



CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

2005 Rhif 2701 (Cy.190)

2005 No. 2701 (W.190)

**GOFAL CYMDEITHASOL,
CYMRU**

**SOCIAL CARE,
WALES**

Rheoliadau Gwybodaeth
Mabwysiadu a Gwasanaethau
Cyfryngol (Mabwysiadau Cyn-
gychwyn) (Cymru) 2005

The Adoption Information and
Intermediary Services (Pre-
Commencement Adoptions) (Wales)
Regulations 2005

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 gwneud darpariaeth o dan adran 98 o Ddeddf Mabwysiadu a Phlant 2002 ("y Ddeddf") at ddibenion cynorthwyo pobl a fabwysiadwyd cyn 30 Rhagfyr 2005 i gael gwybodaeth am eu mabwysiadu ac i hwyluso cysylltiad rhwng y bobl hynny a'u perthnasau geni drwy wasanaeth cyfryngol. Nodir y drefn ar gyfer datgelu gwybodaeth am fabwysiadu ar ôl 30 Rhagfyr 2005 yn adrannau 56 i 65 o'r Ddeddf. Bydd asiantaeth sy'n ymdrin â dim ond cais am wybodaeth am fabwysiad yr oedd yn asiantaeth fabwysiadu ynghlwm ag ef yn parhau i ymdrin ag ef o dan Reoliadau Asiantaethau Mabwysiadu 1983.

Mae Rhan 1 yn rhoi swyddogaethau newydd i asiantaethau cymorth mabwysiadu cofrestredig ac asiantaethau mabwysiadu ("asiantaethau cyfryngol") sy'n fodlon darparu gwasanaeth cyfryngol o ran mabwysiadu cyn 30 Rhagfyr 2005.

Mae Rhan 2 yn ymdrin yn gyffredinol â cheisiadau am wasanaeth cyfryngol. Caiff asiantaeth gyfryngol gael cais am wasanaeth cyfryngol oddi wrth berson mabwysiedig neu berthynas person mabwysiedig. Caniateir derbyn ceisiadau o ran mabwysiadu ar ôl 12 Tachwedd 1975 ond rhaid rhoi blaenoriaeth i geisiadau mewn perthynas â mabwysiadu cyn y dyddiad hwnnw. Nid yw'n ofynnol i'r asiantaeth gyfryngol fwrw ymlaen â chais os yw o'r farn na fyddai'n briodol gwneud hynny. Mae rheoliad 6 yn nodi'r ffactorau y dylai'r asiantaeth gyfryngol eu hystyried wrth wneud y

These Regulations make provision under section 98 of the Adoption and Children Act 2002 ("the Act") for the purposes of assisting persons adopted before 30 December 2005 to obtain information about their adoption and to facilitate contact between those persons and their birth relatives through an intermediary service. The regime for disclosure of information about adoptions after 30 December 2005 is set out in sections 56 to 65 of the Act. An adoption agency dealing merely with a request for information about an adoption for which it was the adoption agency involved will continue to deal with it under the Adoption Agencies Regulations 1983.

Part 1 confers new functions on registered adoption support agencies and adoption agencies ("intermediary agencies") that are willing to provide an intermediary service in respect of adoptions before 30 December 2005.

Part 2 deals generally with applications for an intermediary service. An intermediary agency may receive an application for an intermediary service from an adopted person or a relative of an adopted person. Applications in respect of adoptions after 12 November 1975 may be accepted but priority must be given to applications in relation to adoptions before that date. The intermediary agency is not required to proceed with an application where it does not consider that it would be appropriate. Regulation 6 sets out the factors that the

penderfyniad hwnnw. Mae rheoliad 7 yn ei gwneud yn ofynnol i'r asiantaeth gyfryngol gael cydsyniad deallus gwrthrych y cais cyn datgelu gwybodaeth amdano a fyddai'n dangos i'r ceisydd pwy ydyw neu a fyddai'n galluogi'r ceisydd i olrhain y gwrthrych hwnnw. Mae rheoliad 8 yn galluogi'r person mabwysiedig i gofrestru fetó gyda'r asiantaeth fabwysiadu briodol mewn perthynas â chais o dan y Rheoliadau hyn. Mae rheoliad 10 yn ei gwneud yn ofynnol i'r asiantaeth gyfryngol ddarparu gwybodaeth am wasanaethau cwnsela a sicrhau gwasanaethau cwnsela mewn perthynas â cheisiadau am wasanaethau cyfryngol. Rhaid i asiantaethau cyfryngol eu hunain roi cymorth a chynorthwy i berson sy'n wrthrych cais os bydd y person yn dewis peidio â thalu am wasanaeth cwnsela.

Mae Rhan 3 yn nodi'r weithdrefn sydd i'w dilyn gan yr asiantaeth gyfryngol wrth brosesu cais. Mae'r camau cyntaf yn cynnwys cadarnhau oedran a hunaniaeth y ceisydd a sefydlu ei fod yn perthyn i'r gwrthrych. Yna, dylai'r asiantaeth gyfryngol nodi'r asiantaeth fabwysiadu sy'n dal y cofnodion sy'n ymwneud â'r mabwysiad, gan geisio cynorthwy pan fo'n briodol oddi wrth y Cofrestrydd Cyffredinol a'r llys. Yna, dylai gysylltu â'r asiantaeth i gael gwybod a gofrestrwyd fetó ac i geisio ei barn ar y cais ac i geisio unrhyw wybodaeth sy'n angenrheidiol i olrhain gwrthrych y cais (rheoliad 12). Os na fu asiantaeth fabwysiadu ynghlwm, caiff yr asiantaeth gyfryngol ofyn am ar yr wybodaeth honno oddi wrth y Cofrestrydd Cyffredinol a allai fod o gymorth wrth brosesu'r cais (rheoliad 13). Mae rheoliadau 14 a 15 yn ei gwneud yn ofynnol i'r Cofrestrydd Cyffredinol ac i'r llys ddarparu gwybodaeth pan ofynnir iddynt amdani. Mae rheoliad 16 yn awdurdodi datgeliadau penodol at ddibenion prosesu cais o dan y Rheoliadau hyn.

