



CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

2002 Rhif 2622 (Cy.254)

2002 No. 2622 (W.254)

**GOFAL CYMDEITHASOL,
CYMRU**

SOCIAL CARE, WALES

**PLANT A PHOBL IFANC,
CYMRU**

**CHILDREN AND YOUNG
PERSONS, WALES**

**IECHYD CYHOEDDUS,
CYMRU**

**PUBLIC HEALTH,
WALES**

**Rheoliadau Deddf Plant 1989 a
Deddf Safonau Gofal 2000
(Rheoliadau Amrywiol)
(Diwygio) (Cymru)
2002**

**The Children Act 1989 and the
Care Standards Act 2000
(Miscellaneous Regulations)
(Amendment) (Wales) Regulations
2002**

NODYN ESBONIADOL

EXPLANATORY NOTE

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

(This note is not part of the Regulations)

Mae'r Rheoliadau hyn yn diwygio rheoliadau a wnaed o dan Ddeddf Safonau Gofal 2000 (Rheoliadau Cartrefi Gofal (Cymru) 2002; Rheoliadau Cartrefi Plant (Cymru) 2002 a Rheoliadau Gofal Iechyd Preifat a Gwirfoddol (Cymru) 2002) ("rheoliadau Deddf 2000") ac o dan Ddeddf Plant 1989 (Rheoliadau Gwarchod Plant a Gofal Dydd (Cymru) 2002) ("rheoliadau Deddf 1989"); a rheoliadau a wnaed o dan y ddwy Ddeddf (Rheoliadau Cofrestru Gofal Cymdeithasol a Gofal Iechyd Annibynnol (Cymru) 2002) ("y rheoliadau cofrestru").

Mae rheoliadau Deddf 2000 yn ei gwneud yn ofynnol i unigolion penodol yng ngweithrediad sefydliadau y mae'r rheoliadau'n gymwys iddynt fod yn 'ffit' (yr unigolion yw'r darparrydd cofrestredig, y rheolwr cofrestredig a staff penodol). Un o ofynion 'ffitwydd' yw bod gwybodaeth a dogfennau penodol ar gael mewn perthynas â'r unigolion hyn. Ymysg y dogfennau sydd i fod ar gael yw tystysgrifau record

These Regulations amend regulations made under the Care Standards Act 2000 (the Care Homes (Wales) Regulations 2002; the Children's Homes (Wales) Regulations 2002 and the Private and Voluntary Health Care (Wales) Regulations 2002) ("the 2000 Act regulations") and under the Children Act 1989 (the Child Minding and Day Care (Wales) Regulations 2002) ("the 1989 Act regulations"); and regulations made under both Acts (the Registration of Social Care and Independent Health Care (Wales) Regulations 2002) ("the registration regulations").

The 2000 Act regulations require certain individuals involved in the operation of settings to which they apply to be 'fit' (the individuals are the registered provider, the registered manager and certain staff). One requirement of 'fitness' is that certain information and documentation is to be available in relation to these individuals. Amongst the documentation that is to be available are criminal record certificates issued under

droseddol a ddyroddir o dan adran 113 o Ddeddf yr Heddlu 1997 neu (yn ôl y digwydd) tystysgrifau record droseddol fanwl a ddyroddir o dan adran 115 o'r Ddeddf honno. Nid yw'r gofyniad hwn yn gymwys mewn perthynas ag unigolyn os nad oes unrhyw wybodaeth a fyddai fel arall yn cael ei chynnwys mewn tystysgrif a ddyroddir mewn perthynas ag ef neu hi ar gael am nad yw rhyw ddarpariaeth o Ddeddf 1997 mewn grym. Mewn amgylchiadau o'r fath mae'n ofynnol yn hytrach bod canlyniadau gwiriad yr heddlu o wybodaeth collfarn droseddol ar gael mewn perthynas â'r unigolyn. Nid yw darpariaethau Deddf yr Heddlu 1997 sy'n darparu ar gyfer cynnwys gwybodaeth mewn tystysgrifau a yw person i'w gynnwys ar restr personau yr ystyrir eu bod yn anaddas i weithio gydag oedolion sy'n agored i niwed (a gedwir o dan a.81 o Ddeddf Safonau Gofal 2002) mewn grym ar hyn o bryd.

Mae'r diwygiadau i reoliadau Deddf 2000 (i) yn hepgor y gofyniad bod gwiriad heddlu ar gael mewn perthynas â'r unigolion a ddisgrifir uchod yn yr amgylchiadau a ddisgrifir uchod; a (ii) yn ei gwneud yn ofynnol yn hytrach bod tystysgrif record droseddol neu (yn ôl y digwydd) tystysgrif record droseddol fanwl ar gael mewn perthynas ag unigolion o'r fath.

At ddiben tebyg gwneir diwygiadau i reoliadau Deddf 1989.

Er mwyn cyfateb i reoliadau diwygiedig Deddf 2000 a Deddf 1989, diwygir y rheoliadau cofrestru er mwyn mynnu bod tystysgrifau record droseddol neu (yn ôl y digwydd) tystysgrifau record droseddol fanwl yn cael eu dangos mewn perthynas ag unigolion penodol fel rhan o'r broses geisiadau mewn perthynas â phersonau y mae'n ofynnol eu cofrestru o dan Ran II o Ddeddf Safonau Gofal 2000 neu (yn ôl y digwydd) Ran XA o Ddeddf Plant 1989. Yn ogystal pan wnaed cais am dystysgrifau record droseddol fanwl ond nad yw'r recordiau hynny wedi'u dyroddi, gellir barnu bod unigolion yn "ffit" ar yr amod bod yr holl wybodaeth arall a bennwyd ar gael er gwaethaf absenoldeb y gwiriadau record droseddol fanwl.

Unionir gwall teipograffyddol yn rheoliad 2(4)(c).

section 113 of the Police Act 1997 or (as the case may be) enhanced criminal record certificates issued under section 115 of that Act. This requirement does not apply in relation to an individual where any information that would otherwise be included in a certificate issued in respect of him or her is not available because any provision of the Police Act 1997 is not in force. In such circumstances the results of a police check of criminal conviction information are instead required to be available in respect of the individual. The provisions of the Police Act 1997 that provide for the inclusion of information within certificates as to whether a person is included on the list of persons considered unsuitable to work with vulnerable adults (kept under s.81 of the Care Standards Act 2002) are not yet in force.

The amendments to the 2000 Act regulations (i) omit the requirement for a police check to be available in respect of the individuals just described in the circumstances just described; and (ii) instead require that a criminal record certificate or (as the case may be) an enhanced criminal record certificate is to be available in respect of such individuals.

For a similar purpose similar amendments are made to the 1989 Act regulations.

To correspond to the amended 2000 Act and 1989 Act regulations, the registration regulations are amended to require criminal record certificates or (as the case may be) enhanced criminal record certificates to be produced in respect of certain individuals as part of the application process in respect of persons required to be registered under Part II of the Care Standards Act 2000 or (as the case may be) Part XA of the Children Act 1989. In addition where enhanced criminal record certificates have been applied for but have not been issued, then provided all other specified information is available, individuals may be adjudged to be "fit" notwithstanding the absence of the enhanced criminal record checks.

A typographical error is rectified in regulation 2(4)(c).

