



OFFERYNNAU STATUDOL  
CYMRU

WELSH STATUTORY  
INSTRUMENTS

2017 Rhif 1326 (Cy. 299) (C. 121)

2017 No. 1326 (W. 299) (C. 121)

**GOFAL CYMDEITHASOL,  
CYMRU**

**SOCIAL CARE, WALES**

Gorchymyn Deddf Rheoleiddio ac  
Arolygu Gofal Cymdeithasol  
(Cymru) 2016 (Cychwyn Rhif 5,  
Arbedion, Darpariaethau Darfodol a  
Throsiannol) 2017

The Regulation and Inspection of  
Social Care (Wales) Act 2016  
(Commencement No. 5, Savings,  
Transitory and Transitional  
Provisions) Order 2017

**NODYN ESBONIADOL**

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

Mae erthygl 2 a'r Atodlen yn dwyn i rym ddarpariaethau yn Neddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016 ("y Ddeddf") sy'n ymwneud â rheoleiddio darparwyr gwasanaethau gofal cymdeithasol penodol.

Mae adran 6 o'r Ddeddf yn cael ei dwyn i rym ar 1 Chwefror 2018 er mwyn caniatáu i geisiadau i gofrestru gael eu gwneud cyn y prif ddyddiad dod i rym ar gyfer Rhan 1 o'r Ddeddf. 2 Ebrill 2018 yw'r dyddiad dod i rym ar gyfer y darpariaethau yn Rhan 1 fel y maent yn gymwys i bersonau sy'n darparu gwasanaethau cartrefi gofal, gwasanaethau llety diogel, gwasanaethau canolfannau preswyl i deuluoedd a gwasanaethau cymorth cartref. Mae erthygl 2 hefyd yn cychwyn diwygiadau canlyniadol perthnasol yn Rhan 1 o Atodlen 3 i'r Ddeddf. Cyfeirir at 2 Ebrill 2018 yn y Gorchymyn fel "y prif ddiwrnod penodedig".

Mae erthyglau 3 i 15 yn gwneud arbedion a darpariaethau darfodol a throsiannol er mwyn ymdrin â'r cyfnodau y mae rhaid i berson sydd wedi ei gofrestru o dan Ran 2 o Ddeddf Safonau Gofal 2000 ("Deddf 2000") wneud cais i Weinidogion Cymru i gofrestru ynddynt a'r cyfnodau y bydd yn esempt rhag y gofyniad i fod wedi ei gofrestru o dan y Ddeddf ac yn parhau i gael ei reoleiddio o dan Ran 2 o Ddeddf 2000 ynddynt.

**EXPLANATORY NOTE**

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

Article 2 and the Schedule bring into force provisions of the Regulation and Inspection of Social Care (Wales) Act 2016 ("the Act") relating to the regulation of certain social care service providers.

Section 6 of the Act is brought into force on 1 February 2018 to allow applications for registration to be made in advance of the main coming into force date for Part 1 of the Act. 2 April 2018 is the coming into force date for the provisions of Part 1 as they apply to persons providing care home services, secure accommodation services, residential family centre services and domiciliary support services. Article 2 also commences relevant consequential amendments in Part 1 of Schedule 3 to the Act. 2 April 2018 is referred to in the Order as "the principal appointed day".

Articles 3 to 15 make savings, transitory and transitional provisions to deal with the periods within which a person registered under Part 2 of the Care Standards Act 2000 ("the 2000 Act") must apply to the Welsh Ministers to register and during which they will be exempt from the requirement to be registered under the Act and will continue to be regulated under Part 2 of the 2000 Act.

Mae erthygl 3 yn darparu diffiniad o “gwasanaeth trosiannol” i ddisgrifio sefydliadau ac asiantaethau perthnasol sydd wedi eu cynnwys mewn ceisiadau i gofrestru o dan y Ddeddf. Sefydliadau ac asiantaethau perthnasol yw cartrefi gofal, cartrefi plant, cartrefi plant sy’n darparu llety at ddiben cyfyngu ar ryddid plant, canolfannau preswyl i deuluoedd ac asiantaethau gofal cartref ac sydd wedi eu cynnal gan berson sydd wedi ei gofrestru o dan Ran 2 o Ddeddf 2000 yn union cyn y prif ddiwrnod penodedig.

Mae erthygl 4 yn datgymhwyso, am gyfnod trosiannol, adran 5 o’r Ddeddf. Mae adran 5 yn ei gwneud yn drosedd darparu gwasanaeth rheoleiddiedig heb fod yn gofrestredig o dan y Ddeddf. Ni fydd person sy’n cynnal sefydliad perthnasol neu asiantaeth berthnasol yn atebol o dan adran 5 tan y dyddiad perthnasol sy’n gymwys i’r math o sefydliad neu asiantaeth ond, ar yr amod ei fod wedi cyflwyno cais i gofrestru o dan y Ddeddf cyn y dyddiad perthnasol, mae’r cyfnod trosiannol yn cael ei estyn i’r amser pan benderfynir ar y cais hwnnw.

Mae erthygl 5 yn darparu, pan fo sefydliad neu asiantaeth yn ddarostyngedig i ganslo ond na phenderfynwyd ar y broses ar y dyddiad erbyn pryd y byddai rhaid gwneud cais i gofrestru o dan adran 6 o’r Ddeddf fel arfer, yna caiff y dyddiad ei ohirio i ddyddiad sydd 6 wythnos ar ôl penderfynu ar y broses ganslo. Yr effaith felly yw estyn y cyfnod trosiannol.

Mae erthygl 6 yn arbed darpariaethau perthnasol yn Rhan 2 o Ddeddf 2000 fel bod y darpariaethau yn Rhan 2, a rheoliadau a wneir o dan Ran 2, yn parhau i fod yn gymwys i’r rheini y mae eu gweithgaredd wedi ei lywodraethu ganddynt yn ystod y cyfnod trosiannol. Mae’r arbedion yn gymwys i ddarparwyr, i’r awdurdod cofrestru, i’r Tribiwnlys Haen Gyntaf ac i Lysoedd Ynadon ond nid i reolwyr. Mae cofrestrriad rheolwr sydd wedi ei gofrestru o dan Ran 2 o Ddeddf 2000 yn dod i ben felly ar 2 Ebrill 2018.

Mae erthygl 7 yn gwneud addasiad darfodol i’r diffiniadau o “gwasanaeth cartref gofal” a “gwasanaeth cymorth cartref” yn Atodlen 1 sy’n cynnwys cyfeiriadau at “gwasanaethau lleoli oedolion” oherwydd nad yw cychwyn Rhan 1 o’r Ddeddf ar gyfer “gwasanaethau lleoli oedolion” yn rhan o’r cyfnod cychwyn hwn.

Mae erthygl 8 yn gwneud addasiad darfodol i adrannau 189 i 191 o Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 o ran methiant busnes gwasanaethau nad yw eu rheoleiddio o dan y Ddeddf wedi cael ei gychwyn eto ac sy’n parhau i gael eu rheoleiddio o dan Ddeddf 2000. Mae’r addasiad yn ei gwneud yn ofynnol i’r adrannau gael eu darllen fel pe na bai’r diwygiadau canlyniadol a wneir iddynt gan y Ddeddf yn gymwys.

Article 3 provides a definition of a “transition service” to describe relevant establishments and agencies which are included in applications for registration under the Act. Relevant establishments and agencies are care homes, children’s homes, children’s homes providing accommodation for the purpose of restricting the liberty of children, residential family centres and domiciliary care agencies and which are carried on by a person registered under Part 2 of the 2000 Act immediately before the principal appointed day.

Article 4 disappplies, for a transition period, section 5 of the Act. Section 5 makes it an offence to provide a regulated service without being registered under the Act. A person carrying on a relevant establishment or agency will not be liable under section 5 until the relevant date which applies to the type of establishment or agency but, provided they have submitted an application to register under the Act before the relevant date, the transition period is extended to the time when that application is determined.

Article 5 provides that where an establishment or agency is subject to cancellation but the process is not determined on the date by which an application would normally have to be made to register under section 6 of the Act, then the date is put back to a date 6 weeks after the cancellation process is determined. The effect therefore is to extend the transition period.

