to these Regulations; or
- (b) that person is a person mentioned in Parts II or III of the Schedule to these Regulations.

(2) A person who has successfully appealed against a conviction or determination is not disqualified under paragraph (1) in respect of that conviction or determination.

Disqualification for registration for child minding and providing day care

5.—(1) For the purposes of paragraph 4 of Schedule 9A to the Act (disqualification for registration) a person is, subject to regulation 6, disqualified if —

- (a) that person has been convicted of any offence mentioned in Part I of the Schedule to these Regulations;
- (b) that person is a person mentioned in Parts II or III of the Schedule to these Regulations; or
- (c) that person has at any time been disqualified from fostering a child privately.

(2) Subject to regulation 6, a person who lives —

- (a) in the same household as a person who is disqualified under paragraph (1); or
- (b) in a household in which any such person is employed,

is disqualified.

(3) A person who has successfully appealed against a conviction or determination is not disqualified under paragraph (1) in respect of that conviction or determination.

Waivers

6.—(1) Where a person would be disqualified by virtue of regulation 5 but that person has disclosed to the National Assembly the facts that would give rise to the disqualification and the National Assembly has given written consent and has not withdrawn that consent, then that person is not, by reason of the facts so disclosed, to be regarded as disqualified for the purpose of these Regulations.

(2) A person is not disqualified under regulation 5 if, prior to 1 April 2002, the person —

- (a) disclosed the facts to an appropriate local authority under paragraph 2 of Schedule 9 to the Act which would disqualify the person under regulation 5; and
- (b) obtained the written consent of that local authority.

Duty of Disclosure

7.—(1) A person who has been registered as a childminder or day care provider or employed in connection with the provision of day care pursuant to section 79D of the Act has a continuing duty throughout the period of registration to provide the National Assembly with the information listed in subsection (2) in relation to:

- (a) any order made against the registered person;
- (b) any order made against a person who lives or works in the same household of which the registered person is aware or could reasonably be expected to be aware;
- (c) any offence of which the registered person has been convicted; and

- (d) any offence of which a person who lives or works in the same household has been convicted of which the registered person is aware or could reasonably be expected to be aware

which is a ground for disqualification under these Regulations.

(2) The information which must be provided to the appropriate office of the National Assembly for the purposes of paragraph (1) is —

- (a) details of the precise nature of the order or conviction;
- (b) when the order was made and by which body or Court;
- (c) what sentence was imposed;
- (d) where available, a certified copy of the relevant Order or Court Order evidencing the conviction or other order.

(3) The information referred to in paragraph (2) must be provided to the National Assembly as soon as reasonably practicable.

(4) A person who without reasonable excuse fails to comply with the requirements of this regulation is guilty of an offence.

(5) A person found guilty of an offence under this regulation is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Prescribed Determinations

8. For the purposes of section 79M(1)(c) of the Act (appeals to the Tribunal), a determination in relation to the disqualification of a person for registration for child minding or providing day care under Schedule 9A of the Act is a prescribed determination.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(5)

19 October 2004

D.Elis-Thomas
The Presiding Officer of the National Assembly