Mae Rhan 5 yn ymwneud â materion amrywiol. Mae rheoliad 17 yn creu tramgwydd o ddatgelu gwybodaeth yn groes i reoliad 8. Mae rheoliad 18 yn darparu ar gyfer ffoedd y gellir eu codi gan asiantaethau cyfryngol, asiantaethau mabwysiadu a'r Cofrestrydd Cyffredinol mewn perthynas â cheisiadau o dan y Rheoliadau hyn.

intermediary agency should take into account in making that decision. Regulation 7 requires the intermediary agency to obtain the informed consent of the subject of the application before disclosing information that would identify the person to the applicant or enable the person to be traced. Regulation 8 enables the adopted person to register a veto with the appropriate adoption agency in relation to an application under these Regulations. Regulation 10 requires the intermediary agency to provide information about counselling and to secure counselling services in relation to applications for intermediary services. Intermediary agencies must themselves provide support and assistance to a person who is the subject of an application if the person chooses not to pay for a counselling service.

Part 3 sets out the procedure to be followed by the intermediary agency in processing an application. The first steps include confirming the age and identity of the applicant and establishing that he is related to the subject. The intermediary agency should then identify the adoption agency that holds the records relating to the adoption, seeking assistance where appropriate from the Registrar General and the court. It should then contact that agency to find out if a veto has been registered and to seek its views on the application and to seek such information as may be necessary to trace the subject of the application (regulation 12). Where no adoption agency was involved, the intermediary agency may seek such information from the Registrar General as may assist in processing the application (regulation 13). Regulation 14 and 15 require the Registrar General and the court to provide information when requested. Regulation 16 authorises certain disclosures for the purpose of processing an application under these Regulations.

Part 5 deals with miscellaneous matters. Regulation 17 creates an offence of disclosure of information in contravention of regulation 8. Regulation 18 provides for fees that may be charged by intermediary agencies, adoption agencies and the Registrar General in relation to applications under these Regulations.

2005 Rhif 2701 (Cy.190)

2005 No. 2701 (W.190)

**GOFAL CYMDEITHASOL,
CYMRU**

**SOCIAL CARE,
WALES**

Rheoliadau Gwybodaeth
Mabwysiadu a Gwasanaethau
Cyfryngol (Mabwysiadau Cyn-
gychwyn) (Cymru) 2005

The Adoption Information and
Intermediary Services (Pre-
Commencement Adoptions) (Wales)
Regulations 2005

Wedi'u gwneud 27 Medi 2005
Yn dod i rym 30 Rhagfyr 2005

Made 27 September 2005
Coming into force 30 December 2005

TREFN Y RHEOLIADAU

ARRANGEMENT OF REGULATIONS

RHAN 1

PART 1

CYFLWYNIAD

INTRODUCTORY

1. Enwi, cychwyn a chymhwyso
2. Dehongli

1. Title, commencement and application
2. Interpretation

RHAN 2

PART 2

DARPARU GWASANAETHAU
CYFRYNGOL

PROVISION OF INTERMEDIARY
SERVICES

3. Asiantaethau sy'n cael darparu gwasanaethau cyfryngol
4. Ystyr "gwasanaeth cyfryngol" ac "asiantaeth gyfryngol"

3. Agencies that may provide intermediary services
4. Meaning of "intermediary service" and "intermediary agency"

RHAN 3

PART 3

CEISIADAU AM WASANAETH
CYFRYNGOL

APPLICATIONS FOR AN INTERMEDIARY
SERVICE

5. Blaenoriaeth i fabwysiadau cyn 1976
6. Dim rhwymedigaeth i fwrw ymlaen os nad yw'n briodol
7. Cydsyniad y gwrthrych i ddatgelu etc.
8. Feto gan berson mabwysiedig
9. Darparu gwybodaeth gefndir pan fo cydsyniad yn cael ei wrthod etc.
10. Cwnsela

5. Priority for adoptions before 1976
6. No obligation to proceed if not appropriate
7. Consent of subject to disclosure etc.
8. Veto by an adopted person
9. Provision of background information where consent refused etc.
10. Counselling

RHAN 4

Y WEITHDREFN AR GYFER CEISIADAU

11. Y weithdrefn pan geir cais
12. Cysylltu â'r asiantaeth fabwysiadu briodol
13. Cael gwybodaeth oddi wrth y Cofrestrydd Cyffredinol
14. Y Cofrestrydd Cyffredinol i gydymffurfio â'r cais
15. Y llys i gydymffurfio â'r cais
16. Datgeliadau awdurdodedig

RHAN 5

AMRYWIOL

17. Tramgwydd
18. Ffioedd

Mae Cynulliad Cenedlaethol Cymru, drwy arfer y pwerau a roddwyd iddo gan adran 2(6), 9, 98 a 144(2) o Ddeddf Mabwysiadu a Phlant 2002(1) a chyda chymeradwyaeth Canghellor y Trysorlys i'r graddau y mae'n ofynnol o dan adran 98(6), drwy hyn yn gwneud y Rheoliadau a ganlyn.

RHAN 1 CYFLWYNIAD

Enwi, cychwyn a chymhwyso

1.-(1) Enw'r Rheoliadau hyn yw Rheoliadau Gwybodaeth Mabwysiadu a Gwasanaethau Cyfryngol (Mabwysiadau Cyn-gychwyn) (Cymru) 2005 a deuant i rym ar 30 Rhagfyr 2005.

(2) Mae'r Rheoliadau hyn yn gymwys o ran Cymru.