Article 6 saves relevant provisions of Part 2 of the 2000 Act so that the provisions of Part 2, and regulations made under Part 2, continue to apply to those whose activity is governed by them during the transition period. The savings apply to providers, to the registration authority, to the First-tier Tribunal and to Magistrates’ Courts but not to managers. The registration of a manager registered under Part 2 of the 2000 Act ends therefore on 2 April 2018.

Article 7 makes a transitory modification to the definitions of “care home service” and “domiciliary support service” in Schedule 1 which contain references to “adult placement services” because commencement of Part 1 of the Act for “adult placement services” is not part of this phase of commencement.

Article 8 makes a transitory modification to sections 189 to 191 of the Social Services and Well-being (Wales) Act 2014 as regards business failure of services whose regulation under the Act has not yet been commenced and which continue to be regulated under the 2000 Act. The modification requires the sections to be read as if the consequential amendments made to them by the Act do not apply.

Mae erthygl 9 yn caniatáu i Weinidogion Cymru ohirio ystyriaeth o gais i gofrestru o dan y Ddeddf pan fo'r gwasanaeth yn un sy'n ddarostyngedig i un o'r mesurau gorfodi penodedig, tan ar ôl canlyniad y broses sy'n ymwneud â'r mesur gorfodi.

Mae erthygl 10 yn caniatáu i Weinidogion Cymru drin cais i gofrestru o dan Ddeddf 2000 na phenderfynwyd arno fel pe bai'n gais i gofrestru o dan adran 6 o'r Ddeddf a gofyn am unrhyw wybodaeth ychwanegol i'w galluogi i wneud hynny.

Mae erthygl 11 yn caniatáu i Weinidogion Cymru beidio â phenderfynu ar gais i amrywio neu ddileu amodau cofrestru a wneir gan ddarparwr sydd, yn ystod y cyfnod trosiannol, yn dal i gael ei reoleiddio o dan Ddeddf 2000 ac yn lle hynny, cânt ei ystyried fel rhan o gais y darparwr i gofrestru o dan y Ddeddf.

Mae erthygl 12 yn darparu, os yw rheolwr sefydliad neu asiantaeth yn ddarostyngedig i hysbysiad o benderfyniad i ganslo ei gofrestrriad a bod y rheolwr, cyn i'r cyfnod trosiannol ddod i ben, wedi cyflwyno apêl i'r Tribiwnlys Haen Gyntaf, y bydd cofrestrriad y rheolwr wedyn yn parhau hyd nes y penderfynir ar yr apêl neu y rhoddir y gorau iddi.

Mae erthygl 13 yn gwneud darpariaeth i ymdrin ag amgylchiadau pan fo sefydliad perthnasol neu asiantaeth berthnasol, ar y prif ddiwrnod penodedig, yn cael ei gynnal neu ei chynnal gan gynrychiolwyr personol yn dilyn marwolaeth y person a oedd wedi ei gofrestru o dan Ddeddf 2000.

Mae erthygl 14 yn gwneud darpariaeth ar gyfer personau sydd wedi bod yn darparu gwasanaethau gofal cartref yng Nghymru cyn 1 Chwefror ond nad ydynt wedi gallu cofrestru fel asiantaeth gofal cartref oherwydd bod eu busnes y tu allan i Gymru. Pan fo'r darparwyr hyn yn gwneud cais i gofrestru o dan adran 6 o'r Ddeddf erbyn 2 Ebrill 2018 byddant yn gallu parhau i ddarparu gwasanaethau ac ni fyddant yn agored i'w herlyn o dan adran 5 o'r Ddeddf.

Mae erthygl 15 yn gwneud darpariaeth ar gyfer person sydd wedi ei gofrestru o dan Ddeddf 2000 fel person sy'n cynnal asiantaeth nyrsys a phan fo cais yn cael ei wneud o dan adran 6 o'r Ddeddf i gofrestru mewn cysylltiad â'r ymgymeriad fel gwasanaeth cymorth cartref.

Article 9 allows Welsh Ministers to postpone consideration of an application to register under the Act where the service is one which is subject to one of the specified enforcement measures, until after the outcome of the process which relates to the enforcement measure.

Article 10 allows Welsh Ministers to treat an outstanding application for registration under the 2000 Act as if it were an application to register under section 6 of the Act and to request any additional information to enable them to do so.

Article 11 allows Welsh Ministers not to determine an application for variation or removal of conditions of registration made by a provider who, in the transition period, is still being regulated under the 2000 Act and instead consider it as part of the provider's application to register under the Act.

Article 12 provides that if a manager of an establishment or agency is subject to a notice of decision to cancel his or her registration and the manager has, before the expiry of the transition period, lodged an appeal to the First-Tier Tribunal, then the manager's registration will continue until the appeal is determined or abandoned.

Article 13 makes provision to deal with circumstances where a relevant establishment or agency, on the principal appointed day, is being carried on by personal representatives following the death of the person who was registered under the 2000 Act.

Article 14 makes provision for persons who have been providing domiciliary care services in Wales prior to 1 February but have not been able to register as a domiciliary care agency because their business is located outside Wales. Where these providers make an application to register under section 6 of the Act by 2 April 2018 they will be able to continue to provide services and will not be liable to prosecution under section 5 of the Act.

Article 15 makes provision for a person registered under the 2000 Act as a person who carries on a nurses agency and where an application is made under section 6 of the Act to register in respect of the undertaking as a domiciliary support service.

**NODYN AM Y GORCHMYNION CYCHWYN  
CYNHARACH**

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

Mae'r darpariaethau a ganlyn o'r Ddeddf wedi eu dwyn i rym drwy Orchymyn Cychwyn a wnaed cyn dyddiad y Gorchymyn hwn:

**NOTE AS TO EARLIER COMMENCEMENT  
ORDERS**

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

The following provisions of the Act have been brought into force by Commencement Order made before the date of this Order:

<i>Y Ddarpariaeth</i>	<i>Y Dyddiad Cychwyn</i>	<i>Rhif O.S.</i>	<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Rhan 1			Part 1		
Adran 56(1) (yn rhannol)	4 Medi 2017	2017/846 (Cy. 206) (C. 71)	Section 56(1) (partially)	4 September 2017	2017/846 (W. 206) (C. 71)
Adran 56(2)	4 Medi 2017	2017/846 (Cy. 206) (C. 71)	Section 56(2)	4 September 2017	2017/846 (W. 206) (C. 71)
Rhan 2 (adrannau 65 a 66)	3 Ebrill 2017	2017/309 (Cy. 80) (C. 29)	Part 2 (sections 65 and 66)	3 April 2017	2017/309 (W. 80) (C. 29)
Rhan 3			Part 3		
Adran 67 (yn rhannol)	11 Gorffennaf 2016	2016/713 (Cy. 191) (C. 51)	Section 67 (partially)	11 July 2016	2016/713 (W. 191) (C. 51)
Adran 68 (yn rhannol)	11 Gorffennaf 2016	2016/713 (Cy. 191) (C. 51)	Section 68 (partially)	11 July 2016	2016/713 (W. 191) (C. 51)
Adran 73(1) a (2) (yn rhannol)	11 Gorffennaf 2016	2016/713 (Cy. 191) (C. 51)	Section 73(1) and (2) (partially)	11 July 2016	2016/713 (W. 191) (C. 51)
Adran 75 (yn rhannol)	11 Gorffennaf 2016	2016/713 (Cy. 191) (C. 51)	Section 75 (partially)	11 July 2016	2016/713 (W. 191) (C. 51)
I'r graddau nad yw eisoes mewn grym, Rhan 3 ac Atodlen 2	3 Ebrill 2017	2017/309 (Cy. 80) (C. 29)	In so far as it is not already in force, Part 3 and Schedule 2	3 April 2017	2017/309 (W. 80) (C. 29)
Rhan 4 (adrannau 79 i 111)	3 Ebrill 2017	2017/309 (Cy. 80) (C. 29)	Part 4 (sections 79 to 111)	3 April 2017	2017/309 (W. 80) (C. 29)
Rhan 5 (adrannau 112 i 116)	3 Ebrill 2017	2017/309 (Cy. 80) (C. 29)	Part 5 (sections 112 to 116)	3 April 2017	2017/309 (W. 80) (C. 29)
Rhan 6 (adrannau 117 i 164)	3 Ebrill 2017	2017/309 (Cy. 80) (C. 29)	Part 6 (sections 117 to 164)	3 April 2017	2017/309 (W. 80) (C. 29)
Rhan 7 (adrannau 165 i 173)	3 Ebrill 2017	2017/309 (Cy. 80) (C. 29)	Part 7 (sections 165 to 173)	3 April 2017	2017/309 (W. 80) (C. 29)
Rhan 8 (adrannau 174 a 175)	3 Ebrill 2017	2017/309 (Cy. 80) (C. 29)	Part 8 (sections 174 and 175)	3 April 2017	2017/309 (W. 80) (C. 29)
Rhan 9 (adrannau 176 i 182)	3 Ebrill 2017	2017/309 (Cy. 80) (C. 29)	Part 9 (sections 176 to 182)	3 April 2017	2017/309 (W. 80) (C. 29)