2002 Rhif 2622 (Cy.254)**2002 No. 2622 (W.254)****GOFAL CYMDEITHASOL,
CYMRU****SOCIAL CARE, WALES****PLANT A PHOBL IFANC,
CYMRU****CHILDREN AND YOUNG
PERSONS, WALES****IECHYD CYHOEDDUS,
CYMRU****PUBLIC HEALTH,
WALES**

Rheoliadau Deddf Plant 1989 a
Deddf Safonau Gofal 2000
(Rheoliadau Amrywiol)
(Diwygio) (Cymru)
2002

The Children Act 1989 and the
Care Standards Act 2000
(Miscellaneous Regulations)
(Amendment) (Wales) Regulations
2002

*Wedi'u gwneud**17 Hydref 2002**Made**17th October 2002**Yn dod i rym**18 Hydref 2002**Coming into force**18th October 2002*

Mae Cynulliad Cenedlaethol Cymru, drwy arfer y pwerau a roddwyd iddo gan adrannau 12(2)(a), 16(1)(a), 22(1), (2)(a) a (b), (7)(c) a 118(5) a (6) o Ddeddf Safonau Gofal 2000(a) ac adrannau 79C(2), (3)(b) (f) ac (g), 79E (2)(a) a 104(4) o Ddeddf Plant 1989(b) gan ei fod o'r farn nad yw'r Rheoliadau hyn yn rhoi ar waith unrhyw newid sylweddol yn y ddarpariaeth a wneir gan reoliadau eraill a wnaed o dan adran 22 o Ddeddf 2000(c), drwy hyn yn gwneud y Rheoliadau canlynol:

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 12(2)(a), 16(1)(a), 22(1), (2)(a) and (b), (7)(c) and 118(5) and (6) of the Care Standards Act 2000(a) and sections 79C(2), (3)(b), (f) and (g), 79E (2)(a) and 104(4) of the Children Act 1989(b) being of the opinion that these Regulations do not effect any substantial change in the provision made by other regulations made under section 22 of the 2000 Act(c), hereby makes the following Regulations:

- (a) 2000 p.14. Mae'r pwerau'n arferadwy gan y Gweinidog priodol. Diffinnir "appropriate Minister" yn a.121(1) fel y Cynulliad mewn perthynas â Chymru. Diffinnir "Assembly" yn a.5(b) fel Cynulliad Cenedlaethol Cymru. *Gweler* a.121(1) o Ddeddf 2000 i gael y diffiniadau o "prescribed" a "regulations".
- (b) 1989 p.41. Mae'r pwerau o dan a.79C yn arferadwy gan y Cynulliad. Diffinnir "Assembly" yn a.79B(2) fel Cynulliad Cenedlaethol Cymru. *Gweler* a.105(1) o Ddeddf 1989 ar gyfer y diffiniad o "prescribed" ac a.79B(7) ar gyfer y diffiniad o "regulations".
- (c) O dan adran 22(9) o Ddeddf 2000 rhaid i'r Gweinidog priodol ymgynghori ag unrhyw berson y mae'n barnu ei fod yn briodol cyn gwneud unrhyw reoliadau o dan adran 22, onid yw'r rheoliadau yn diwygio rheoliadau eraill a wnaed o dan yr adran honno ac yn ei farn ef nad yw'r rheoliadau yn rhoi unrhyw newid sylweddol ar waith yn y ddarpariaeth a wneir gan y rheoliadau hynny. Mae'r Rheoliadau hyn yn diwygio rheoliadau eraill a wnaed o dan adran 22.

- (a) 2000 c.14. The powers are exercisable by the appropriate Minister. The "appropriate Minister" is defined in s.121(1) as the Assembly in relation to Wales. The "Assembly" is defined in s.5(b) as the National Assembly for Wales. *See* s.121(1) of the 2000 Act for the definitions of "prescribed" and "regulations".
- (b) 1989 c.41. The powers under s.79C are exercisable by the Assembly. The "Assembly" is defined in s.79B(2) as the National Assembly for Wales. *See* s.105(1) of the 1989 Act for the definition of "prescribed" and s.79B(7) for the definition of "regulations".
- (c) Under section 22(9) of the 2000 Act the appropriate Minister shall consult any person he considers appropriate before making any regulations under section 22, unless the regulations amend other regulations made under that section and in his opinion the regulations do not effect any substantial change in the provision made by those regulations. These Regulations amend other regulations made under section 22.

Enwi a chychwyn

1. Enw'r Rheoliadau hyn yw Rheoliadau Deddf Plant 1989 a Deddf Safonau Gofal 2000 (Rheoliadau Amrywiol) (Diwygio) (Cymru) 2002 a deuant i rym ar 18 Hydref 2002.

Diwygio Rheoliadau Cartrefi Gofal (Cymru) 2002

2.-(1) Diwygir Rheoliadau Cartrefi Gofal (Cymru) 2002(a) yn unol â darpariaethau canlynol y rheoliad hwn.

(2) Yn rheoliad 7 (ffitrwydd y darparydd cofrestredig) -

(a) ar ôl paragraff (3)(c)(ii) mewnosodir y paragraff canlynol -

"(iii) ac ymhellach, pan fo paragraff (4) yn gymwys, mewn adroddiad ysgrifenedig o wiriad o'r rhestrau a gedwir yn unol ag adran 1 o Ddeddf Amddiffyn Plant 1999(b) a rheoliadau a wnaed o dan adran 218 o Ddeddf Diwygio Addysg 1988(c).";

(b) yn lle paragraff (4) rhoddir -

"Mae'r paragraff hwn yn gymwys pan fo unigolyn wedi gwneud cais am dystysgrif y cyfeirir ati ym mharagraff 2 o Atodlen 2 ond nad yw'r dystysgrif wedi'i dyroddi.".

(3) Yn rheoliad 9 (ffitrwydd y rheolwr cofrestredig) -

(a) ar ôl paragraff (2)(c)(ii) mewnosodir paragraff (iii) newydd fel a ganlyn-

"(iii) ac ymhellach, pan fo paragraff (3) yn gymwys, mewn adroddiad ysgrifenedig o wiriad o'r rhestrau a gedwir yn unol ag adran 1 o Ddeddf Amddiffyn Plant 1999 a rheoliadau a wnaed o dan adran 218 o Ddeddf Diwygio Addysg 1988.";

(b) yn lle paragraff (3) rhoddir-

" Mae'r paragraff hwn yn gymwys pan fo unigolyn wedi gwneud cais am dystysgrif y cyfeirir ati ym mharagraff 2 o Atodlen 2 ond nad yw'r dystysgrif wedi'i dyroddi.".

(4) Yn rheoliad 19 (ffitrwydd y gweithwyr) -

(a) ar ddechrau paragraff (1) mewnosodir "Yn ddarostyngedig i baragraffau (5) a (5A),"

(b) yn lle paragraff 3 rhoddir -

"Mae'r paragraff hwn yn gymwys pan fo unigolyn wedi gwneud cais am dystysgrif y cyfeirir ati ym mharagraff 2 o Atodlen 2 ond nad yw'r dystysgrif wedi'i dyroddi".

(c) yn is-bargagraff (a) o baragraff (4) yn lle "cartref plant" rhoddir "cartref gofal";

Citation and commencement

1. These Regulations may be cited as the Children Act 1989 and Care Standards Act 2000 (Miscellaneous Regulations) (Amendment) (Wales) Regulations 2002 and shall come into force on 18th October 2002.

Amendment of the Care Homes (Wales) Regulations 2002

2.-(1) The Care Homes (Wales) Regulations 2002(a) are amended in accordance with the following provisions of this regulation.

(2) In regulation 7 (fitness of registered provider) -

(a) after paragraph (3)(c)(ii) the following paragraph is inserted -

"(iii) and further, where paragraph (4) applies, in a written report of a check on the lists maintained pursuant to section 1 of the Protection of Children Act 1999(b) and regulations made under section 218 of the Education Reform Act 1988(c).";

(b) for paragraph (4) substitute -

"This paragraph applies where an individual has applied for a certificate referred to in paragraph 2 of Schedule 2 but the certificate has not been issued.".

(3) In regulation 9 (fitness of registered manager) -

(a) after paragraph (2)(c)(ii) insert a new paragraph (iii) as follows-

"(iii) and further, where paragraph (3) applies, in a written report of a check on the lists maintained pursuant to section 1 of the Protection of Children Act 1999 and regulations made under section 218 of the Education Reform Act 1988.";

(b) for paragraph (3) substitute-

" This paragraph applies where an individual has applied for a certificate referred to in paragraph 2 of Schedule 2 but the certificate has not been issued.".