Dehongli

2. Yn y Rheoliadau hyn-

ystyr "asiantaeth cymorth mabwysiadu cofrestredig" ("*registered adoption support agency*") yw asiantaeth cymorth mabwysiadu y mae person wedi'i gofrestru mewn cysylltiad â hi

(1) 2002 p.38. Mae'r pwerau hyn yn arferadwy gan y Gweinidog priodol, a ddiffinnir yn adran 144(1) o'r Ddeddf o ran Lloegr, fel yr Ysgrifennydd Gwladol, o ran Cymru fel Cynulliad Cenedlaethol Cymru ac o ran Cymru a Lloegr, fel Cynulliad Cenedlaethol Cymru a'r Ysgrifennydd Gwladol yn gweithredu ar y cyd.

PART 4

PROCEDURE FOR APPLICATIONS

11. Procedure on receipt of application
12. Contacting the appropriate adoption agency
13. Obtaining information from Registrar General
14. Registrar General to comply with request
15. Court to comply with request
16. Authorised disclosures

PART 5

MISCELLANEOUS

17. Offence
18. Fees

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 2(6), 9, 98 and 144(2) of the Adoption and Children Act 2002(1) and with the approval of the Chancellor of the Exchequer in so far as it is required under section 98(6), hereby makes the following Regulations.

PART 1 INTRODUCTORY

Title, commencement and application

1.-(1) The title of these Regulations is the Adoption Information and Intermediary Services (Pre-Commencement Adoptions) (Wales) Regulations 2005 and shall come into force on 30 December 2005.

(2) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations-

"the 2002 Act" ("*Deddf 2002*") means the Adoption and Children Act 2002;

"the applicant" ("*y ceisydd*") means an adopted

(1) 2002 c.38. These powers are exercisable by the appropriate Minister, who is defined in section 144(1) of the Act in relation to England, as the Secretary of State, in relation to Wales as the National Assembly for Wales and in relation to England and Wales, as the Secretary of State and the National Assembly for Wales acting jointly.

dan Ran 2 o Ddeddf Safonau Gofal 2000(1);

mae i "yr asiantaeth fabwysiadu briodol" ("*the appropriate adoption agency*") yr un ystyr â "the appropriate adoption agency" yn adran 65(1) o Ddeddf 2002;

ystyr "y ceisydd" ("*the applicant*") yw person mabwysiedig neu berthynas person mabwysiedig sy'n gwneud cais o dan reoliad 5;

ystyr "Deddf 2002" ("*the 2002 Act*") yw Deddf Mabwysiadu a Phlant 2002;

mae i "gwasanaeth cyfryngol" ("*intermediary service*") ac "asiantaeth gyfryngol" ("*intermediary agency*") yr ystyron a roddir iddynt yn rheoliad 4;

ystyr "gwrthrych" ("*subject*") mewn perthynas â chais o dan y Rheoliadau hyn yw person y mae'r ceisydd yn gofyn am gyswllt ag ef;

mae i "gwybodaeth adnabod" ("*identifying information*") yr ystyr a roddir iddo yn rheoliad 7; ac

mae i "perthynas" yr un ystyr â "relative" o ran person mabwysiedig yn adran 98 o Ddeddf 2002.

person or a relative of an adopted person who makes an application under regulation 5;

"the appropriate adoption agency" ("*yr asiantaeth fabwysiadu briodol*") has the same meaning as in section 65(1) of the 2002 Act;

"identifying information" ("*gwybodaeth adnabod*") has the meaning given in regulation 7;

"intermediary service" ("*gwasanaeth cyfryngol*") and "intermediary agency" ("*asiantaeth gyfryngol*") have the meanings given in regulation 4;

"registered adoption support agency" ("*asiantaeth cymorth mabwysiadu cofrestredig*") means an adoption support agency in respect of which a person is registered under Part 2 of the Care Standards Act 2000(1);

"relative" ("*perthynas*") in relation to an adopted person has the same meaning as in section 98 of the 2002 Act;

"subject" ("*gwrthrych*") in relation to an application under these Regulations means a person with whom the applicant seeks contact.

RHAN 2

DARPARU GWASANAETHAU CYFRYNGOL

Asiantaethau sy'n cael darparu gwasanaethau cyfryngol

3.-(1) Caiff asiantaeth cymorth mabwysiadu gofrestredig neu asiantaeth fabwysiadu ddarparu gwasanaeth cyfryngol mewn cysylltiad â phersonau a fabwysiadwyd cyn 30 Rhagfyr 2005.

(2) Ni chaniateir darparu gwasanaeth cyfryngol ond mewn cysylltiad â phersonau a fabwysiadwyd ac a gyrrhaeddodd 18 oed.

(3) Rhaid darparu'r gwasanaeth yn unol â'r Rheoliadau hyn.

(4) Mae gwasanaeth cyfryngol yn wasanaeth cymorth mabwysiadu at ddibenion adran 2(6) o Ddeddf 2002.

Ystyr "gwasanaeth cyfryngol" ac "asiantaeth gyfryngol"

4.-(1) Yn ddarostyngedig i baragraff (3) mae gwasanaeth cyfryngol yn wasanaeth a ddarperir at ddibenion-

PART 2

PROVISION OF INTERMEDIARY SERVICES

Agencies that may provide intermediary services

3.-(1) A registered adoption support agency or an adoption agency may provide an intermediary service in respect of persons adopted before 30 December 2005.

(2) An intermediary service may only be provided in respect of adopted persons who have attained the age of 18.

(3) The service must be provided in accordance with these Regulations.

(4) An intermediary service is an adoption support service for the purposes of section 2(6) of the 2002 Act.

Meaning of "intermediary service" and "intermediary agency"

4.-(1) Subject to paragraph (3) an intermediary service is a service provided for the purpose of-

(1) 2000 p.14.

(1) 2000 c.14.