Rhan 10 (adrannau 183 a 184)	3 Ebrill 2017	2017/309 (Cy. 80) (C. 29)	Part 10 (sections 183 and 184)	3 April 2017	2017/309 (W. 80) (C. 29)
Rhan 11			Part 11		
Adran 185 ac Atodlen 3 i'r graddau y maent yn ymwneud â Rhan 2 o Atodlen 3	3 Ebrill 2017	2017/309 (Cy. 80) (C. 29)	Section 185 and Schedule 3 in so far as they relate to Part 2 of Schedule 3	3 April 2017	2017/309 (W. 80) (C. 29)
Adran 185 ac Atodlen 3 i'r graddau y maent yn ymwneud â Rhan 3 o Atodlen 3	6 Ebrill 2016	2016/467 (Cy. 149) (C. 28)	Section 185 and Schedule 3 in so far as they relate to Part 3 of Schedule 3	6 April 2016	2016/467 (W. 149) (C. 28)

*Gweler* hefyd adran 188(2) o'r Ddeddf am ddarpariaethau a ddaeth i rym ar 19 Ionawr 2016 (y diwrnod ar ôl dyddiad y Cydsyniad Brenhinol).

*See* also section 188(2) of the Act for provisions that came into force on 19 January 2016 (the day after the date of Royal Assent).

**2017 Rhif 1326 (Cy. 299) (C. 121)**

**2017 No. 1326 (W. 299) (C. 121)**

**GOFAL CYMDEITHASOL,  
CYMRU**

**SOCIAL CARE, WALES**

Gorchymyn Deddf Rheoleiddio ac  
Arolygu Gofal Cymdeithasol  
(Cymru) 2016 (Cychwyn Rhif 5,  
Arbedion, Darpariaethau Darfodol a  
Throsiannol) 2017

The Regulation and Inspection of  
Social Care (Wales) Act 2016  
(Commencement No. 5, Savings,  
Transitory and Transitional  
Provisions) Order 2017

*Gwnaed*

*21 Rhagfyr 2017*

*Made*

*21 December 2017*

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir gan adran 188(1) a (3) o Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016(1), yn gwneud y Gorchymyn a ganlyn.

The Welsh Ministers, in exercise of the powers conferred by section 188(1) and (3) of the Regulation and Inspection of Social Care (Wales) Act 2016(1), make the following Order.

**Enwi a dehongli**

1.—(1) Enw'r Gorchymyn hwn yw Gorchymyn Deddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016 (Cychwyn Rhif 5, Arbedion, Darpariaethau Darfodol a Throsiannol) 2017.

(2) Yn y Gorchymyn hwn—

mae i “cyfnod trosiannol” (“*transition period*”) yr ystyr a roddir yn erthygl 4(2);

mae i “darpariaethau Rhan 2” (“*the Part 2 provisions*”) yr ystyr a roddir yn erthygl 5(4);

ystyr “darparwr DSG” (“*CSA provider*”) yw person sydd, yn union cyn y prif ddiwrnod penodedig, wedi ei gofrestru â Gweinidogion Cymru o dan Ran 2 o Ddeddf 2000 fel person sy'n cynnal sefydliad perthnasol neu asiantaeth berthnasol;

ystyr “Deddf 2000” (“*the 2000 Act*”) yw Deddf Safonau Gofal 2000(2);

**Title and interpretation**

1.—(1) The title of this Order is the Regulation and Inspection of Social Care (Wales) Act 2016 (Commencement No. 5, Savings, Transitory and Transitional Provisions) Order 2017.

(2) In this Order—

“the Act” (“*y Ddeddf*”) means the Regulation and Inspection of Social Care (Wales) Act 2016;

“the 2000 Act” (“*Deddf 2000*”) means the Care Standards Act 2000(2);

“CSA provider” (“*darparwr DSG*”) means a person who, immediately before the principal appointed day, is registered with the Welsh Ministers under Part 2 of the 2000 Act as a person who carries on a relevant establishment or agency;

“principal appointed day” (“*prif ddiwrnod penodedig*”) has the meaning given in article 2(4);

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(1) 2016 dccc 2.

(2) 2000 p. 14.

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(1) 2016 anaw 2.

(2) 2000 c. 14.



ystyr “y Ddeddf” (“*the Act*”) yw Deddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016;

mae i “gwasanaeth trosiannol” (“*transition service*”) yr ystyr a roddir yn erthygl 3;

mae i “prif ddiwrnod penodedig” (“*principal appointed day*”) yr ystyr a roddir yn erthygl 2(4);

ystyr “sefydliad perthnasol neu asiantaeth berthnasol” (“*relevant establishment or agency*”) yw sefydliad neu asiantaeth o un o’r disgrifiadau a ganlyn—

- (a) cartref gofal,
- (b) cartref plant,
- (c) cartref plant sy’n darparu llety at ddiben cyfyngu ar ryddid,
- (d) canolfan breswyl i deuluoedd, neu
- (e) asiantaeth gofal cartref.

(3) Yn y Gorchymyn hwn mae i’r termau “cartref gofal”, “cartref plant sy’n darparu llety at ddiben cyfyngu ar ryddid”, “canolfan breswyl i deuluoedd” ac “asiantaeth gofal cartref” yr ystyron a roddir i “children’s home”, “children’s home providing accommodation for the purpose of restricting liberty”, “residential family centre” a “domiciliary care agency” yn adrannau 1 a 4 o Ddeddf 2000 ac mae i’r term “cartref gofal” yr ystyr a roddir i “care home” yn adran 3 o Ddeddf 2000 ac eithrio pan fydd yn ymddangos yn y term “gwasanaeth cartref gofal” sydd â’r ystyr a roddir ym mharagraff 1 o Atodlen 1 i’r Ddeddf.

#### **Diwrnodau penodedig ar gyfer cychwyn darpariaeth sy’n ymwneud â gwasanaethau rheoleiddiedig**

2.—(1) Y diwrnod penodedig i adran 6 o’r Ddeddf ddod i rym i’r graddau a nodir ym mharagraff (2) yw 1 Chwefror 2018.

(2) Mae adran 6 o’r Ddeddf wedi ei chychwyn i’r graddau y mae’n gymwys i berson sy’n dymuno darparu un o’r gwasanaethau a bennir ym mharagraffau (a) i (c) ac (h) o adran 2(1) o’r Ddeddf.

(3) Y diwrnod penodedig i’r darpariaethau a ganlyn o’r Ddeddf ddod i rym yw 2 Ebrill 2018—

- (a) adran 1,
- (b) adran 2, ac eithrio paragraffau (d) i (g) o isadran (1), a pharagraffau 1 i 3 ac 8 o Atodlen 1,
- (c) adrannau 3 i 5,
- (d) adrannau 7 i 31,
- (e) penodau 3, 4 a 5 o Ran 1,
- (f) adran 58,
- (g) pennod 8 o Ran 1,
- (h) adran 185 a Rhan 1 o Atodlen 3 (mân ddiwygiadau a diwygiadau canlyniadol) i’r graddau a nodir yn yr Atodlen i’r Gorchymyn hwn.

“relevant establishment or agency” (“*sefydliad perthnasol neu asiantaeth berthnasol*”) means an establishment or agency of one of the following descriptions—

- (a) a care home,
- (b) a children’s home,
- (c) a children’s home providing accommodation for the purpose of restricting liberty,
- (d) a residential family centre, or
- (e) a domiciliary care agency;

“the Part 2 provisions” (“*darpariaethau Rhan 2*”) has the meaning given in article 5(4);

“transition service” (“*gwasanaeth trosiannol*”) has the meaning given in article 3;

“transition period” (“*cyfnod trosiannol*”) has the meaning given in article 4(2).