(4) In regulation 19 (fitness of workers) -

(a) in paragraph (1) at the beginning insert "Subject to paragraphs (5) and (5A),"

(b) for paragraph 3 substitute -

"This paragraph applies where an individual has applied for a certificate referred to in paragraph 2 of Schedule 2 but the certificate has not been issued".

(c) in sub-paragraph (a) of paragraph (4) for "children's home" substitute "care home";

(a) O.S. 2002 Rhif 324 (Cy.37).

(b) 1999 p.14.

(c) 1988 p.40.

(a) S.I. 2002 No. 324 (W.37).

(b) 1999 c.14.

(c) 1988 c.40.

(ch) yn is-baragraff (b) o baragraff 4 ar ôl "(5)" rhoddir "neu 5A";

(d) ym mharagraff (5), y tro cyntaf yr ymddengys yn lle "paragraff" rhoddir "paragraffau (1) a"

(dd) ar ôl paragraff (5) mewnosodir paragraff (5A) newydd fel a ganlyn-

"(5A) Fel dewis arall i baragraff (5), pan fo'r amodau canlynol yn gymwys, gall y person cofrestredig ganiatáu i berson ddechrau gweithio mewn cartref gofal er gwaethaf paragraffau (1) a (4)(b)-

(a) bod paragraff (3) o'r rheoliad hwn yn gymwys;

(b) bod gwybodaeth gyflawn a boddhaol mewn perthynas â'r person hwnnw wedi'i derbyn mewn cysylltiad â'r materion a nodwyd ym mharagraffau 1, 4 a 6 o Atodlen 2;

(c) bod y person wedi darparu -

(i) dau eirida ysgrifenedig, yn cynnwys geirida oddi wrth y cyflogwr diwethaf, os oes un, a

(ii) datganiad ysgrifenedig o fanylion unrhyw dramgwyddau troseddol y mae'r person wedi'i euogfarnu ohonynt, gan gynnwys manylion unrhyw euogfarnau a dreuliwyd o fewn ystyr adran 1 o Ddeddf Adsefydlu Troseddwyr 1974 ac y gellir eu datgelu trwy rinwedd Gorchymyn Deddf Adsefydlu Troseddwyr 1974 (Eithriadau) 1975 neu y mae'r person wedi derbyn rhybudd mewn perthynas â hwy, ac ar yr adeg pan roddwyd y rhybudd, wedi'u cyfaddef;

(ch) ym marn resymol y person cofrestredig na fydd buddiannau'r gwasanaeth yn cael eu bodloni os na ellir penodi'r person; ac

(d) bod y person cofrestredig, tra'n disgwyl derbyn a thra'n bodloni ei hun ynghylch y dystysgrif y cyfeirir ati ym mharagraff (3), yn sicrhau bod y person yn cael ei oruchwyllo yn briodol tra'n cyflawni ei ddyletswyddau."

(5) Yn Atodlen 2 (yr wybodaeth sydd i fod ar gael mewn perthynas â phersonau sydd am redeg neu reoli cartref gofal neu weithio ynddo)-

(a) yng ngeiriau olaf paragraff 2 yn lle'r geiriau "os yw'n gymwys" rhoddir "i'r graddau a ganiatier o dan Ddeddf yr Heddlu 1997";

(b) yn lle paragraff 7 rhoddir -

(d) in sub-paragraph (b) of paragraph 4 after "(5)" insert "or (5A)"

(e) in paragraph (5), for "paragraph" where it first appears substitute "paragraphs (1) and"

(f) after paragraph (5) insert a new paragraph (5A) as follows-

"(5A) Alternatively to paragraph (5), where the following conditions apply, the registered person may permit a person to start work at a care home notwithstanding paragraphs (1) and (4)(b)-

(a) paragraph (3) of this regulation applies;

(b) full and satisfactory information in relation to that person has been obtained in respect of the matters set out in paragraphs 1, 4 and 6 of Schedule 2;

(c) the person has provided -

(i) two written references, including a reference from the last employer, if any, and

(ii) a written declaration of the details of any criminal offences of which the person has been convicted, including details of any convictions which are spent within the meaning of section 1 of the Rehabilitation of Offenders Act 1974 and which may be disclosed by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 or in respect of which the person has been cautioned and which, at the time the caution was given, the person admitted;

(d) in the reasonable view of the registered person the interests of the service will not be met unless the person can be appointed; and

(e) pending receipt of and being satisfied with regard to the certificate referred to in paragraph (3), the registered person ensures that the person is appropriately supervised while carrying out his or her duties."

(5) In Schedule 2 (information and documents to be available in respect of persons carrying on, managing or working at care homes)-

(a) in the concluding words of paragraph 2 for "where applicable" there is substituted "to the extent permitted under the Police Act 1997";

(b) for paragraph 7 substitute -

"7. Gwiriad gan yr heddlu sef adroddiad a gaiff ei lunio gan neu ar ran prif swyddog heddlu neu aelod arall o heddlu o fewn ystyr Deddf yr Heddlu 1996(a) sy'n cofnodi, fel ar yr adeg pan gaiff yr adroddiad ei lunio, pob tramgwydd troseddol

- (a) y mae'r person wedi'i euogfarnu mewn perthynas â hwy gan gynnwys euogfarnau a dreuliwyd o fewn ystyr Deddf Adsefydlu Troseddwyr 1974(b) ac y gellir eu datgelu trwy rinwedd Gorchymyn Deddf Adsefydlu Troseddwyr 1974 (Eithriadau) 1975(c); neu
- (b) y mae'r person wedi derbyn rhybudd mewn perthynas â hwy, ac ar yr adeg pan roddwyd y rhybudd wedi'u cyfaddef.

Diwygio Rheoliadau Cartrefi Plant (Cymru) 2002

3. -(1) Diwygir Rheoliadau Cartrefi Plant (Cymru) 2002(ch) yn unol â darpariaethau canlynol y rheoliad hwn.

(2) Yn rheoliad 6 (ffitrwydd y darparydd cofrestredig)-

- (a) ar ôl paragraff (3)(c)(ii) mewnosodir y paragraff canlynol -
"(iii) ac ymhellach, pan fo paragraff (4) yn gymwys, mewn adroddiad ysgrifenedig o wiriad o'r rhestrau a gadwyd yn unol ag adran 1 o Ddeddf Amddiffyn Plant 1999 a rheoliadau a wnaed o dan adran 218 o Ddeddf Diwygio Addysg 1988.";
- (b) yn lle paragraff (4) rhoddir -
"Mae'r paragraff hwn yn gymwys pan fo unigolyn wedi gwneud cais am dystysgrif y cyfeirir ati ym mharagraff 2 o Atodlen 2 ond nad yw'r dystysgrif wedi'i dyroddi."

(3) Yn rheoliad 8 (ffitrwydd y rheolwr cofrestredig)-

- (a) ar ôl paragraff (2)(c)(ii) mewnosodir y paragraff canlynol -
"(iii) ac ymhellach, pan fo paragraff (4) yn gymwys, adroddiad ysgrifenedig o wiriad o'r rhestrau a gedwir yn unol ag adran 1 o Ddeddf Amddiffyn Plant 1999 a rheoliadau a wnaed o dan adran 218 o Ddeddf Diwygio Addysg 1988.";
- (b) yn lle paragraff (3) rhoddir -
"Mae'r paragraff hwn yn gymwys pan fo unigolyn wedi gwneud cais am dystysgrif y cyfeirir ati ym mharagraff 2 o Atodlen 2 ond nad yw'r dystysgrif wedi'i dyroddi."

(a) 1996 p.16.

(b) 1974 p.53.