- (a) cynorthwyo personau mabwysiedig i gael gwybodaeth mewn perthynas â'u mabwysiad; a
- (b) hwyluso cyswllt rhwng y personau hynny a'u perthnasau.

(2) Cyfeirir at asiantaeth cymorth mabwysiadu gofrestredig neu asiantaeth fabwysiadu sy'n darparu gwasanaeth cyfryngol yn y Rheoliadau hyn fel "asiantaeth gyfryngol".

(3) Nid yw asiantaeth fabwysiadu yn darparu gwasanaeth cyfryngol at ddibenion y Rheoliadau hyn os hi yw'r asiantaeth fabwysiadu briodol mewn perthynas â pherson a fabwysiadwyd ac os nad yw hi ond yn darparu gwybodaeth am fabwysiad y person hwnnw.

- (a) assisting adopted persons to obtain information in relation to their adoption; and
- (b) facilitating contact between such persons and their relatives.

(2) A registered adoption support agency or an adoption agency that provides an intermediary service is referred to in these Regulations as an "intermediary agency".

(3) An adoption agency does not provide an intermediary service for the purposes of these Regulations if it is the appropriate adoption agency in relation to an adopted person and only provides information about that person's adoption.

RHAN 3

CEISIADAU AM WASANAETH CYFRYNGOL

Blaenoriaeth i fabwysiadau cyn 1976

5.-(1) Caiff asiantaeth gyfryngol, mewn perthynas â mabwysiad ar 30 Rhagfyr 2005, neu cyn hynny, dderbyn cais -

- (a) oddi wrth y person mabwysiedig am gynorthwy i gael gwybodaeth am ei fabwysiad ac i gysylltu â pherthynas; neu
- (b) oddi wrth berthynas y person mabwysiedig am gynorthwy i gysylltu â'r person hwnnw.

(2) Caiff asiantaeth gyfryngol dderbyn cais mewn perthynas â mabwysiad ar 12 Tachwedd 1975 neu ar ôl hynny, ond rhaid iddi roi blaenoriaeth i geisiadau mewn cysylltiad â mabwysiadau cyn y dyddiad hwnnw.

(3) Mewn ceisiadau o dan baragraff (1) a (2) uchod, rhaid i'r ceisydd a'r person y mae'r ceisydd yn ceisio cyswllt ag ef, neu'r person y mae'n ceisio gwybodaeth amdano, fod yn 18 oed neu'n hŷn.

Dim rhwymedigaeth i fwrw ymlaen os nad yw'n briodol

6.-(1) Nid yw'n ofynnol i asiantaeth gyfryngol sy'n derbyn cais o dan y Rheoliadau hyn fwrw ymlaen ag ef, neu os yw wedi dechrau bwrw ymlaen ag ef, nid yw'n ofynnol iddi barhau ag ef, os yw'r asiantaeth gyfryngol o'r farn na fyddai'n briodol gwneud hynny.

(2) Wrth benderfynu a yw'n briodol i fwrw ymlaen (neu ddal ati) gyda chais rhaid i'r asiantaeth gyfryngol roi ystyriaeth i'r canlynol-

- (a) lles -
 - (i) y ceisydd;
 - (ii) y gwrthrych; a

PART 3

APPLICATIONS FOR AN INTERMEDIARY SERVICE

Priority for adoptions before 1976

5.-(1) An intermediary agency may, in relation to an adoption on or before 30 December 2005, accept an application-

- (a) from the adopted person for assistance in obtaining information about that person's adoption and contacting a relative; or
- (b) from a relative of the adopted person for assistance in contacting that person.

(2) An intermediary agency may accept an application in relation to an adoption on or after 12 November 1975 but must give priority to applications in respect of adoptions before that date.

(3) In applications under paragraph (1) and (2) above, the applicant and the person with whom the applicant seeks contact, or about whom he or she seeks information, must be aged 18 or over.

No obligation to proceed if not appropriate

6.-(1) An intermediary agency that accepts an application under these Regulations is not required to proceed with it, or having begun to proceed with it, is not required to continue, if the intermediary agency considers it would not be appropriate to do so.

(2) In deciding whether it is appropriate to proceed (or continue proceeding) with an application the intermediary agency must have regard to-

- (a) the welfare of -
 - (i) the applicant;
 - (ii) the subject; and

- (iii) unrhyw bersonau eraill y mae'n bosibl eu hadnabod neu eu heffeithio o ganlyniad i'r cais;
- (b) unrhyw farn gan yr asiantaeth fabwysiadu briodol a gafwyd o dan reoliad 12;
- (c) unrhyw feto a gofnodir o dan reoliad 8;
- (ch) unrhyw wybodaeth a geir oddi wrth y Gofrestr Cyswllt Mabwysiadu o dan reoliad 13,

a holl amgylchiadau eraill yr achos.

(3) Mewn perthynas ag unrhyw benderfyniad o dan baragraff (2) rhaid i'r asiantaeth gyfryngol roi ystyriaeth arbennig i les unrhyw berson a grybwyllir ym mharagraff (2)(a)(iii) sydd o dan 18 oed.

(4) Os yw'r asiantaeth gyfryngol ar unrhyw adeg yn cael gwybod bod gwrthych y cais o dan 18 oed rhaid iddi beidio â bwrw ymlaen ymhellach â'r cais mewn perthynas â'r gwrthych hwnnw.

Cydsyniad y gwrthrych i ddatgelu etc.

7.-(1) Rhaid i asiantaeth gyfryngol beidio â datgelu i'r ceisydd unrhyw wybodaeth adnabod am y gwrthrych heb yn gyntaf gael cydsyniad y gwrthrych.

(2) Rhaid i'r asiantaeth gymryd pob cam rhesymol i sicrhau bod gan unrhyw berson y mae'n ofynnol cael ei gydsyniad i ddatgelu o dan y rheoliad hwn ddigon o wybodaeth i alluogi iddo wneud penderfyniad deallus ynghylch cydsynio i unrhyw ddatgeliad o'r fath.