(3) In this Order the terms, “children’s home”, “children’s home providing accommodation for the purpose of restricting liberty”, “residential family centre” and “domiciliary care agency” have the meanings given in sections 1 and 4 of the 2000 Act and the term “care home” has the meaning given in section 3 of the 2000 Act except when it appears in the term “care home service” which has the meaning given in paragraph 1 of Schedule 1 to the Act.

#### **Appointed days for commencement of provision relating to regulated services**

2.—(1) 1 February 2018 is the appointed day for the coming into force of section 6 of the Act to the extent set out in paragraph (2).

(2) Section 6 of the Act is commenced to the extent that it applies to a person who wants to provide one of the services specified in paragraphs (a) to (c) and (h) of section 2(1) of the Act.

(3) 2 April 2018 is the appointed day for the coming into force of the following provisions of the Act—

- (a) section 1,
- (b) section 2, except for paragraphs (d) to (g) of subsection (1), and paragraphs 1 to 3 and 8 of Schedule 1,
- (c) sections 3 to 5,
- (d) sections 7 to 31,
- (e) chapters 3, 4 and 5 of Part 1,
- (f) section 58,
- (g) chapter 8 of Part 1,
- (h) section 185 and Part 1 of Schedule 3 (minor and consequential amendments) to the extent set out in the Schedule to this Order.

(4) Cyfeirir at 2 Ebrill 2018 yn y Gorchymyn hwn fel y prif ddiwrnod penodedig.

### Ystyr gwasanaeth trosiannol

3. Ystyr “gwasanaeth trosiannol” yw sefydliad perthnasol neu asiantaeth berthnasol y mae person wedi ei gofrestru mewn cysylltiad ag ef neu â hi o dan Ran 2 o Ddeddf 2000 yn union cyn y prif ddiwrnod penodedig ac—

- (a) yn achos cartref gofal neu gartref plant, mae'r cartref wedi ei bennu mewn cais a wneir cyn y dyddiad perthnasol o dan adran 6 o'r Ddeddf fel man lle y mae gwasanaeth cartref gofal i'w ddarparu;
- (b) yn achos cartref plant sy'n darparu llety at ddiben cyfyngu ar ryddid, mae'r cartref wedi ei bennu mewn cais a wneir cyn y dyddiad perthnasol o dan adran 6 o'r Ddeddf fel man lle y mae gwasanaeth llety diogel i'w ddarparu;
- (c) yn achos canolfan breswyl i deuluoedd, mae'r ganolfan wedi ei phennu mewn cais a wneir cyn y dyddiad perthnasol o dan adran 6 o'r Ddeddf fel man lle y mae gwasanaeth canolfan breswyl i deuluoedd i'w ddarparu;
- (d) yn achos asiantaeth gofal cartref, mae'r ardal y mae'r asiantaeth yn darparu gwasanaethau ynddi wedi ei phennu mewn cais a wneir cyn y dyddiad perthnasol o dan adran 6 o'r Ddeddf fel man y mae gwasanaeth cymorth cartref i'w ddarparu mewn perthynas ag ef.

### Datgymhwysiad trosiannol o adran 5 o'r Ddeddf

4.—(1) Nid yw adran 5 o'r Ddeddf (gofyniad i gofrestru) yn gymwys i ddarparwr DSG yn ystod y cyfnod trosiannol.

(2) Yn ddarostyngedig i baragraff (4), y “cyfnod trosiannol” ar gyfer darparwr DSG yw'r cyfnod sy'n dechrau â'r prif ddiwrnod penodedig ac sy'n gorffen ar ba ddyddiad bynnag yw'r cynharaf o—

- (a) y dyddiad perthnasol fel y'i pennir ym mharagraff (3); neu
- (b) y dyddiad y penderfynir yn derfynol ar gais i gofrestru mewn cysylltiad â gwasanaeth trosiannol.

(3) Yn ddarostyngedig i erthygl 5, y dyddiad perthnasol yw—

- (a) 30 Mehefin 2018 ar gyfer darparwr DSG sydd wedi ei gofrestru mewn cysylltiad â chartref gofal, cartref plant, cartref plant sy'n darparu llety at ddiben cyfyngu ar ryddid, neu ganolfan preswyl i deuluoedd;

(4) 2 April 2018 is referred to in this Order as the principal appointed day.

### Meaning of transition service

3. A “transition service” is a relevant establishment or agency in respect of which a person is registered under Part 2 of the 2000 Act immediately before the principal appointed day and—

- (a) in the case of a care home or children's home, the home is specified in an application made before the relevant date under section 6 of the Act as a place at which a care home service is to be provided;
- (b) in the case of a children's home providing accommodation for the purpose of restricting liberty, the home is specified in an application made before the relevant date under section 6 of the Act as a place at which a secure accommodation service is to be provided;
- (c) in the case of a residential family centre, the centre is specified in an application made before the relevant date under section 6 of the Act as a place at which a residential family centre service is to be provided;
- (d) in the case of a domiciliary care agency, the area in which the agency provides services is specified in an application made before the relevant date under section 6 of the Act as a place in relation to which a domiciliary support service is to be provided.

### Transitional disapplication of section 5 of the Act

4.—(1) Section 5 of the Act (requirement to register) does not apply to a CSA provider during the transition period.

(2) Subject to paragraph (4), the “transition period” for a CSA provider is the period beginning with the principal appointed day and ending on the earlier of—

- (a) the relevant date as specified in paragraph (3); or
- (b) the date on which an application to register in respect of a transition service is finally determined.

(3) Subject to article 5, the relevant date is—

- (a) 30 June 2018 for a CSA provider who is registered in respect of a care home, children's home, children's home providing accommodation for the purpose of restricting liberty or residential family centre;



- (b) 31 Awst 2018 ar gyfer darparwr DSG sydd wedi ei gofrestru mewn cysylltiad ag asiantaeth gofal cartref ond nad yw wedi ei gofrestru hefyd mewn cysylltiad â sefydliad o fath a grybwyllir yn is-baragraff (a).

(4) Pan fo sefydliad neu asiantaeth y mae darparwr DSG wedi ei gofrestru mewn cysylltiad ag ef neu â hi yn dod yn wasanaeth trosiannol oherwydd ei fod wedi ei bennu neu ei bod wedi ei phennu mewn cais i gofrestru o dan adran 6 o'r Ddeddf er mwyn dod â'r sefydliad neu'r asiantaeth o fewn y diffiniad o wasanaeth trosiannol yn erthygl 3, mae'r cyfnod trosiannol y cyfeirir ato ym mharagraff (2) wedi ei estyn i'r dyddiad pan benderfynir yn derfynol ar y cais.

(5) Mae cyfeiriad yn yr erthygl hon at amser pan benderfynir yn derfynol ar gais o dan adran 6 o'r Ddeddf yn cynnwys—

- (a) terfyn unrhyw amser a ganiateir o dan adran 18(2) o'r Ddeddf ar gyfer cyflwyno sylwadau yn erbyn hysbysiad o gynnig;
- (b) terfyn unrhyw amser a ganiateir ar gyfer dwyn apêl o dan adran 26(1) o'r Ddeddf yn erbyn hysbysiad a ddyroddir o dan adran 19(4) o'r Ddeddf;
- (c) penderfyniad ar unrhyw apêl o'r fath neu roi'r gorau i unrhyw apêl o'r fath.

### **Gohirio dyddiad perthnasol ar gyfer sefydliad perthnasol neu asiantaeth berthnasol yn ddarostyngedig i broses ganslo**

5.—(1) Pan fo sefydliad perthnasol neu asiantaeth berthnasol, ar y dyddiad perthnasol a bennir yn erthygl 4(3), yn ddarostyngedig i broses ganslo, caiff y dyddiad perthnasol ei ohirio tan y dyddiad sydd 6 wythnos ar ôl y dyddiad pan benderfynir yn derfynol ar y broses ganslo.

(2) Mae sefydliad perthnasol neu asiantaeth berthnasol yn ddarostyngedig i broses ganslo os yw hysbysiad o gynnig i ganslo o dan adran 17(4)(a) o Ddeddf 2000 wedi ei roi i'r darparwr DSG cyn y dyddiad perthnasol a bennir yn erthygl 4(3) ac na phenderfynwyd yn derfynol ar y broses erbyn y dyddiad hwnnw.