(c) O.S. 1975/1023. Ar ddyddiad dod i rym y rheoliadau hyn mae'r offerynnau canlynol wedi gwneud diwygiadau perthnasol i'r Gorchymyn: O.S. 1986/1249; 1986/2286 ac O.S. 2001/1192.

(ch) O.S. 2002 Rhif 327 (Cy.40).

"7. A police check being a report produced by or on behalf of a chief officer of police or other member of a police force within the meaning of the Police Act 1996(a) which records, as at the time the report is produced, all criminal offences

- (a) for which the person had been convicted including convictions which are spent within the meaning of the Rehabilitation of Offenders Act 1974(b) and which may be disclosed by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975(c); or
- (b) in respect of which the person had been cautioned and which, at the time the caution was given, the person admitted.

Amendment of the Children's Homes (Wales) Regulations 2002

3. -(1) The Children's Homes (Wales) Regulations 2002(d) are amended in accordance with the following provisions of this regulation.

(2) In regulation 6 (fitness of registered provider) -

- (a) after paragraph (3)(c)(ii) the following paragraph is inserted -
"(iii) and further, where paragraph (4) applies, in a written report of a check on the lists maintained pursuant to section 1 of the Protection of Children Act 1999 and regulations made under section 218 of the Education Reform Act 1988.";
- (b) for paragraph (4) substitute -
"This paragraph applies where an individual has applied for a certificate referred to in paragraph 2 of Schedule 2 but the certificate has not been issued."

(3) In regulation 8 (fitness of manager)-

- (a) after paragraph (2)(c)(ii) the following paragraph is inserted -
"(iii) and further, where paragraph (4) applies, in a written report of a check on the lists maintained pursuant to section 1 of the Protection of Children Act 1999 and regulations made under section 218 of the Education Reform Act 1988.";
- (b) for paragraph (3) substitute -
"This paragraph applies where an individual has applied for a certificate referred to in paragraph 2 of Schedule 2 but the certificate has not been issued."

(a) 1996 c.16.

(b) 1974 c.53.

(c) S.I. 1975/1023. At the coming into force of these regulations the following instruments have made relevant amendments to the Order: S.I. 1986/1249; 1986/2286 and S.I. 2001/1192.

(d) S.I. 2002 No. 327 (W.40).

(4) Yn rheoliad 26 (ffitwydd y gweithwyr)-

- (a) ym mharagraff (1), mewnosodir ar y dechrau -
"Yn ddarostyngedig i baragraffau (5) a (5A)"
- (b) yn lle paragraff (3) rhoddir -
"Mae'r paragraff hwn yn gymwys pan fo unigolyn wedi gwneud cais am dystysgrif y cyfeirir ati ym mharagraff 2 o Atodlen 2 ond nad yw'r dystysgrif wedi'i dyroddi";
- (c) ym mharagraff (5) yn lle'r gair "paragraff" ble yr ymddengys gyntaf rhoddir y geiriau "paragraffau (1) a";
- (ch) ar ôl paragraff (5) mewnosodir paragraff (5A) newydd fel a ganlyn -

"(5A) Fel dewis arall i baragraff (5) pan fo'r amodau canlynol yn gymwys, gall y person cofrestredig ganiatáu i berson ddechrau gweithio mewn cartref plant er gwaethaf paragraffau (1) a (4)(b)-

- (a) mae paragraff (3) o'r rheoliad hwn yn gymwys;
- (b) bod gwybodaeth gyflawn a boddhaol mewn perthynas â'r person hwnnw wedi'i derbyn mewn cysylltiad â'r materion a nodwyd ym mharagraffau 1, 4 a 6 o Atodlen 2;
- (c) bod y person wedi darparu -
 - (i) dau eirida ysgrifenedig, yn cynnwys geirida oddi wrth y cyflogwr diwethaf, os oes un, a
 - (ii) datganiad ysgrifenedig o fanylion unrhyw dramgwyddau troseddol y mae'r person wedi'u euogfarnu ohonynt, gan gynnwys manylion unrhyw euogfarnau a dreuliwyd o fewn ystyr adran 1 o Ddeddf Adsefydlu Troseddwyr 1974 ac y gellir eu datgelu trwy rinwedd Gorchymyn Deddf Adsefydlu Troseddwyr 1974 (Eithriadau) 1975 neu y mae'r person wedi derbyn rhybudd mewn perthynas â hwy ac, ar yr adeg pan roddwyd y rhybudd wedi cyfaddef;
- (ch) ym marn resymol y person cofrestredig na fydd buddiannau'r gwasanaeth yn cael eu bodloni os na ellir penodi'r person; ac
- (d) bod y person cofrestredig, tra'n disgwyl derbyn a thra'n bodloni ei hun ynghylch y dystysgrif y cyfeirir ati ym mharagraff (3), yn sicrhau bod y person yn cael ei oruchwyllo yn briodol tra'n cyflawni ei ddyletswyddau."

(5) Yn Atodlen 2 (yr wybodaeth y mae ei hangen mewn perthynas â phersonau sy'n ceisio rhedeg neu reoli cartref plant neu weithio mewn un)-

- (a) yng ngeiriau olaf paragraff 2 yn lle "os yw'n gymwys" rhoddir "i'r graddau y mae hynny'n cael ei ganiatáu o dan Ddeddf yr Heddlu 1997";

(4) In regulation 26 (fitness of workers)-

- (a) in paragraph (1), at the beginning insert -
"Subject to paragraphs (5) and (5A)"
- (b) for paragraph (3) substitute -
"This paragraph applies where an individual has applied for a certificate referred to in paragraph 2 of Schedule 2 but the certificate has not been issued";
- (c) in paragraph (5) for the word "paragraph" where it appears substitute the words "paragraphs (1) and";
- (d) after paragraph (5) insert a new paragraph (5A) as follows -

"(5A) Alternatively to paragraph (5) where the following conditions apply, the registered person may permit a person to start work at a children's home notwithstanding paragraphs (1) and (4)(b)-

- (a) paragraph (3) of this regulation applies;
- (b) full and satisfactory information in relation to that person has been obtained in respect of the matters set out in paragraphs 1, 4 and 6 of Schedule 2;
- (c) the person has provided -
 - (i) two written references, including a reference from the last employer, if any, and
 - (ii) a written declaration of the details of any criminal offences of which the person has been convicted, including details of any convictions which are spent within the meaning of section 1 of the Rehabilitation of Offenders Act 1974 and which may be disclosed by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 or in respect of which the person has been cautioned and which, at the time the caution was given, the person admitted;
- (d) in the reasonable view of the registered person the interests of the service will not be met unless the person can be appointed; and
- (e) pending receipt of, and satisfying himself or herself with regard to, the certificate referred to in paragraph (3), the registered person ensures that the person is appropriately supervised while carrying out his or her duties."

(5) In Schedule 2 (information required in respect of persons seeking to carry on, manage or work at a children's home)-

- (a) in the concluding words of paragraph 2 for "where applicable" substitute "to the extent permitted under the Police Act 1997";

(b) yn lle paragraff 7 rhoddir -

"7. Gwiriad gan yr heddlu sef adroddiad a gaiff ei lunio gan neu ar ran prif swyddog heddlu neu aelod arall o heddlu o fewn ystyr Deddf yr Heddlu 1996 sy'n cofnodi, fel ar yr adeg pan gafodd yr adroddiad ei lunio, pob tramgwydd troseddol -

- (a) y mae'r person wedi'i euogfarnu mewn perthynas â hwy gan gynnwys euogfarnau a dreuliodd o fewn ystyr Deddf Adsefydlu Troseddwyd 1974 ac y gellir eu datgelu trwy rinwedd Gorchymyn Deddf Adsefydlu Troseddwyd 1974 (Eithriadau) 1975; neu
- (b) yr oedd y person y mae'r person wedi derbyn rhybudd mewn perthynas â hwy, ac ar yr adeg pan roddwyd y rhybudd, wedi'u cyfaddef."