(3) Os yw'r gwrthrych wedi marw neu os yw'r asiantaeth gyfryngol yn penderfynu nad yw'r gwrthrych yn alluog i roi cydsyniad deallus, caiff yr asiantaeth gyfryngol ddatgelu yr wybodaeth adnabod honno am y gwrthrych yr ystyria ei bod yn briodol o ystyried y materion a nodir yn rheoliad 6.

(4) Yn y rheoliad hwn ac yn rheoliadau 9 a 12, ystyr "gwybodaeth adnabod" yw gwybodaeth sydd, o'i chymryd ar ei phen ei hun neu ynghyd â gwybodaeth arall sydd ym meddiant y ceisydd, yn galluogi i'r gwrthrych gael adnabod neu'i olrhain.

Feto gan berson mabwysiedig

8.-(1) Mae feto yn gymwys mewn perthynas â chais o dan y Rheoliadau hyn-

- (a) pan fo'r person yn berson mabwysiedig; a
- (b) pan fo'r person hwnnw wedi hysbysu'r asiantaeth fabwysiadu briodol yn ysgrifenedig-
 - (i) nad yw'n dymuno i asiantaeth gyfryngol gysylltu ag ef mewn perthynas â chais o dan y Rheoliadau hyn; neu
 - (ii) nad yw ond yn dymuno bod cyswllt yn cael ei wneud ag ef o dan amgylchiadau penodedig neu gan bersonau penodedig.

(2) Pan hysbysir yr asiantaeth fabwysiadu briodol

- (iii) any other persons who may be identified or otherwise affected by the application;
- (b) any views of the appropriate adoption agency obtained under regulation 12;
- (c) any veto recorded under regulation 8;
- (d) any information obtained from the Adoption Contact Register under regulation 13,

and all the other circumstances of the case.

(3) In relation to any decision under paragraph (2) the intermediary agency must have particular regard to the welfare of any person mentioned in paragraph (2)(a)(iii) who is under the age of 18.

(4) If at any time the intermediary agency ascertains that the subject of an application is under the age of 18 it must not proceed further with the application in relation to that subject.

Consent of subject to disclosure etc.

7.-(1) An intermediary agency must not disclose any identifying information about the subject to the applicant without first obtaining the consent of the subject.

(2) The agency must take all reasonable steps to ensure that any person whose consent to disclosure is required under this regulation has enough information to enable that person to make an informed decision as to whether to give consent to any such disclosure.

(3) If the subject has died or the intermediary agency determines that he or she is incapable of giving informed consent, the intermediary agency may disclose such identifying information about the subject as it considers appropriate taking into consideration the matters set out in regulation 6.

(4) In this regulation and in regulations 9 and 12, "identifying information" means information which, whether taken on its own or together with other information possessed by the applicant, enables the subject to be identified or traced.

Veto by an adopted person

8.-(1) A veto applies in relation to an application under these Regulations where-

- (a) the subject is the adopted person; and
- (b) that person has notified the appropriate adoption agency in writing that-
 - (i) he or she does not wish to be contacted by an intermediary agency in relation to an application under these Regulations; or
 - (ii) that he or she only wishes to be contacted under specified circumstances or by specified persons.

(2) Where the appropriate adoption agency is notified

am feto o dan baragraff (1) rhaid iddi gadw cofnod ohono a sicrhau ei bod yn hysbys i unrhyw asiantaeth gyfryngol sy'n cysylltu â hi mewn perthynas â chais o dan y Rheoliadau hyn.

(3) Pan fo asiantaeth gyfryngol yn ymwybodol bod feto yn gymwys, rhaid iddi beidio â bwrw ymlaen â'r cais.

Darparu gwybodaeth gefndir pan fo cydsyniad yn cael ei wrthod etc.

9. Mewn achos pan wrthodir cydsyniad y gwrthrych neu pan na ellir cael ei gydsyniad o dan reoliad 7 neu pan fo feto yn gymwys o dan reoliad 8, nid oes dim yn y rheoliadau hynny yn atal yr asiantaeth gyfryngol rhag datgelu i'r ceisydd unrhyw wybodaeth am y gwrthrych nad yw'n wybodaeth adnabod a bod yr asiantaeth yn ei hystyried yn briodol i'w datgelu.

Cwmsela

10.-(1) Rhaid i asiantaeth gyfryngol ddarparu gwybodaeth ysgrifenedig am argaeledd cwmsela i unrhyw berson-

- (a) sy'n gwneud cais iddi o dan y Rheoliadau hyn; neu
- (b) sy'n wrthrych cais o'r fath ac sy'n ystyried cydsynio i ddatgelu gwybodaeth amdano i'r ceisydd.

(2) Rhaid i'r wybodaeth a roddir o dan baragraff (1) gynnwys-

- (a) disgrifiadau o bersonau sy'n cynnig cwmsela; a
- (b) y ffioedd y gellir eu codi gan y personau hynny.

(3) Os yw person a grybwyllir ym mharagraff (1) yn gofyn am gael cwmsela, rhaid i'r asiantaeth gyfryngol sicrhau bod gwasanaethau cwmsela yn cael eu darparu i'r person hwnnw.

(4) Caiff yr asiantaeth gyfryngol ddarparu'r gwasanaethau cwmsela hynny eu hunan neu wneud trefniadau ag unrhyw un o'r personau canlynol am ddarpariaeth cwmsela-

- (a) os yw'r person yng Nghymru neu yn Lloegr, asiantaeth fabwysiadu arall neu asiantaeth cymorth mabwysiadu gofrestrdedig arall;
- (b) os yw'r person yn yr Alban, asiantaeth fabwysiadu Albanaidd;
- (c) os yw'r person yng Ngogledd Iwerddon, cymdeithas fabwysiadu a gofrestrwyd o dan Erthygl 4 o Orchymyn Mabwysiadu (Gogledd Iwerddon) 1987(1) neu oddi wrth unrhyw Fwrdd; neu
- (ch) os yw'r person y tu allan i'r Deyrnas Unedig, unrhyw berson neu gorff y tu allan i'r Deyrnas Unedig y mae'n ymddangos i'r asiantaeth ei

of a veto under paragraph (1) it must keep a record of it and ensure that it is made known to any intermediary agency that contacts it in relation to an application under these Regulations.