(3) Penderfynir yn derfynol ar broses ganslo—

- (a) pan benderfynir ar unrhyw apêl i'r Tribiwnlys Haen Gyntaf yn erbyn y canslo neu pan roddir y gorau i unrhyw apêl o'r fath;
- (b) pan fo hysbysiad o benderfyniad o dan adran 19(3) o Ddeddf 2000 wedi ei gyflwyno a bod y cyfnod o 28 o ddiwrnodau y caniateir i apêl gael ei gwneud i'r Tribiwnlys Haen Gyntaf ynddo wedi dod i ben; neu
- (c) pan hysbysir y darparwr DSG nad yw'r hysbysiad o gynnig wedi ei gadarnhau neu fod yr hysbysiad o gynnig wedi ei dynnu'n ôl.

- (b) 31 August 2018 for a CSA provider who is registered in respect of a domiciliary care agency but who is not also registered in respect of an establishment of a type mentioned in subparagraph (a).

(4) Where an establishment or agency in respect of which a CSA provider is registered becomes a transition service because it is specified in an application to register under section 6 of the Act so as to bring it within the definition of a transition service in article 3, the transition period referred to in paragraph (2) is extended to the date when the application is finally determined.

(5) Reference in this article to the time when an application under section 6 of the Act is finally determined includes—

- (a) the expiry of any time allowed under section 18(2) of the Act for the making of representations against a notice of proposal;
- (b) the expiry of any time allowed for bringing an appeal under section 26(1) of the Act against a notice issued under section 19(4) of the Act;
- (c) the determination or abandonment of any such appeal.

### **Postponement of relevant date for relevant establishment or agency subject to cancellation process**

5.—(1) Where, on the relevant date specified in article 4(3), a relevant establishment or agency is subject to a cancellation process the relevant date is postponed until the date 6 weeks after the date when the cancellation process is finally determined.

(2) A relevant establishment or agency is subject to a cancellation process if a notice of proposal to cancel under section 17(4)(a) of the 2000 Act has been given to the CSA provider prior to the relevant date which is specified in article 4(3) and the process is not finally determined by that date.

(3) A cancellation process is finally determined when—

- (a) any appeal to the First-tier Tribunal against the cancellation is determined or abandoned;
- (b) a notice of decision under section 19(3) of the 2000 Act has been served and the 28 day period within which an appeal can be made to the First-tier Tribunal has expired; or
- (c) the CSA provider is notified that the notice of proposal has not been upheld or has been withdrawn.

## Arbedion yn ystod y cyfnod trosiannol

6.—(1) Yn ystod y cyfnod trosiannol, bydd cofrestriad darparwr DSG o dan Ddeddf 2000 yn parhau ac, er gwaethaf unrhyw ddiwygiadau canlyniadol i Ddeddf 2000 a wneir gan Ran 1 o Atodlen 3 i'r Ddeddf a fyddai fel arall yn eithrio cais y darparwr, bydd darpariaethau Rhan 2 yn parhau i fod yn gymwys i—

- (a) darparwr DSG,
- (b) Gweinidogion Cymru,
- (c) y Tribiwnlys Haen Gyntaf,
- (d) Llys Ynadon,

fel pe na bai'r diwygiadau canlyniadol hynny wedi cael eu gwneud.

(2) Mae adran 16 o Ddeddf Dehongli 1978(1) (arbedion cyffredinol) yn gymwys mewn cysylltiad â datgymhwyso'r darpariaethau yn Neddf 2000 i sefydliadau neu asiantaethau perthnasol fel y byddai pe bai Rhan 2 o Ddeddf 2000 wedi ei diddymu.

(3) Pan fo cofrestriad darparwr DSG yn ddarostyngedig i amodau yn union cyn y prif ddiwrnod penodedig, bydd yr amodau hynny yn gymwys i'r cofrestriad yn ystod y cyfnod trosiannol.

(4) Darpariaethau Rhan 2 yw—

- (a) adrannau 14, 14A, 15, 17(4) i (6), 18, 19(3) i (6), 20A, 20B, 21, 22B, 23(1), 23(4), 24, 24A, 25(2), 26, 28, 29, 30, 30A, 31, 32, 36, 37 o Ddeddf 2000;
- (b) unrhyw un neu ragor o'r rheoliadau a ganlyn sy'n gymwys i'r sefydliad neu'r asiantaeth y mae cofrestriad y darparwr DSG wedi ei gynnal mewn cysylltiad ag ef neu â hi—
  - (i) Rheoliadau Cartrefi Gofal (Cymru) 2002(2),
  - (ii) Rheoliadau Cartrefi Plant (Cymru) 2002(3),
  - (iii) Rheoliadau Cofrestru Gofal Cymdeithasol a Gofal Iechyd Annibynnol (Cymru) 2002(4),
  - (iv) Rheoliadau Canolfannau Preswyl i Deuluoedd (Cymru) 2003(5),
  - (v) Rheoliadau Asiantaethau Gofal Cartref (Cymru) 2004(6),

## Savings during the transition period

6.—(1) During the transition period a CSA provider's registration under the 2000 Act will continue and, notwithstanding any consequential amendments to the 2000 Act made by Part 1 of Schedule 3 to the Act which would otherwise exclude their application, the Part 2 provisions will continue to apply to—

- (a) a CSA provider,
- (b) the Welsh Ministers,
- (c) the First-tier Tribunal,
- (d) a Magistrates' Court,

as if those consequential amendments had not been made.

(2) Section 16 of the Interpretation Act 1978(1) (general savings) applies in respect of the disapplication of the provisions of the 2000 Act to relevant establishments or agencies as it would if Part 2 of the 2000 Act were repealed.

(3) Where a CSA provider's registration is subject to conditions immediately before the principal appointed day, those conditions will apply to the registration during the transition period.

(4) The Part 2 provisions are—

- (a) sections 14, 14A, 15, 17(4) to (6), 18, 19(3) to (6), 20A, 20B, 21, 22B, 23(1), 23(4), 24, 24A, 25(2), 26, 28, 29, 30, 30A, 31, 32, 36, 37 of the 2000 Act;
- (b) such of the following regulations as apply to the establishment or agency in respect of which the CSA provider's registration is maintained—
  - (i) the Care Homes (Wales) Regulations 2002(2),
  - (ii) the Children's Homes (Wales) Regulations 2002(3),
  - (iii) the Registration of Social Care and Independent Health Care (Wales) Regulations 2002(4),
  - (iv) the Residential Family Centres (Wales) Regulations 2003(5),
  - (v) the Domiciliary Care Agencies (Wales) Regulations 2004(6),

(1) 1978 p. 30.

(2) O.S. 2002/324 (Cy. 37).

(3) O.S. 2002/327 (Cy. 40).

(4) O.S. 2002/919 (Cy. 107).

(5) O.S. 2003/781 (Cy. 92).

(6) O.S. 2004/219 (Cy. 23).

(1) 1978 c. 30.

(2) S.I. 2002/324 (W. 37).

(3) S.I. 2002/327 (W. 40).

(4) S.I. 2002/919 (W. 107).

(5) S.I. 2003/781 (W. 92).

(6) S.I. 2004/219 (W. 23).

(vi) rheoliad 9(1) a rheoliad 12 o Reoliadau Plant (Llety Diogel) (Cymru) 2015(1),

(vii) Rheoliadau Deddf Safonau Gofal 2000 (Hysbysu) (Cymru) 2011(2);

(c) unrhyw un neu ragor o'r Safonau Gofynnol Cenedlaethol a wneir yn unol ag adran 23(1) o Ddeddf 2000 sy'n gymwys i'r sefydliad neu'r asiantaeth o dan sylw.

(5) Mae cyfeiriad at y rheoliadau ym mharagraff (4)(b) yn gyfeiriad at y rheoliadau fel y'u diwygiwyd yn union cyn y prif ddiwrnod penodedig(3).

