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OFFERYNNAU STATUDOL  
CYMRU

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WELSH  
STATUTORY INSTRUMENTS

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**2007 Rhif 2220 (Cy.175)**

**2007 No. 2220 (W.175)**

**ADDYSG, CYMRU**

**EDUCATION, WALES**

**Rheoliadau Personau sy'n Darparu  
Addysg mewn Sefydliadau Addysg  
Bellach yng Nghymru (Amodau)  
2007**

**The Persons Providing Education  
at Further Education Institutions in  
Wales (Conditions) Regulations  
2007**

**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 ei gwneud yn ofynnol bod amodau penodol yn cael eu bodloni o ran personau sy'n darparu addysg mewn sefydliadau addysg bellach yng Nghymru. Mae'r amodau yn ymwneud â gwiriadau y mae'n rhaid eu gwneud a chofrestr y mae'n rhaid ei chadw o ran y personau hynny.

These Regulations require certain conditions to be complied with in respect of persons providing education at further education institutions in Wales. The conditions relate to checks that must be carried out and a register that must be kept in respect of such persons.

Pennir y gwiriadau gofynnol yn rheoliadau 5 a 6 (ar gyfer personau a benodir gan gorff llywodraethu) a rheoliadau 11 -19 (ar gyfer personau a gyflenwir gan fusnes cyflogi).

The required checks are specified in regulations 5 and 6 (for persons appointed by a governing body) and regulations 11 - 19 (for persons supplied by an employment business).

Mae'r gwiriadau yn ymwneud â chadarnhau hunaniaeth y person, ei hawl i weithio yn y Deyrnas Unedig, p'un a yw wedi bodloni'r gofynion cymhwysio perthnasol ai peidio a ph'un a yw'n ddarostyngedig i gyfarwyddyd o dan adran 142 o Ddeddf Addysg 2002 ai peidio. Pan fo'r person yn ymgymryd â'r canlynol yn rheolaidd o ran personau o dan 18: gofalu amdanynt, eu hyfforddi, eu goruchwyllo, neu fod â gofal ar ei ben ei hun amdanynt, mae gwiriad manwl o'r cofnodion troseddol yn ofynnol. Yn ychwanegol at hynny, os bernir nad yw gwiriad manwl o'r cofnodion troseddol yn ddigonol at ddibenion ystyried pa mor addas ydyw i weithio gyda phobl o dan 18 oed, oherwydd bod y person hwnnw wedi byw y tu allan i'r Deyrnas Unedig, rhaid gwneud y gwiriadau y bernir eu bod yn addas gan roi sylw i ganllawiau a ddyroddir gan Weinidogion Cymru.

The checks relate to the verification of the person's identity, their right to work in the United Kingdom, whether they have met the relevant qualification requirements and whether they are subject to a direction under section 142 of the Education Act 2002. Where the person will be regularly caring for, training, supervising or being solely in charge of persons under 18, there is a requirement for an enhanced criminal record check. In addition, if it is considered that by reason of the person having lived outside the United Kingdom, an enhanced criminal record check is not sufficient for the purposes of considering their suitability for a position working with under 18s, further checks as may be considered appropriate must be carried out, having regard to guidance issued by the Welsh Ministers.

Mae person yn esempt rhag y gofyniad i gael gwiriad manwl o'r cofnodion troseddol a, pan fo'n gymwys, gwiriadau pellach y tu allan i'r Deyrnas Unedig, os yw wedi gweithio gyda phobl dan 18 oed mewn ysgol neu sefydliad addysg bellach yng Nghymru o fewn y cyfnod blaenorol o dri mis.

Pan fo person i'w benodi gan gorff llywodraethu'r sefydliad, mae'n ofynnol i'r corff llywodraethu wneud y gwiriadau. Pan fo person yn cael ei gyflenwi gan fusnes cyflogi (gan gynnwys awdurdod lleol) i ddarparu addysg mewn sefydliad, ni chaiff y corff llywodraethu dderbyn y person hwnnw i weithio yn y sefydliad hyd nes i'r corff llywodraethu gael cadarnhad ysgrifenedig oddi wrth y busnes cyflogi bod pob gwiriad perthnasol wedi cael ei wneud. Yn ogystal â hynny, rhaid i'r corff llywodraethu sicrhau bod ei gontract neu'i drefniadau eraill gyda'r busnes cyflogi yn cynnwys darpariaethau sy'n ei gwneud yn ofynnol i'r busnes cyflogi wneud y gwiriadau.

Hefyd, rhaid i gorff llywodraethu sefydliad gadw cofrestr o'r holl bersonau sy'n darparu addysg yn y sefydliad. Rhaid i'r gofrestr ddangos p'un a yw'r gwiriadau a restrir yn yr Atodlen i'r Rheoliadau hyn wedi'u gwneud ai peidio neu p'un a yw'r cadarnhadau ysgrifenedig perthnasol wedi dod i law o ran pob person sy'n darparu addysg ynghyd â'r dyddiadau y gwnaed y gwiriadau neu y cafwyd y cadarnhadau.

A person is exempt from the requirement to have an enhanced criminal record check and, where applicable, further checks outside the United Kingdom, where the person has worked with under 18s in a school or further education institution in Wales within the preceding three-month period.