(3) Where an intermediary agency is aware that a veto applies, it must not proceed with the application.

Provision of background information where consent refused etc.

9. In a case where the consent of the subject is refused or cannot be obtained under regulation 7 or a veto applies under regulation 8, nothing in those regulations prevents the intermediary agency from disclosing to the applicant any information about the subject that is not identifying information and that the agency considers it appropriate to disclose.

Counselling

10.-(1) An intermediary agency must provide written information about the availability of counselling to any person who-

- (a) makes an application to it under these Regulations; or
- (b) is the subject of such an application and is considering whether to consent to disclosure of information about the subject to the applicant.

(2) The information provided under paragraph (1) must include-

- (a) descriptions of persons offering counselling; and
- (b) fees that may be charged by such persons.

(3) If a person mentioned in paragraph (1) requests counselling, the intermediary agency must secure the provision of counselling services for that person.

(4) The intermediary agency may provide such counselling services itself or make arrangements with any of the following persons for the provision of counselling-

- (a) if the person is in Wales or England, another adoption agency or registered adoption support agency;
- (b) if the person is in Scotland, a Scottish adoption agency;
- (c) if the person is in Northern Ireland, an adoption society which is registered under Article 4 of the Adoption (Northern Ireland) Order 1987(1) or from any Board;
- (d) if the person is outside the United Kingdom, any person or body outside the United Kingdom who appears to the agency to correspond in its

(1) O.S. 1987/2203 (G.I. 22).

(1) S.I. 1987/2203 (N.I. 22).

fod yn cyfateb o ran ei swyddogaethau i gorff a grybwyllir ym mharagraffau (a) i (c).

(5) Yn y rheoliad hwn-

ystyr "Bwrdd" yw Bwrdd Iechyd a Gwasanaethau Cymdeithasol a sefydlwyd o dan Erthygl 16 o Orchymyn Iechyd a Gwasanaethau Cymdeithasol (Gogledd Iwerddon) 1972(1) neu pan fo swyddogaethau bwrdd yn arferadwy gan Ymddiriedolaeth Iechyd a Gwasanaethau Cymdeithasol, yr Ymddiriedolaeth honno.

(6) Pan nad yw gwasanaethau cwnsela ar gael i wrthrych heblaw gwasanaethau y mae'n rhaid talu amdanynt ac mae'r gwrthrych yn dewis peidio â'u defnyddio, er hynny rhaid i'r asiantaeth gyfryngol ddarparu cymorth a chynorthwy i'r gwrthrych wrth iddo benderfynu ynghylch cydsynio i ddatgelu gwybodaeth.

RHAN 4

Y WEITHDREFN AR GYFER CEISIADAU

Y weithdrefn pan geir cais

11. Pan gaiff asiantaeth gyfryngol gais o dan y Rheoliadau hyn, rhaid iddi gymryd camau rhesymol i gadarnhau-

- (a) hunaniaeth ac oedran y ceisydd a hunaniaeth unrhyw berson sy'n gweithredu ar ei ran;
- (b) bod unrhyw berson sy'n gweithredu ar ran y ceisydd wedi'i awdurdodi i wneud hynny; ac
- (c) yn achos cais gan berthynas i'r person mabwysiedig bod y ceisydd yn perthyn i'r person hwnnw.

Cysylltu â'r asiantaeth fabwysiadu briodol

12.-(1) Rhaid i'r asiantaeth gyfryngol (onibai mai hi yw'r asiantaeth fabwysiadu briodol) gymryd pob cam rhesymol i sefydlu a oedd asiantaeth fabwysiadu ynghlwm wrth y mabwysiad ac, os felly, adnabod yr asiantaeth fabwysiadu briodol.

(2) Mae'r camau y cyfeirir atynt ym mharagraff (1) yn cynnwys-

- (a) gofyn yn ysgrifenedig am yr wybodaeth honno oddi wrth y Cofrestrydd Cyffredinol;
- (b) os bydd y Cofrestrydd Cyffredinol yn ardystio nad yw'r wybodaeth honno ganddo, gofyn amdani yn ysgrifenedig i'r llys a wnaeth y gorchymyn mabwysiadu; ac

functions to a body mentioned in paragraphs (a) to (c).

(5) In this regulation-

"Board" means a Health and Social Services Board established under Article 16 of the Health and Social Services (Northern Ireland) Order 1972(1) or where the functions of a board are exercisable by a Health and Social Services Trust, that Trust.

(6) Where the only counselling services available to a subject are services for which a fee is payable and the subject chooses not to take them up, the intermediary agency must nevertheless provide support and assistance to the subject in deciding whether to consent to the disclosure of information.

PART 4

PROCEDURE FOR APPLICATIONS

Procedure on receipt of application

11. The intermediary agency must, on receipt of an application under these Regulations, take reasonable steps to confirm-

- (a) the identity and age of the applicant and the identity of any person acting on the applicant's behalf;
- (b) that any person acting on behalf of the applicant is authorised to do so; and
- (c) in the case of an application by a relative of the adopted person, that the applicant is related to that person.

Contacting the appropriate adoption agency

12.-(1) The intermediary agency must (unless it is the appropriate adoption agency) take all reasonable steps to establish whether an adoption agency was involved in the adoption and, if so, to identify the appropriate adoption agency.