Diwygio Rheoliadau Gofal Iechyd Preifat a Gwirfoddol (Cymru) 2002

4.-(1) Diwygir Rheoliadau Gofal Iechyd Preifat a Gwirfoddol (Cymru) 2002(a) yn unol â darpariaethau canlynol y rheoliad hwn.

(2) Yn rheoliad 9 (ffitrwydd y darparydd cofrestredig) -

(a) ar ôl paragraff (3)(c)(ii) mewnosodir y paragraff canlynol -

"(iii) ac ymhellach, pan fo paragraff (4) yn gymwys, mewn adroddiad ysgrifenedig o wiriad o'r rhestrau a gedwir yn unol ag adran 1 o Ddeddf Amddiffyn Plant 1999 a rheoliadau a wnaed o dan adran 218 o Ddeddf Diwygio Addysg 1988.";

(b) yn lle paragraff (4) rhoddir -

"Mae'r paragraff hwn yn gymwys pan fo unigolyn wedi gwneud cais am dystysgrif y cyfeirir ati ym mharagraff 2 o Atodlen 2 ond nad yw'r dystysgrif wedi'i dyroddi."

(3) Yn rheoliad 11 (ffitrwydd y rheolwr) -

(a) ar ôl paragraff (2)(c)(ii) mewnosodir y paragraff canlynol -

"(iii) ac ymhellach, pan fo paragraff (4) yn gymwys, adroddiad ysgrifenedig o wiriad o'r rhestrau a gedwir yn unol ag adran 1 o Ddeddf Amddiffyn Plant 1999 a rheoliadau a wnaed o dan adran 218 o Ddeddf Diwygio Addysg 1988.";

(b) yn lle paragraff (3) rhoddir -

"Mae'r paragraff hwn yn gymwys pan fo unigolyn wedi gwneud cais am dystysgrif y cyfeirir ati ym mharagraff 2 o Atodlen 2 ond nad yw'r dystysgrif wedi'i dyroddi."

(4) Yn rheoliad 18 (ffitrwydd y gweithwyr) -

(a) ar ddechrau paragraff (1), mewnosodir -

(b) for paragraph 7 substitute -

"7. A police check being a report produced by or on behalf of a chief officer of police or other member of a police force within the meaning of the Police Act 1996 which records, as at the time the report is produced, all criminal offences -

(a) for which the person had been convicted including convictions which are spent within the meaning of the Rehabilitation of Offenders Act 1974 and which may be disclosed by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975; or

(b) in respect of which the person had been cautioned and which, at the time the caution was given, the person admitted."

Amendment of the Private and Voluntary Health Care (Wales) Regulations 2002

4.-(1) The Private and Voluntary Health Care (Wales) Regulations 2002(a) are amended in accordance with the following provisions of this regulation.

(2) In regulation 9 (fitness of registered provider) -

(a) after paragraph (3)(c)(ii) the following paragraph is inserted -

"(iii) and further, where paragraph (4) applies, in a written report of a check on the lists maintained pursuant to section 1 of the Protection of Children Act 1999 and regulations made under section 218 of the Education Reform Act 1988.";

(b) For paragraph (4) substitute -

"This paragraph applies where an individual has applied for a certificate referred to in paragraph 2 of Schedule 2 but the certificate has not been issued."

(3) In regulation 11 (fitness of manager) -

(a) after paragraph (2)(c)(ii) the following paragraph is inserted -

"(iii) and further, where paragraph (4) applies, a written report of a check on the lists maintained pursuant to section 1 of the Protection of Children Act 1999 and regulations made under section 218 of the Education Reform Act 1988.";

(b) for paragraph (3) substitute -

"This paragraph applies where an individual has applied for a certificate referred to in paragraph 2 of Schedule 2 but the certificate has not been issued."

(4) In regulation 18 (fitness of workers) -

(a) in paragraph (1), at the beginning insert -

(a) O.S. 2002 Rhif 325 (Cy.38).

(a) S.I. 2002 No. 325 (W.38).

"Yn ddarostyngedig i baragraffau (5) a (5A)";

(b) yn lle paragraff (3) rhoddir -

"Mae'r paragraff hwn yn gymwys pan fo unigolyn wedi gwneud cais am dystysgrif y cyfeirir ati ym mharagraff 2 o Atodlen 2 ond nad yw'r dystysgrif wedi'i dyroddi";

(c) ym mharagraff (5) yn lle "paragraff" ble yr ymddengys gyntaf rhoddir "paragraffau (1) a";

(ch) ar ôl paragraff (5) mewnosodir paragraff (5A) newydd fel a ganlyn -

"(5A) Fel dewis arall i baragraff (5) pan fo'r amodau canlynol yn gymwys, gall y person cofrestredig ganiatáu i berson ddechrau gweithio yn y sefydliad neu at ddibenion y sefydliad er gwaethaf paragraffau (1) a (4)(b) -

(a) bod paragraff (3) o'r rheoliad hwn yn gymwys;

(b) bod gwybodaeth gyflawn a boddhaol wedi'i derbyn mewn perthynas â'r person hwnnw mewn cysylltiad â'r materion a nodwyd ym mharagraffau 1, 4 a 6 o Atodlen 2;

(c) bod y person wedi darparu -

(i) dau eirida ysgrifenedig, yn cynnwys geirida oddi wrth y cyflogwr diwethaf, os oes un, a

(ii) datganiad ysgrifenedig o fanylion unrhyw dramgwyddau troseddol y mae'r person wedi cael eu euogfarnu ohonynt, gan gynnwys manylion unrhyw euogfarnau a dreuliwyd o fewn ystyr Deddf Adsefydlu Troseddwyr 1974 ac y gellir eu datgelu trwy rinwedd Gorchymyn Deddf Adsefydlu Troseddwyr 1974 (Eithriadau) 1975 neu y mae person wedi derbyn rhybudd mewn perthynas â hwy ac, ar yr adeg pan roddwyd y rhybudd wedi'u cyfaddef;

(ch) ym marn resymol y person cofrestredig na fydd buddiannau'r gwasanaeth yn cael eu bodloni os na ellir penodi'r person; a

(d) bod y person cofrestredig, tra'n disgwyl derbyn a thra'n bodloni ei hun ynghylch y dystysgrif y cyfeirir ati ym mharagraff (3), yn sicrhau bod y person yn cael ei oruchwyllo yn briodol tra'n cyflawni ei ddyletswyddau."

(5) Yn Atodlen 2 (yr wybodaeth sy'n ofynnol mewn perthynas â phersonau sydd am redeg neu reoli sefydliad neu weithio ynddo) -

(i) ar gyfer geiriau olaf paragraff 2 yn lle'r geiriau "os yw'n gymwys" rhoddir "i'r graddau a ganiateir o dan Ddeddf yr Heddlu 1997";

"Subject to paragraphs (5) and (5A)";

(b) for paragraph (3) substitute -

"This paragraph applies where an individual has applied for a certificate referred to in paragraph 2 of Schedule 2 but the certificate has not been issued";

(c) in paragraph (5) for "paragraph" where it first appears substitute "paragraphs (1) and";

(d) after paragraph (5) insert a new paragraph (5A) as follows -

"(5A) Alternatively to paragraph (5) where the following conditions apply, the registered person may permit a person to start work in or for the purposes of the establishment notwithstanding paragraphs (1) and (4)(b) -

(a) paragraph (3) of this regulation applies;

(b) full and satisfactory information in relation to that person has been obtained in respect of the matters set out in paragraphs 1, 4 and 6 of Schedule 2;

(c) the person has provided -

(i) two written references, including a reference from the last employer, if any, and

(ii) a written declaration of the details of any criminal offences of which the person has been convicted, including details of any convictions which are spent within the meaning of section 1 of the Rehabilitation of Offenders Act 1974 and which may be disclosed by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 or in respect of which the person has been cautioned and which, at the time the caution was given, the person admitted;

(d) in the reasonable view of the registered person the interests of the service will not be met unless the person can be appointed; and

(e) pending receipt of, and satisfying himself or herself with regard to, the certificate referred to in paragraph (3), the registered person ensures that the person is appropriately supervised while carrying out his or her duties."