### **Addasiad darfodol i gyfeiriadau at “gwasanaeth lleoli oedolion” yn y diffiniadau o “gwasanaeth cartref gofal” a “gwasanaeth cymorth cartref”**

7. Hyd nes y daw adran 2(1)(f) o'r Ddeddf i rym—

(a) mae paragraff 1(2)(e) o Atodlen 1 i'r Ddeddf i'w ddarllen fel pe bai, ar gyfer yr ymadrodd “sy'n darparu llety ar gyfer oedolyn a drefnir fel rhan o wasanaeth lleoli oedolion”, y canlynol wedi ei roi yn ei le “lle y darperir llety gan ofalwr lleoli oedolion a gymeradwywyd gan ddarparwr cynllun lleoli oedolion sydd wedi ei gofrestru o dan Ran 2 o Ddeddf Safonau Gofal 2000”;

(b) mae paragraff 8(2)(b)(i) o Atodlen 1 i'r Ddeddf i'w ddarllen fel pe bai, ar gyfer yr ymadrodd “llety a drefnir fel rhan o wasanaeth lleoli oedolion”, y canlynol wedi ei roi yn ei le “llety a ddarperir gan ofalwr lleoli oedolion a gymeradwywyd gan ddarparwr cynllun lleoli oedolion sydd wedi ei gofrestru o dan Ran 2 o Ddeddf Safonau Gofal 2000”.

### **Addasiad darfodol i adrannau 189 i 191 o Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014**

8.—(1) Hyd nes y daw paragraffau (d) i (g) o adran 2(1) o'r Ddeddf i rym, ac o dan yr amgylchiadau a nodir ym mharagraff (2), mae adrannau 189 i 191 o Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014(4) i'w darllen fel pe na bai'r diwygiadau i'r adrannau hynny a wnaed gan baragraffau 33 i 35 o Atodlen 3 i'r Ddeddf wedi cael eu gwneud.

(vi) regulation 9(1) and regulation 12 of the Children (Secure Accommodation) (Wales) Regulations 2015(1),

(vii) the Care Standards Act 2000 (Notification) (Wales) Regulations 2011(2);

(c) such of the National Minimum Standards made pursuant to section 23(1) of the 2000 Act as apply to the establishment or agency in question.

(5) Reference to the regulations in paragraph (4)(b) is to the regulations as amended immediately before the principal appointed day(3).

### **Transitory modification of references to “adult placement service” in definitions of “care home service” and “domiciliary support service”**

7. Until the coming into force of section 2(1)(f) of the Act—

(a) paragraph 1(2)(e) of Schedule 1 to the Act is to be read as if, for the phrase “providing accommodation for an adult arranged as part of an adult placement service” there were substituted “where accommodation is provided by an adult placement carer approved by an adult placement scheme provider who is registered under Part 2 of the Care Standards Act 2000”;

(b) paragraph 8(2)(b)(i) of Schedule 1 to the Act is to be read as if, for the phrase “accommodation arranged as part of an adult placement service is provided” there were substituted “accommodation is provided by an adult placement carer approved by an adult placement scheme provider who is registered under Part 2 of the Care Standards Act 2000”.

### **Transitory modification of sections 189 to 191 of the Social Services and Well-being (Wales) Act 2014**

8.—(1) Until the coming into force of paragraphs (d) to (g) of section 2(1) of the Act, and in the circumstances set out in paragraph (2), sections 189 to 191 of the Social Services and Well-being (Wales) Act 2014(4) are to be read as if the amendments to those sections made by paragraphs 33 to 35 of Schedule 3 to the Act had not been made.

(1) O.S. 2015/1988 (Cy. 298).

(2) O.S. 2011/105 (Cy. 24).

(3) Mae Rheoliadau Cartrefi Gofal (Cymru) 2002 wedi eu diwygio gan O.S. 2003/947 (Cy. 128), O.S. 2003/1004 (Cy. 144), O.S. 2004/1314 (Cy. 159), O.S. 2006/3251 (Cy. 295) ac O.S. 2011/1016 (Cy. 153). Mae Rheoliadau Cartrefi Plant (Cymru) 2002 wedi eu diwygio gan O.S. 2006/3251 (Cy. 295), O.S. 2007/311 (Cy. 28) ac O.S. 2017/51 (Cy. 22). Mae Rheoliadau Asiantaethau Gofal Cartref (Cymru) 2004 wedi eu diwygio gan O.S. 2006/3251 (Cy. 295) ac O.S. 2013/225 (Cy. 22).

(4) 2014 dccc 4.

(1) S.I. 2015/1988 (W. 298).

(2) S.I. 2011/105 (W. 24).

(3) The Care Homes (Wales) Regulations 2002 have been amended by S.I. 2003/947 (W. 128), S.I. 2003/1004 (W. 144), S.I. 2004/1314 (W. 159), S.I. 2006/3251 (W. 295) and S.I. 2011/1016 (W. 153). The Children's Homes (Wales) Regulations 2002 have been amended by S.I. 2006/3251 (W. 295), S.I. 2007/311 (W. 28) and S.I. 2017/51 (W. 22). The Domiciliary Care Agencies (Wales) Regulations 2004 have been amended by S.I. 2006/3251 (W. 295) and S.I. 2013/225 (W. 22).

(4) 2014 anaw 4.

(2) Yr amgylchiadau y cyfeirir atynt ym mharagraff (1) yw bod y methiant busnes yn ymwneud â gwasanaeth o fath a bennir ym mharagraffau (d) i (g) o adran 2(1) o'r Ddeddf a bod y gwasanaeth o fath sy'n parhau i gael ei reoleiddio fel sefydliad neu asiantaeth o dan Ran 2 o Ddeddf 2000.

### **Addasiad trosiannol i'r Ddeddf mewn perthynas â darparwyr DSG y mae rheoleiddio yn parhau ar eu cyfer o dan Ddeddf 2000**

9.—(1) Pan fo Gweinidogion Cymru yn defnyddio mesurau gorfodi yn erbyn darparwr DSG mewn cysylltiad â gwasanaeth trosiannol o dan Ddeddf 2000 yn ystod y cyfnod trosiannol, mae gofynion adran 7(1) a (2) o'r Ddeddf mewn perthynas â'r cais wedi eu haddasu fel nad yw'n ofynnol i Weiniogion Cymru ganiatáu neu wrthod y cais mewn cysylltiad â'r man sy'n ddarostyngedig i'r mesurau gorfodi hyd nes bod unrhyw broses sy'n ymwneud â'r mesur gorfodi ei chwblhau.

(2) At ddibenion paragraff (1) mae cwblhau mesur gorfodi yn cynnwys—

- (a) terfyn unrhyw amser a ganiateir ar gyfer cyflwyno sylwadau o dan adran 17 o Ddeddf 2000;
- (b) terfyn unrhyw amser a ganiateir ar gyfer dwyn apêl o dan adran 21 o Ddeddf 2000; neu
- (c) y cyfnod hyd nes y penderfynir ar unrhyw apêl o'r fath neu y rhoddir y gorau iddi.

(3) Yn yr erthygl hon, ystyr “mesurau gorfodi” yw—

- (a) dyroddi hysbysiad o gynnig o dan adran 17(4)(a) o Ddeddf 2000 neu hysbysiad o benderfyniad yn dilyn cynnig o dan yr adran honno;
- (b) atal dros dro o dan adran 14A o Ddeddf 2000;
- (c) cais i ganslo ar frys o dan adran 20A o Ddeddf 2000.

### **Darpariaeth ar gyfer ceisiadau o dan Ddeddf 2000 sydd wrthi'n cael eu penderfynu ar y prif ddiwrnod penodedig**

10. Pan na fo Gweinidogion Cymru, ar y prif ddiwrnod penodedig, wedi cwblhau'r penderfyniad ar gais i gofrestru o dan adran 12 o Ddeddf 2000 fel darparwr sefydliad perthnasol neu asiantaeth berthnasol a chafwyd y cais cyn 1 Chwefror 2018, cânt drin y cais fel pe bai'n un a wnaed o dan adran 6 o'r Ddeddf a chânt ofyn am unrhyw wybodaeth bellach sy'n ofynnol gan adran 6, neu gan Reoliadau Gwasanaethau Rheoleiddiedig (Cofrestru) (Cymru) 2017(1), er mwyn eu galluogi i benderfynu ar y cais.

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(1) O.S. 2017/1098 (Cy. 278).