(2) The steps referred to in paragraph (1) include-

- (a) requesting that information in writing from the Registrar General;
- (b) if the Registrar General certifies that he or she does not have that information, requesting it in writing from the court that made the adoption order; and

(1) O.S. 1972/1265 (G.I. 14).

(1) S.I. 1972/1265 (N.I. 14).

(c) holi'r awdurdod lleol ar gyfer yr ardal lle digwyddodd y mabwysiad.

(3) Os cafodd yr asiantaeth fabwysiadu briodol ei hadnabod, rhaid i'r asiantaeth gyfryngol gysylltu â'r asiantaeth honno er mwyn gwybod a oes fetó o dan reoliad 8 yn bodoli.

(4) os nad oes fetó o dan reoliad 8 yn bodoli rhaid i'r asiantaeth gyfryngol -

- (a) cael gwybod a yw'r gwrthrych wedi, ar unrhyw adeg, mynegi barn am gyswllt â pherthynas yn y dyfodol neu am godi pwnc cyswllt o'r fath gydag ef;
- (b) cael gwybod beth yw barn yr asiantaeth ynghylch priodoldeb y cais (gan ystyried y ffactorau a grybwyllir yn rheoliad 6); a
- (c) ceisio unrhyw wybodaeth arall sy'n ofynnol at ddibenion-
 - (i) olrhain y gwrthrych;
 - (ii) galluogi'r gwrthrych i wneud penderfyniad deallus ynghylch cydsynio i ddatgelu gwybodaeth amdano'i hun neu ar gyfer cyswllt â'r ceisydd;
 - (iii) cwmsela'r gwrthrych mewn perthynas â'r penderfyniad hwnnw; neu
 - (iv) cwmsela'r ceisydd.

(5) Onibai bod fetó y cyfeirir ato yn rheoliad 8 yn gymwys, rhaid i'r asiantaeth fabwysiadu briodol gymryd pob cam rhesymol i gydymffurfio â chais oddi wrth asiantaeth gyfryngol o dan baragraff (3) a chaiff ddatgelu i'r asiantaeth gyfryngol unrhyw wybodaeth (gan gynnwys gwybodaeth adnabod) sy'n angenrheidiol at y diben hwnnw.

Cael gwybodaeth oddi wrth y Cofrestrdydd Cyffredinol

13.-(1) Os, yn unrhyw un o'r achosion a grybwyllir ym mharagraff (2), nad yw'r asiantaeth gyfryngol wedi cael oddi wrth yr asiantaeth fabwysiadu briodol ddiagon o wybodaeth at y dibenion a grybwyllir yn rheoliad 12(4)(c), caiff yr asiantaeth fabwysiadu ofyn i'r Cofrestrdydd Cyffredinol am unrhyw wybodaeth am y canlynol a all ei chynorthwyo at y dibenion hynny-

- (a) gwybodaeth y gall fod ganddi a fyddai'n galluogi i gais gael ei wneud am dystysgrif o'r Gofrestr Plant Mabwysiedig;
- (b) gwybodaeth o'r Gofrestr Cyswllt Mabwysiadu.

(2) Yr achosion y cyfeiriwyd atynt ym mharagraff (1) yw-

- (a) pan na all yr asiantaeth gyfryngol adnabod yr asiantaeth fabwysiadu briodol neu pan fydd yn canfod nad oedd dim asiantaeth fabwysiadu ynghlwm wrth y mabwysiad;

(c) making enquiries of the local authority for the area where the adoption took place.

(3) Where the appropriate adoption agency has been identified, the intermediary agency must contact that agency in order to ascertain whether a veto under regulation 8 exists.

(4) If no veto under regulation 8 exists the intermediary agency must -

- (a) ascertain whether the subject has, at any time, expressed views about future contact with a relative or about being approached about such contact;
- (b) ascertain the agency's views as to whether the application is appropriate (having regard to the factors mentioned in regulation 6); and
- (c) seek any other information required for the purposes of-
 - (i) tracing the subject;
 - (ii) enabling the subject to make an informed decision about consent to the disclosure of identifying information about him or her, or to contact with the applicant;
 - (iii) counselling the subject in relation to that decision; or
 - (iv) counselling the applicant.

(5) Unless a veto referred to in regulation 8 applies, the appropriate adoption agency must take all reasonable steps to comply with a request from an intermediary agency under paragraph (3) and may disclose to the intermediary agency such information (including identifying information) as is necessary for that purpose.

Obtaining information from Registrar General

13.-(1) If, in any of the cases mentioned in paragraph (2), the intermediary agency has not obtained from the appropriate adoption agency sufficient information for the purposes mentioned in regulation 12(4)(c), the intermediary agency may request from the Registrar General such of the following information as may assist it for those purposes-

- (a) information that he or she may hold that would enable an application to be made for a certificate from the Adopted Children Register;
- (b) information from the Adoption Contact Register.

(2) The cases mentioned in paragraph (1) are-

- (a) where the intermediary agency is unable to identify the appropriate adoption agency or ascertains that no adoption agency was involved in the adoption;

(b) pan fo'r asiantaeth gyfryngol yn cysylltu â'r asiantaeth fabwysiadu briodol ac yn cael gwybod nad oes ganddi'r wybodaeth angenrheidiol.

(3) Pan fo'r asiantaeth gyfryngol yn asiantaeth fabwysiadu briodol ac nad oes ganddi ddigon o wybodaeth at y dibenion a grybwyllir yn rheoliad 12(4)(c) caiff ofyn i'r Cofrestrydd Cyffredinol am unrhyw wybodaeth a grybwyllir ym mharagraff (1)(a) a(b) a all ei chynorthwyo at y dibenion hynny.

Y Cofrestrydd Cyffredinol i gydymffurfio â'r cais

14.-(1) Rhaid i'r Cofrestrydd Cyffredinol gymryd camau rhesymol i gydymffurfio â chais ysgrifenedig am wybodaeth oddi wrth asiantaeth gyfryngol o dan reoliad 12 neu 13.