(5) In Schedule 2 (information required in respect of persons seeking to carry on, manage or work at an establishment) -

(i) in the concluding words of paragraph 2 for the words "where applicable" there is substituted "to the extent permitted under the Police Act 1997";

(ii) yn lle paragraff 8 rhoddir -

"8. Gwiriad gan yr heddlu sef adroddiad a gaiff ei lunio gan neu ar ran prif swyddog heddlu neu aelod arall o heddlu o fewn ystyr Deddf yr Heddlu 1996 sy'n cofnodi, fel ar yr adeg pan gaiff yr adroddiad ei lunio, pob tramgwydd troseddol

- (a) y mae'r person wedi'i euogfarnu mewn perthynas â hwy gan gynnwys euogfarnau a dreuliodd o fewn ystyr Deddf Adsefydlu Troseddwyd 1974 ac y gellir eu datgelu trwy rinwedd Gorchymyn Deddf Adsefydlu Troseddwyd 1974 (Eithriadau) 1975; neu
- (b) y mae'r person wedi derbyn rhybudd mewn perthynas â hwy, ac yr adeg pan roddwyd y rhybudd wedi'u cyfaddef."

Diwygio Rheoliadau Cofrestru Gofal Cymdeithasol a Gofal Iechyd Annibynnol (Cymru) 2002

5.-(1) Diwygir Rheoliadau Cofrestru Gofal Cymdeithasol a Gofal Iechyd Annibynnol (Cymru) 2002(a) yn unol â darpariaethau canlynol y rheoliad hwn.

(2) Yn rheoliad 4 (gwybodaeth a dogfennau i'w darparu gan geisydd) -

- (a) ym mharagraff (2) -
 - (i) yn is-baragraff (a) mewnosodir "and" ar y diwedd;
 - (ii) yn is-baragraff (b) hepgorir "paragraphs 1 to 3 and 5 to 9 of";
 - (iii) hepgorir is-baragraff (c);
- (b) ym mharagraff (3) -
 - (i) yn is-baragraff (a) mewnosodir "and" ar y diwedd;
 - (ii) yn is-baragraff (b) yn lle "paragraphs 9 to 11" rhoddir "Part II";
 - (iii) hepgorir is-baragraff (c).

(3) Yn rheoliad 8 (gwybodaeth o ran staff a gymerir ymlaen ar ôl gwneud cais) -

- (a) yn is-baragraff (a) o baragraff (1) hepgorir "except where paragraph (2) applies";
- (b) hepgorir paragraff (2).

(4) Ym mharagraff 1 o Atodlen 1 (yr wybodaeth sydd i'w chyflwyno wrth wneud cais i gofrestru fel person sy'n rhedeg sefydliad) hepgorir is-baragraff (f).

(ii) for paragraph 8 substitute -

"8. A police check being a report produced by or on behalf of a chief officer of police or other member of a police force within the meaning of the Police Act 1996 which records, as at the time the report is produced, all criminal offences -

- (a) for which the person had been convicted including convictions which are spent within the meaning of the Rehabilitation of Offenders Act 1974 and which may be disclosed by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975; or
- (b) in respect of which the person had been cautioned and which, at the time the caution was given, the person admitted."

Amendment of the Registration of Social Care and Independent Health Care (Wales) Regulations 2002

5.-(1) The Registration of Social Care and Independent Health Care (Wales) Regulations 2002(a) are amended in accordance with the following provisions of this regulation.

(2) In regulation 4 (information and documents to be provided by an applicant) -

- (a) in paragraph (2) -
 - (i) in sub-paragraph (a) insert "and" at the end;
 - (ii) in sub-paragraph (b) omit "paragraphs 1 to 3 and 5 to 9 of";
 - (iii) omit sub-paragraph (c);
- (b) in paragraph (3) -
 - (i) in sub-paragraph (a) insert "and" at the end;
 - (ii) in sub-paragraph (b) for "paragraphs 9 to 11" substitute "Part II";
 - (iii) omit sub-paragraph (c).

(3) In regulation 8 (information as to staff engaged after application made) -

- (a) in sub-paragraph (a) of paragraph (1) omit "except where paragraph (2) applies";
- (b) omit paragraph (2).

(4) In paragraph 1 of Schedule 1 (information to be supplied on an application for registration as a person who carries on an establishment) omit sub-paragraph (f).

(a) O.S. 2002 Rhif 919 (Cy.107).

(a) S.I. 2002 No. 919 (W.107).

(5) Yn Atodlen 2 (y dogfennau sydd i'w cyflwyno wrth wneud cais i gofrestru fel person sy'n rhedeg sefydliad) -

(a) ym mharagraff 4, yn y ddau le y mae'n ymddangos, yn lle "where applicable" rhoddir "to the extent permitted under the Police Act 1997";

(b) yn dilyn paragraff 9 mewnosodir

"(9A) Notwithstanding paragraph 4, where the responsible person has applied for a certificate referred to in paragraph 4, but the certificate has not been issued -

(a) a statement confirming that the documents specified in paragraph 4 have been applied for and that the applicant, or where the applicant is an organisation, the responsible individual, will advise the National Assembly on receipt that they are available for inspection;

(b) a written report of a check on the lists maintained pursuant to section 1 of the Protection of Children Act 1999 and regulations made under section 218 of the Education Reform Act 1988; and

(c) a police check being a report produced by or on behalf of a chief officer of police or other member of a police force within the meaning of the Police Act 1996 which records, at the time the report is produced, all criminal offences -

(i) for which the person had been convicted including convictions which are spent within the meaning of the Rehabilitation of Offenders Act 1974 and which may be disclosed by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975; or

(ii) in respect of which the person had been cautioned and which, at the time the caution was given, the person admitted.";

(c) ym mharagraff 10 ar gyfer geiriau olaf paragraff (b) o is-baragraff (2) ar ôl "including" mewnosodir ", to the extent permitted under the Police Act 1997,".

(6) Yn Atodlen 3 (yr wybodaeth a'r dogfennau sydd i'w cyflwyno wrth wneud cais i gofrestru fel rheolwr sefydliad) -

(a) hepgorir paragraff 8.

(b) ar gyfer geiriau olaf paragraff 12 a pharagraff 13 yn lle "where applicable" rhoddir "to the extent permitted under the Police Act 1997".

(c) yn dilyn paragraff 13 mewnosodir -

"13A. Notwithstanding paragraphs 12 and 13, where the responsible person has applied for a certificate referred to in paragraphs 12 and 13, but

(5) In Schedule 2 (documents to be supplied on an application for registration as a person who carries on an establishment) -

(a) in paragraph 4, in both places in which it appears, for "where applicable" substitute "to the extent permitted under the Police Act 1997";

(b) following paragraph 9 insert

"(9A) Notwithstanding paragraph 4, where the responsible person has applied for a certificate referred to in paragraph 4, but the certificate has not been issued -

(a) a statement confirming that the documents specified in paragraph 4 have been applied for and that the applicant, or where the applicant is an organisation, the responsible individual, will advise the National Assembly on receipt that they are available for inspection;

(b) a written report of a check on the lists maintained pursuant to section 1 of the Protection of Children Act 1999 and regulations made under section 218 of the Education Reform Act 1988; and

(c) a police check being a report produced by or on behalf of a chief officer of police or other member of a police force within the meaning of the Police Act 1996 which records, as at the time the report is produced, all criminal offences -

(i) for which the person had been convicted including convictions which are spent within the meaning of the Rehabilitation of Offenders Act 1974 and which may be disclosed by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975; or

(ii) in respect of which the person had been cautioned and which, at the time the caution was given, the person admitted.";

(c) in paragraph 10 in the concluding words of paragraph (b) of sub-paragraph (2) after "including" insert ", to the extent permitted under the Police Act 1997,".