(2) The circumstances referred to in paragraph (1) are that the business failure relates to a service of a type specified in paragraphs (d) to (g) of section 2(1) of the Act and that the service is of a type which continues to be regulated as an establishment or agency under Part 2 of the 2000 Act.

### **Transitional modification of the Act in relation to CSA providers for whom regulation continues under the 2000 Act**

9.—(1) Where Welsh Ministers take enforcement measures against a CSA provider in respect of a transition service under the 2000 Act during the transition period, the requirements of section 7(1) and (2) of the Act in relation to the application are modified so that Welsh Ministers are not required to grant or refuse the application in respect of the place which is the subject of the enforcement measures until any process related to the enforcement measure is completed.

(2) For the purposes of paragraph (1) the completion of an enforcement measure includes—

- (a) the expiry of any time allowed for making representations under section 17 of the 2000 Act;
- (b) the expiry of any time allowed for the bringing of an appeal under section 21 of the 2000 Act; or
- (c) the period until any such appeal has been determined or abandoned.

(3) In this article “enforcement measures” means—

- (a) issuing a notice of proposal under section 17(4)(a) of the 2000 Act or a notice of decision following a proposal under that section;
- (b) suspension under section 14A of the 2000 Act;
- (c) an application for urgent cancellation under section 20A of the 2000 Act.

### **Provision for applications under the 2000 Act which are in the process of being determined on the principal appointed day**

10. Where, on the principal appointed day, Welsh Ministers have not completed the determination of an application for registration under section 12 of the 2000 Act as a provider of a relevant establishment or agency and the application was received prior to 1 February 2018, they may treat the application as if it was one made under section 6 of the Act and may require any further information which is required by section 6, or by the Regulated Services (Registration) (Wales) Regulations 2017(1), to enable them to determine the application.

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(1) S.I. 2017/1098 (W. 278).



**Darpariaeth drosiannol mewn perthynas â cheisiadau gan ddarparwyr DSG i amrywio neu ddileu amodau cofrestru yn y cyfnod trosiannol**

11.—(1) Mae'r paragraff hwn yn gymwys pan fo darparwyr DSG, yn ystod y cyfnod trosiannol, yn gwneud cais o dan adran 15(1)(a) o Ddeddf 2000 i amrywio neu ddileu amod cofrestru ar gyfer sefydliad neu asiantaeth sy'n wasanaeth trosiannol.

(2) Pan fo paragraff (1) yn gymwys, er gwaethaf gofynion adran 15(4) (gofyniad i hysbysu ceisydd am benderfyniad i ganiatáu cais) ac adran 17(5) (gofyniad i hysbysu ceisydd am benderfyniad i wrthod cais) o Ddeddf 2000, nid yw'n ofynnol i Weinidogion Cymru benderfynu ar y cais o dan adran 15(1)(a) o Ddeddf 2000 a chânt yn lle hynny ei ystyried fel rhan o gais y darparwr DSG o dan adran 6 o'r Ddeddf.

**Darpariaeth ynghylch rheolwyr sy'n ddarostyngedig i hysbysiad o benderfyniad i ganslo a ddyroddir cyn y prif ddiwrnod penodedig**

12. Pan fo Gweinidogion Cymru wedi dyroddi hysbysiad o benderfyniad i ganslo cofrestrriad rheolwr sefydliad neu asiantaeth o dan adran 19(3) o Ddeddf 2000 a bod y rheolwr, cyn y prif ddiwrnod penodedig, wedi dwyn apêl yn erbyn y penderfyniad o dan adran 21 (apelio i'r Tribiwnlys) o Ddeddf 2000, bydd cofrestrriad y rheolwr yn parhau, at ddibenion yr apêl, hyd nes y penderfynir ar yr apêl neu y rhoddir y gorau iddi.

**Darpariaeth drosiannol sy'n ymwneud â marwolaeth darparwr gwasanaeth**

13.—(1) Mae paragraff (2) yn gymwys—

- (a) pan fo person sydd wedi ei gofrestru o dan Ran 2 o Ddeddf 2000 (sefydliadau ac asiantaethau) mewn cysylltiad â chynnal sefydliad perthnasol neu asiantaeth berthnasol wedi marw cyn y prif ddiwrnod penodedig;
- (b) pan fo Gweinidogion Cymru wedi eu hysbysu yn ysgrifenedig am y farwolaeth honno; ac
- (c) pan fo cynrychiolydd personol, yn union cyn y prif ddiwrnod penodedig, yn cynnal y sefydliad neu'r asiantaeth heb fod wedi ei gofrestru mewn cysylltiad â'r sefydliad neu'r asiantaeth yn unol â—
  - (i) rheoliad 43(3) o Reoliadau Cartrefi Gofal (Cymru) 2002;
  - (ii) rheoliad 39(3) o Reoliadau Cartrefi Plant (Cymru) 2002;

**Transitional provision in relation to applications by CSA providers to vary or remove conditions of registration in the transition period**

11.—(1) This paragraph applies where, during the transition period, a CSA provider makes an application under section 15(1)(a) of the 2000 Act to vary or remove a condition of registration for an establishment or agency which is a transition service.

(2) Where paragraph (1) applies, notwithstanding the requirements of section 15(4) (requirement to notify applicant on decision to grant application) and section 17(5) (requirement to notify applicant of decision to refuse an application) of the 2000 Act, the Welsh Ministers are not required to determine the application under section 15(1)(a) of the 2000 Act and may instead consider it as part of the CSA provider's application under section 6 of the Act.

**Provision about managers subject to notice of decision to cancel issued before the principal appointed day**

12. Where Welsh Ministers have issued a notice of decision to cancel the registration of a manager of an establishment or agency under section 19(3) of the 2000 Act and, before the principal appointed day, the manager has brought an appeal against the decision under section 21 (appeals to the Tribunal) of the 2000 Act, the registration of the manager will continue, for the purposes of the appeal, until the appeal is determined or abandoned.

**Transitional provision relating to the death of a service provider**

13.—(1) Paragraph (2) applies where—

- (a) a person registered under Part 2 of the 2000 Act (establishments and agencies) in respect of the carrying on of a relevant establishment or agency has died before the principal appointed day;
- (b) the Welsh Ministers have been notified in writing of that death; and
- (c) immediately before the principal appointed day a personal representative is carrying on the establishment or agency without being registered in respect of it in accordance with—
  - (i) regulation 43(3) of the Care Homes (Wales) Regulations 2002;
  - (ii) regulation 39(3) of the Children's Homes (Wales) Regulations 2002;



(iii) rheoliad 30(3) o Reoliadau Canolfannau Preswyl i Deuluoedd (Cymru) 2003;

(iv) rheoliad 29(3) o Reoliadau Asiantaethau Gofal Cartref (Cymru) 2004.

(2) Pan fo'r paragraff hwn yn gymwys—

- (a) mae hawlogaeth gan y cynrychiolydd personol i ddarparu gwasanaeth rheoleiddiedig heb fod wedi ei gofrestru mewn cysylltiad ag ef i'r graddau bod hawlogaeth gan y darparwr cofrestredig, yn union cyn ei farwolaeth, i gynnal y gweithgaredd hwnnw mewn sefydliad cofrestredig neu asiantaeth gofrestredig yn rhinwedd ei gofrestrriad o dan Ran 2 o Ddeddf 2000; a
- (b) mae gan y person hawlogaeth o'r fath am y cyfnod a bennir ym mharagraff (3).

(3) Y cyfnod y cyfeirir ato ym mharagraff (2) yw—

- (a) yn ddarostyngedig i baragraff (4), pan fo'r cynrychiolydd personol, cyn y prif ddiwrnod penodedig, wedi cynnal y sefydliad neu'r asiantaeth am lai nag 28 o ddiwrnodau ac nad oes unrhyw estyniad wedi ei ganiatáu i'r cyfnod hwnnw o dan y rheoliadau a bennir ym mharagraff (1)(c), weddill y cyfnod o 28 o ddiwrnodau sy'n dechrau o'r dyddiad pan gymerodd y cynrychiolydd drosodd y gwaith o gynnal y sefydliad neu'r asiantaeth; neu
- (b) pan fo'r cynrychiolydd personol, cyn y prif ddiwrnod penodedig, wedi cael estyniad o dan y rheoliadau a bennir ym mharagraff (1)(c), y cyfnod sy'n gorffen ar y dyddiad y daw'r estyniad hwnnw i ben.