(2) Os nad yw'r wybodaeth gan y Cofrestrydd Cyffredinol am yr asiantaeth fabwysiadu briodol o dan reoliad 13 rhaid iddo roi dilysiad ysgrifenedig i'r asiantaeth gyfryngol o'r ffaith honno ynghyd â manylion am y llys a drefnodd y mabwysiad.

Y Llys i gydymffurfio â'r cais

15.-(1) Rhaid i'r llys ddatgelu unrhyw wybodaeth y mae'r asiantaeth gyfryngol yn gofyn amdani o dan reoliad 12(2)(b) a gynhwysir mewn cofnodion llys.

(2) Os nad oes gan y llys yr wybodaeth y gofynnir amdani o dan reoliad 12(2)(b) rhaid iddo hysbysu'r asiantaeth gyfryngol o'r ffaith honno yn ysgrifenedig, gan bennu'r chwiliadau o gofnodion llys a wnaed ac, os yw'r llys o'r farn y gellir dod o hyd i'r wybodaeth yng nghofnodion llys arall, roi manylion y llys hwnnw i'r asiantaeth gyfryngol.

Datgeliadau awdurdodedig

16. Caiff asiantaeth gyfryngol ddatgelu'r wybodaeth honno (gan gynnwys gwybodaeth sy'n gyfrwng adnabod unrhyw berson) sy'n angenrheidiol-

- (a) i'r Cofrestrydd Cyffredinol neu'r llys at ddiben cael gwybodaeth o dan reoliad 12 neu 13;
- (b) i'r asiantaeth fabwysiadu briodol at ddiben cael gwybod ei barn neu geisio gwybodaeth o dan reoliad 12;
- (c) i'r gwrthrych i'w alluogi i wneud penderfyniad deallus o dan reoliad 7; ac
- (ch) i berson sy'n darparu gwasanaethau cwnsela mewn cysylltiad â chais o dan y Rheoliadau hyn.

(b) where the intermediary agency contacts the appropriate adoption agency and ascertains that it does not hold the necessary information.

(3) Where the intermediary agency is the appropriate adoption agency and does not hold sufficient information for the purposes mentioned in regulation 12(4)(c) it may request from the Registrar General such of the information mentioned in paragraph (1)(a) and (b) as may assist it for those purposes.

Registrar General to comply with request

14.-(1) The Registrar General must take reasonable steps to comply with a written request for information from an intermediary agency under regulation 12 or 13.

(2) If the Registrar General does not have the information about the appropriate adoption agency requested under regulation 13 he or she must provide the intermediary agency with written verification of that fact together with details of the court that arranged the adoption.

Court to comply with request

15.-(1) The court must disclose any information requested by the intermediary agency under regulation 12(2)(b) that is contained in court records.

(2) If the court does not have the information requested under regulation 12(2)(b) it must inform the intermediary agency of that fact in writing, specifying the searches made of court records and, if the court considers that the information may be found in the records of another court, provide the intermediary agency with the details of that court.

Authorised disclosures

16. An intermediary agency may disclose such information (including information that identifies any person) as is necessary-

- (a) to the Registrar General or to the court for the purpose of obtaining information under regulation 12 or 13;
- (b) to the appropriate adoption agency for the purposes of ascertaining its views or seeking information under regulation 12;
- (c) to the subject to enable him or her to make an informed decision under regulation 7; and
- (d) to a person providing counselling in connection with an application under these Regulations.

**RHAN 5
AMRYWIOL**

**PART 5
MISCELLANEOUS**

Tramgwydd

17. Mae asiantaeth gyfryngol sy'n datgelu gwybodaeth yn groes i reoliad 7 heb esgus rhesymol yn euog o dramgwydd ac yn agored ar gollfarn i ddirwy nad yw'n fwy na lefel 5 ar y raddfa safonol.

Ffioedd

18.-(1) Caiff asiantaeth gyfryngol godi unrhyw ffi ar geisydd y mae'n penderfynu ei bod yn rhesymol mewn cysylltiad â phrosesu cais o dan y Rheoliadau hyn.

(2) Caiff asiantaeth gyfryngol godi ffi ar berson a grybwyllir yn rheoliad 10(1) y mae'n penderfynu ei bod yn rhesymol o ran darparu gwasanaethau cwnsela i'r person hwnnw.

(3) Caiff y Cofrestrydd Cyffredinol godi £10 am ddarparu gwybodaeth o dan reoliad 13.

(4) Caiff asiantaeth fabwysiadu godi ffi ar asiantaeth gyfryngol y mae'n penderfynu ei bod yn rhesymol ar gyfer darparu gwybodaeth neu roi ei barn yn unol â chais o dan reoliad 12.

(5) Caiff llys godi £20 ar asiantaeth gyfryngol am ddarparu gwybodaeth o dan reoliad 15.

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

27 Medi 2005

Llywydd y Cynulliad Cenedlaethol

(1) 1998 p.38.

© Hawlfraint y Goron 2005

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

W129/10/05

ON

Offence

17. An intermediary agency that discloses information in contravention of regulation 7 without reasonable excuse is guilty of an offence and is liable on conviction to a fine not exceeding level 5 on the standard scale.

Fees

18.-(1) An intermediary agency may charge the applicant any fee it determines is reasonable in connection with the processing of an application under these Regulations.

(2) An intermediary agency may charge a person mentioned in regulation 10(1) such fee as it determines is reasonable in respect of the provision of counselling services for that person.

(3) The Registrar General may charge £10 for providing information under regulation 13.

(4) An adoption agency may charge an intermediary agency such fee as it determines is reasonable for providing information or giving its views in accordance with a request under regulation 12.

(5) A court may charge an intermediary agency £20 for providing information under regulation 15.

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

27 September 2005

The Presiding Officer of the National Assembly

(1) 1998 c.38.

© Crown copyright 2005

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.