(6) In Schedule 3 (information and documents to be supplied on an application for registration as the manager of an establishment) -

(a) paragraph 8 is omitted;

(b) in the concluding words of both paragraph 12 and paragraph 13 for "where applicable" substitute "to the extent permitted under the Police Act 1997";

(c) following paragraph 13 insert -

"13A. Notwithstanding paragraphs 12 and 13, where the responsible person has applied for a certificate referred to in paragraphs 12 and 13, but

the certificate has not been issued -

- (a) a statement confirming that the documents specified in paragraphs 12 and 13 have been applied for and the applicant will advise the National Assembly on receipt that they are available for inspection;
- (b) a written report of a check on the lists maintained pursuant to section 1 of the Protection of Children Act 1999 and Regulations made under section 218 of the Education Reform Act 1988; and
- (c) a police check being a report produced by or on behalf of a chief officer of police or other member of a police force within the meaning of the Police Act 1996 which records, at the time the report is produced, all criminal offences -
 - (i) for which the person had been convicted including convictions which are spent within the meaning of the Rehabilitation of Offenders Act 1974 and which may be disclosed by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975; or
 - (ii) in respect of which the person had been cautioned and which, at the time the caution was given, the person admitted."

(7) Yn Atodlen 7 (yr wybodaeth sydd i'w chyflwyno wrth wneud cais i gofrestru fel gwarchodydd plant neu fel darparydd gofal dydd) hepgorir is-baragraff (f) o baragraff 1.

(8) Yn Atodlen 8 (y dogfennau sydd i'w cyflwyno wrth wneud cais i gofrestru fel gwarchodydd plant neu fel darparydd gofal dydd) -

- (a) ym mharagraff 4, yn y ddau lle y mae'n ymddangos, yn lle "where applicable" rhoddir "to the extent permitted under the Police Act 1997".
- (b) yn lle paragraff 9A mewnosodir -

"9A. Notwithstanding paragraph 4, where the responsible person has applied for a certificate referred to in paragraph 4, but the certificate has not been issued -

- (a) a statement confirming that the documents specified in paragraph 4 have been applied for and that the applicant will advise the National Assembly on receipt that they are available for inspection;
- (b) a written report of a check on the lists maintained pursuant to section 1 of the Protection of Children Act 1999 and regulations made under section 218 of the Education Reform Act 1988; and
- (c) A police check being a report produced by or on behalf of a chief officer of police or other member of a police force within the meaning of the Police Act 1996 which

the certificate has not been issued -

- (a) a statement confirming that the documents specified in paragraphs 12 and 13 have been applied for and the applicant will advise the National Assembly on receipt that they are available for inspection;
- (b) a written report of a check on the lists maintained pursuant to section 1 of the Protection of Children Act 1999 and Regulations made under section 218 of the Education Reform Act 1988; and
- (c) a police check being a report produced by or on behalf of a chief officer of police or other member of a police force within the meaning of the Police Act 1996 which records, as at the time the report is produced, all criminal offences -
 - (i) for which the person had been convicted including convictions which are spent within the meaning of the Rehabilitation of Offenders Act 1974 and which may be disclosed by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975; or
 - (ii) in respect of which the person had been cautioned and which, at the time the caution was given, the person admitted."

(7) In Schedule 7 (information to be supplied on an application for registration as a child minder or as a provider of day care) omit sub-paragraph (f) of paragraph 1.

(8) In Schedule 8 (documents to be supplied on an application for registration as a child minder or as a provider of day care) -

- (a) in paragraph 4, in both places in which it appears, for "where applicable" substitute "to the extent permitted under the Police Act 1997";
- (b) for paragraph 9A substitute -

"9A. Notwithstanding paragraph 4, where the responsible person has applied for a certificate referred to in paragraph 4, but the certificate has not been issued -

- (a) a statement confirming that the documents specified in paragraph 4 have been applied for and that the applicant will advise the National Assembly on receipt that they are available for inspection;
- (b) a written report of a check on the lists maintained pursuant to section 1 of the Protection of Children Act 1999 and regulations made under section 218 of the Education Reform Act 1988; and
- (c) A police check being a report produced by or on behalf of a chief officer of police or other member of a police force within the meaning of the Police Act 1996 which

records, as at the time the report is produced, all criminal offences -

- (i) for which the person had been convicted including convictions which are spent within the meaning of the Rehabilitation of Offenders Act 1974 and which may be disclosed by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975; or
- (ii) in respect of which the person had been cautioned and which, at the time the caution was given, the person admitted."

(c) Ym mharagraff 10 hepgorir is baragraff (3).

Diwygio Rheoliadau Gwarchod Plant a Gofal Dydd (Cymru) 2002

6. -(1) Diwygir Rheoliadau Gwarchod Plant a Gofal Dydd Cymru 2002(a) yn unol â darpariaethau canlynol y rheoliad hwn.

(2) Yn rheoliad 4 (y person cofrestredig - ei addasrwydd) -

- (a) ym mharagraff (3)(c)(i) hepgorir "neu 4(A)"
- (b) yn lle paragraff (3)(c)(iii) mewnosodir-
"(iii) ac ymhellach, pan fo paragraff (4) yn gymwys, adroddiad ysgrifenedig o wiriad o'r rhestrau a gedwir yn unol ag adran 1 o Ddeddf Amddiffyn Plant 1999 a rheoliadau a wnaed o dan adran 218 o Ddeddf Diwygio Addysg 1988";
- (c) yn lle paragraff (4) rhoddir -
"Mae'r paragraff hwn yn gymwys pan fo unigolyn wedi gwneud cais am dystysgrif y cyfeirir ati ym mharagraff 2 o Atodlen 2 ond nad yw'r dystysgrif wedi'i dyroddi."; ac
- (ch) hepgorir paragraff (4A).

(3) Yn rheoliad 16 (addasrwydd gweithwyr) -

- (a) ym mharagraff (1) cyn y geiriau "Rhaid i'r person cofrestredig beidio â gwneud y canlynol-" rhoddir y geiriau "Yn ddarostyngedig i baragraffau (5) a (5A);
- (b) Yn lle paragraff (3) rhoddir -
"Mae'r paragraff hwn yn gymwys pan fo unigolyn wedi gwneud cais am dystysgrif y cyfeirir ati ym mharagraff 2 o Atodlen 2 ond nad yw'r dystysgrif wedi'i dyroddi";
- (c) ym mharagraff (5) hepgorir "yn ddarostyngedig i baragraff (7)" a'r tro nesaf y mae "paragraff" yn ymddangos rhoddir "paragraffau (1) a";
- (ch) ar ôl paragraff (5) mewnosodir paragraff (5A) newydd fel a ganlyn -
"(5A) Pan fo'r amodau canlynol yn gymwys, gall

(a) O.S. 2002 Rhif 812 (Cy.92) fel y'i diwygiwyd gan O.S. 2002 Rhif 2171 (Cy.218).

records, as at the time the report is produced, all criminal offences -

- (i) for which the person had been convicted including convictions which are spent within the meaning of the Rehabilitation of Offenders Act 1974 and which may be disclosed by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975; or
- (ii) in respect of which the person had been cautioned and which, at the time the caution was given, the person admitted."

(c) In paragraph 10 omit sub-paragraph (3).

Amendment of the Child Minding and Day Care (Wales) Regulations 2002

6.-(1) The Child Minding and Day Care (Wales) Regulations 2002(a) are amended in accordance with the following provisions of this regulation.