(4) Caiff Gweinidogion Cymru estyn y cyfnod a bennir ym mharagraff (3)(a) am gyfnod pellach o'r fath, nad yw'n hwy na blwyddyn, a rhaid iddynt hysbysu'r cynrychiolydd personol am unrhyw benderfyniad o'r fath yn ysgrifenedig.

(5) Rhaid i gynrychiolydd personol y darparwr cofrestredig ymadawedig sicrhau bod person sydd wedi ei benodi i fod â gofal llawnamser o ddydd i ddydd am ddarparu'r gwasanaeth rheoleiddiedig yn ystod unrhyw gyfnod y bydd yn cynnal y gwasanaeth rheoleiddiedig ynddo, yn unol â'r erthygl hon, heb fod wedi ei gofrestru mewn cysylltiad â'r gwasanaeth hwnnw.

#### **Datgymhwysiad trosiannol o adran 5 o'r Ddeddf ar gyfer darparwyr presennol y tu allan i Gymru sy'n gwneud cais i gofrestru o dan y Ddeddf**

14.—(1) Mae'r erthygl hon yn gymwys i berson sydd, yn union cyn 1 Chwefror 2018, yn darparu gwasanaeth yng Nghymru o fath a fyddai, ar ôl y prif ddiwrnod penodedig, yn ei gwneud yn ofynnol i'r person fod wedi ei gofrestru fel darparwr gwasanaeth cymorth cartref ond nad yw wedi ei gofrestru o dan

(iii) regulation 30(3) of the Residential Family Centres (Wales) Regulations 2003;

(iv) regulation 29(3) of the Domiciliary Care Agencies (Wales) Regulations 2004.

(2) Where this paragraph applies—

- (a) the personal representative is entitled to provide a regulated service without being registered in respect of it to the extent that the registered provider, immediately before his or her death, was entitled to carry on that activity at a registered establishment or agency by virtue of his registration under Part 2 of the 2000 Act; and
- (b) the person is so entitled for the period specified in paragraph (3).

(3) The period referred to in paragraph (2) is—

- (a) subject to paragraph (4), where before the principal appointed day the personal representative has carried on the establishment or agency for less than 28 days and no extension to that period has been granted under the regulations specified in paragraph (1)(c), the remainder of the 28 day period starting from the date on which they took over the carrying on of the establishment or agency; or
- (b) where, before the principal appointed day, the personal representative has been granted an extension under the regulations specified in paragraph (1)(c) the period ending on the date on which that extension expires.

(4) The Welsh Ministers may extend the period specified in paragraph (3)(a) by such further period, not exceeding one year, and must notify any such determination to the personal representative in writing.

(5) The personal representative of the deceased registered provider must ensure a person is appointed to take full-time day to day charge for the provision of the regulated service during any period in which, in accordance with this article, they are carrying on the regulated service without being registered in respect of it.

#### **Transitional disapplication of section 5 of the Act for existing providers located outside Wales applying to register under the Act**

14.—(1) This article applies to a person who, immediately before 1 February 2018, provides a service in Wales of a sort which, after the principal appointed day, would require the person to be registered as the provider of a domiciliary support service but who is not registered under Part 2 of the

Ran 2 o Ddeddf 2000 fel person sy'n cynnal asiantaeth gofal cartref dim ond oherwydd nad yw'r ymgymeriad sy'n darparu'r gwasanaethau, neu'n trefnu bod y gwasanaethau yn cael eu darparu, yng Nghymru.

(2) Pan fo person y mae paragraff (1) yn gymwys iddo yn gwneud cais i gofrestru fel darparwr gwasanaeth cymorth cartref o dan adran 6 o'r Ddeddf cyn 2 Ebrill 2018, nid yw adran 5 o'r Ddeddf yn gymwys i'r person hwnnw o ran y ddarpariaeth o wasanaeth cymorth cartref ar gyfer y manau a bennir yn y cais hyd nes y penderfynir yn derfynol ar y cais.

(3) Mae i'r cyfeiriad ym mharagraff (2) at benderfynu'n derfynol ar gais yr un ystyr ag yn erthygl 4(4) a (5).

### **Cyfnod trosiannol ar gyfer asiantaethau nyrsys y gwneir cais mewn cysylltiad â hwy i gofrestru fel gwasanaeth cymorth cartref**

15. Pan fo person wedi ei gofrestru fel person sy'n cynnal asiantaeth nyrsys o dan Ddeddf 2000 yn union cyn y prif ddiwrnod penodedig a bod yr ardal y mae'r asiantaeth yn darparu gwasanaethau ynddi wedi ei phennu mewn cais a wneir cyn y prif ddiwrnod penodedig o dan adran 6 o'r Ddeddf fel man y mae gwasanaeth cymorth cartref i'w ddarparu mewn perthynas ag ef yna mae'r person i'w drin fel pe bai'r person yn ddarparwr DSG fel—

- (a) bod cyfnod trosiannol o'r prif ddiwrnod penodedig hyd nes y diwrnod pan benderfynir yn derfynol ar y cais o fewn ystyr erthygl 4(5);
- (b) bod erthygl 4(1) yn gymwys yn ystod y cyfnod trosiannol;
- (c) bod erthygl 5 yn gymwys yn ystod y cyfnod trosiannol;
- (d) bod Rheoliadau Asiantaethau Nyrsys (Cymru) 2003(1) yn parhau i fod yn gymwys i'r person yn ystod y cyfnod trosiannol.

2000 Act as a person carrying on a domiciliary care agency merely because the undertaking which provides or arranges the provision of the services is not located in Wales.

(2) Where a person to whom paragraph (1) applies, makes an application to register as the provider of a domiciliary support service under section 6 of the Act before 2 April 2018, section 5 of the Act does not apply to that person as regards the provision of the domiciliary support service for the places specified in the application until the application is finally determined.

(3) Reference in paragraph (2) to an application being finally determined has the same meaning as in article 4(4) and (5).

### **Transition period for nurses agencies in respect of which an application is made to register as a domiciliary support service**

15. Where a person is registered as a person carrying on a nurses agency under the 2000 Act immediately before the principal appointed day and the area in which the agency provides services is specified in an application made before the principal appointed day under section 6 of the Act as a place in relation to which a domiciliary support service is to be provided then the person is to be treated as if the person was a CSA provider so that—

- (a) there is a transition period from the principal appointed day until the day when the application is finally determined within the meaning of article 4(5);
- (b) article 4(1) applies during the transition period;
- (c) article 5 applies during the transition period;
- (d) the Nurses Agencies (Wales) Regulations 2003(1) continue to apply to the person during the transition period.

*Huw Irranca-Davies*

Y Gweinidog Gofal Cymdeithasol a Phlant, o dan awdurdod Ysgrifennydd y Cabinet dros Iechyd a Gwasanaethau Cymdeithasol, un o Weinidogion Cymru  
21 Rhagfyr 2017

Minister for Children and Social Care, under authority of the Cabinet Secretary for Health and Social Services, one of the Welsh Ministers

21 December 2017

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(1) O.S. 2003/2527 (Cy. 242).

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(1) S.I. 2003/2527 (W. 242).

## YR ATODLEN Erthygl 2(3)(h)

Mae'r darpariaethau a ganlyn o Ran 1 o Atodlen 3 i'r Ddeddf yn dod i rym yn unol ag erthygl 2(3)—

- (a) paragraffau 1 i 3,
- (b) paragraff 4(a) a (b),
- (c) paragraff 4(d),
- (d) paragraff 4(g) i (i),
- (e) paragraffau 6 i 11,
- (f) paragraff 16,
- (g) paragraffau 25 i 27,
- (h) paragraff 28(a),
- (i) paragraff 29,
- (j) paragraffau 31 i 36.

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## SCHEDULE Article 2(3)(h)

The following provisions of Part 1 of Schedule 3 to the Act come into force in accordance with article 2(3)—

- (a) paragraphs 1 to 3,
- (b) paragraph 4(a) and (b),
- (c) paragraph 4(d),
- (d) paragraph 4(g) to (i),
- (e) paragraphs 6 to 11,
- (f) paragraph 16,
- (g) paragraphs 25 to 27,
- (h) paragraph 28(a),
- (i) paragraph 29,
- (j) paragraphs 31 to 36.

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