(2) In regulation 4 (registered person - suitability) -

- (a) in paragraph (3)(c)(i) omit "or (4A)"
- (b) for paragraph (3)(c)(iii) substitute
"(iii) and further, where paragraph (4) applies, a written report of a check on the lists maintained pursuant to section 1 of the Protection of Children Act 1999 and regulations made under section 218 of the Education Reform Act 1988";
- (c) for paragraph (4) substitute -
"This paragraph applies where an individual has applied for a certificate referred to in paragraph 2 of Schedule 2 but the certificate has not been issued."; and
- (d) omit paragraph (4A).

(3) In regulation 16 (suitability of workers) -

- (a) in paragraph (1) before the words "The registered person shall not" insert the words "Subject to paragraphs (5) and (5A);
- (b) for paragraph (3) substitute -
"This paragraph applies where an individual has applied for a certificate referred to in paragraph 2 of Schedule 2 but the certificate has not been issued";
- (c) in paragraph (5) omit "Subject to paragraph (7)" and for "paragraph" where it next appears substitute "paragraphs (1) and";
- (d) after paragraph (5) insert a new paragraph (5A) as follows -
"(5A) Where the following conditions apply, the registered person may permit a person to start work

(a) S.I. 2002 No. 812 (W.192), as amended by S.I. 2002 No. 2171 (W.218).

y person cofrestredig ganiatáu i berson ddechrau gweithio mewn sefydliad neu at ddibenion sefydliad heblaw am baragraffau (1) a (4)(b)-

- (a) bod paragraff (3) o'r rheoliad hwn yn gymwys;
 - (b) bod gwybodaeth gyflawn a boddhaol wedi'i derbyn mewn perthynas â'r person hwnnw mewn cysylltiad â'r materion a nodir ym mharagraffau 1, 4 a 6 o Atodlen 2;
 - (c) bod y person wedi darparu -
 - (i) dau eirida ysgrifenedig, yn cynnwys geirida oddi wrth y cyflogwr diweddaraf, os oes un, a
 - (ii) datganiad ysgrifenedig o fanylion unrhyw dramgwyddau troseddol y mae'r person wedi'i euogfarnu ohonynt, gan gynnwys manylion unrhyw euogfarnau a dreuliwyd o fewn ystyr adran 1 o Ddeddf Adsefydlu Troseddwyr 1974 ac y gellir eu datgelu trwy rinwedd Gorchymyn Deddf Adsefydlu Troseddwyr 1974 (Eithriadau) 1975 neu y mae'r person wedi derbyn rhybudd mewn perthynas â hwy ac wedi cyfaddef ar yr adeg pan roddwyd y rhybudd;
 - (ch) ym marn resymol y person cofrestredig na fydd buddiannau'r gwasanaeth yn cael eu bodloni os na ellir penodi'r person;
 - (d) bod y person cofrestredig, tra'n disgwyl derbyn a thra'n bodloni ei hun ynghylch y dystysgrif y cyfeirir ati ym mharagraff (3), yn sicrhau bod y person yn cael ei oruchwyllo yn briodol tra'n cyflawni ei ddyletswyddau.";
- (d) hepgorir paragraff (7).

(4) Yn Atodlen 2 (yr wybodaeth y mae ei hangen mewn perthynas â phersonau sy'n ceisio gweithredu fel gwarchodwyr plant neu ddarparu gofal dydd neu weithio drostynt) -

- (a) ym mharagraff 2 yn lle "os yw'n gymwys" rhoddir "i'r graddau y mae hynny'n cael ei ganiatáu o dan Ddeddf yr Heddlu 1997";
- (b) yn lle paragraff 7 rhoddir -

"7. Gwiriad gan yr heddlu yw adroddiad a gaiff ei lunio gan neu ar ran prif swyddog heddlu neu aelod arall o heddlu o fewn ystyr Deddf Heddlu 1996 sy'n cofnodi, ar yr adeg pan gafodd yr adroddiad ei lunio, pob tramgwydd troseddol

- (a) y mae'r person wedi'i euogfarnu mewn perthynas â hwy gan gynnwys euogfarnau a dreuliwyd o fewn ystyr Deddf Adsefydlu Troseddwyr 1974 ac y gellir eu datgelu trwy rinwedd Gorchymyn Deddf Adsefydlu Troseddwyr 1974 (Eithriadau) 1975; neu

in or for the purposes of the establishment notwithstanding paragraphs (1) and (4)(b)-

- (a) paragraff (3) of this regulation applies;
 - (b) full and satisfactory information in relation to that person has been obtained in respect of the matters set out in paragraphs 1, 4 and 6 of Schedule 2;
 - (c) person has provided -
 - (i) two written references, including a reference from the last employer, if any, and
 - (ii) a written declaration of the details of any criminal offences of which the person has been convicted, including details of any convictions which are spent within the meaning of section 1 of the Rehabilitation of Offenders Act 1974 and which may be disclosed by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 or in respect of which the person has been cautioned and which, at the time the caution was given, the person admitted;
 - (d) in the reasonable view of the registered person the interests of the service will not be met unless the person can be appointed; and
 - (e) pending receipt of, and satisfying himself or herself with regard to, the certificate referred to in paragraph (3), the registered person ensures that the person is appropriately supervised while carrying out his or her duties.";
- (e) omit paragraph (7).

(4) In Schedule 2 (information required in respect of persons seeking to act as or work for child minders or providers of day care) -

- (a) in paragraph 2 for "where applicable" substitute "to the extent permitted under the Police Act 1997";
- (b) for paragraph 7 substitute -

"7. A police check being a report produced by or on behalf of a chief officer of police or other member of a police force within the meaning of the Police Act 1996 which records, at the time the report is produced, all criminal offences -

- (a) for which the person had been convicted including convictions which are spent within the meaning of the Rehabilitation of Offenders Act 1974 and which may be disclosed by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975; or

(b) y mae'r person wedi derbyn rhybudd mewn perthynas â hwy, ac ar yr adeg pan roddwyd y rhybudd wedi'u cyfaddef."

(b) in respect of which the person had been cautioned and which, at the time the caution was given, the person admitted."

Dirymu Rheoliadau Gwarchod Plant a Gofal Dydd (Cymru) (Diwygio) 2002

7.-(1) Dirymir drwy hyn Rheoliadau Gwarchod Plant a Gofal Dydd (Cymru) (Diwygio) 2002(a).

Revocation of the Child Minding and Day Care (Wales)(Amendment) Regulations 2002

7.-(1) The Child Minding and Day Care (Wales)(Amendment) Regulations 2002(a) are hereby revoked.

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

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

17 Hydref 2002

17th October 2002

John Marek

Dirprwy Lywydd y Cynulliad Cenedlaethol

Deputy Presiding Officer of the National Assembly

(a) O.S. 2002 Rhif 2171 (Cy. 218).

(b) 1998 p.38.

(a) S.I.2002 No. 2171 (W. 218).

(b) 1998 c.38.

CYNULLIAD CENEDLAETHOL CYMRU

OFFERYNNAU STATUDOL

2002 Rhif 2622 (Cy.254)

**GOFAL CYMDEITHASOL,
CYMRU**

**PLANT A PHOBL IFANC,
CYMRU**

**IECHYD CYHOEDDUS,
CYMRU**

Rheoliadau Deddf Plant 1989 a
Deddf Safonau Gofal 2000
(Rheoliadau Amrywiol)
(Diwygio) (Cymru)
2002

NATIONAL ASSEMBLY FOR WALES

STATUTORY INSTRUMENTS

2002 No. 2622 (W.254)

SOCIAL CARE, WALES

**CHILDREN AND YOUNG
PERSONS, WALES**

**PUBLIC HEALTH,
WALES**

The Children Act 1989 and the
Care Standards Act 2000
(Miscellaneous Regulations)
(Amendment) (Wales) Regulations
2002

© Hawlfraint y Goron 2002

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

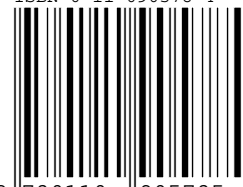
W172/11/02

ON

© Crown copyright 2002

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 0-11-090578-4



9 780110 905785