Where a person is to be appointed by the governing body of the institution, the governing body is required to carry out the checks. Where a person is supplied by an employment business (including a local authority) to provide education at an institution, the governing body must not accept that person to work at the institution until written confirmation has been received from the employment business that all the relevant checks have been carried out. The governing body must also ensure that its contract or other arrangements with the employment business include provisions requiring the employment business to carry out the checks.

The governing body of an institution must also maintain a register of all persons providing education at the institution. The register must show whether the checks listed in the Schedule to these Regulations have been carried out or the relevant written confirmations received in respect of each person providing education and the dates that the checks were completed or confirmations received.

**2007 Rhif 2220 (Cy.175)**

**ADDYSG, CYMRU**

**Rheoliadau Personau sy'n Darparu  
Addysg mewn Sefydliadau Addysg  
Bellach yng Nghymru (Amodau)  
2007**

*Wedi'u gwneud* 26 Gorffennaf 2007

*Wedi'u gosod gerbron Cynulliad  
Cenedlaethol Cymru* 30 Gorffennaf 2007

*Yn dod i rym* 1 Medi 2007

Mae Gweinidogion Cymru drwy arfer y pwerau yn adrannau 136(c), 210(7) a 214 o Ddeddf Addysg 2002(1) yn gwneud y Rheoliadau a ganlyn:

**Enwi, cychwyn a chymhwyso**

1. Enw'r Rheoliadau hyn yw Rheoliadau Personau sy'n Darparu Addysg mewn Sefydliadau Addysg Bellach yng Nghymru (Amodau) 2007 a deuant i rym ar 1 Medi 2007.

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

**Dehongli**

3.-(1) Yn y Rheoliadau hyn-

ystyr "aelod newydd o staff" ("*new member of staff*") yw person sy'n cael cynnig oddi wrth gorff llywodraethu sefydliad addysg bellach ar 1 Medi 2007 neu ar ôl hynny i weithio mewn swydd sy'n darparu addysg yn y sefydliad o dan gontract gwasanaeth neu gontract am wasanaethau gyda'r corff llywodraethu neu mewn modd heblaw o dan gontract ac nid yw'n cynnwys person a gyflenwir gan fusnes cyflogi;

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(1) 2002 p.32; a roddwyd i Gynulliad Cenedlaethol Cymru gan Ddeddf Addysg 2002 ac a drosglwyddwyd i Weinidogion Cymru gan baragraff 30 o Atodlen 11 i Ddeddf Llywodraethu Cymru 2006 (p.32).

**2007 No. 2220 (W.175)**

**EDUCATION, WALES**

**The Persons Providing Education  
at Further Education Institutions in  
Wales (Conditions) Regulations  
2007**

*Made* 26 July 2007

*Laid before the National Assembly  
for Wales* 30 July 2007

*Coming into force* 1 September 2007

The Welsh Ministers in exercise of the powers in sections 136(c), 210(7) and 214 of the Education Act 2002(1) make the following Regulations:

**Title, commencement and application**

1. These Regulations are called the Persons Providing Education at Further Education Institutions in Wales (Conditions) Regulations 2007 and shall come into force on 1st September 2007.

2. These Regulations apply in relation to Wales.

**Interpretation**

3.-(1) In these Regulations-

"central records" ("*cofnodion canolog*") has the meaning given by section 113A of the Police Act 1997(2);

"children's suitability statement" ("*datganiad addasrwydd plant*") has the meaning given by section 113C(2) of the Police Act 1997;

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(1) 2002 c.32; conferred upon the National Assembly for Wales in the Education Act 2002 and transferred to the Welsh Ministers by paragraph 30 of Schedule 11 of the Government of Wales Act 2006 (c.32)

(2) 1997 c. 50; sections 113A, 113B and 113C were inserted by the Serious Organised Crime and Police Act 2005 (c. 15), section 163(2).

mae i "busnes cyflogi" yr ystyr a roddir i "employment business" gan adran 13(3) o Ddeddf Asiantaethau Cyflogi 1973(1) ac mae'n cynnwys awdurdod lleol a pherson sy'n cynnal busnes cyflogi;

mae i "cofnodion canolog" yr ystyr a roddir i "central records" gan adran 113A o Ddeddf yr Heddlu 1997(2);

mae i "datganiad addasrwydd plant" yr ystyr a roddir i "children's suitability statement" gan adran 113C(2) o Ddeddf yr Heddlu 1997;

ystyr "gweithgaredd perthnasol" ("relevant activity") yw gofalu am bobl o dan 18 oed, eu hyfforddi, eu goruchwyllo neu fod â gofal amdanynt are ei ben ei hun, a hynny yn rheolaidd;

mae i "mater perthnasol" yr ystyr a roddir i "relevant matter" gan adran 113A o Ddeddf yr Heddlu 1997; ac

ystyr "tystysgrif cofnod troseddol fanwl" ("enhanced criminal record certificate") yw tystysgrif cofnod troseddol fanwl a ddyroddir yn unol â Rhan V o Ddeddf yr Heddlu 1997.

(2) Mae person yn bodloni'r gofynion cymhwyso perthnasol ar gyfer staff-

- (a) os yw'n bodloni'r holl ofynion perthnasol Rheoliadau Cymwysterau Athrawon Addysg Bellach (Cymru) 2002(3) neu Reoliadau Addysg (Trefniadau Ymsefydlu ar gyfer Athrawon Ysgol) (Cymru) 2005(4) neu mewn rheoliadau a wnaed o dan adran 136(a) o Ddeddf Addysg 2002 o ran y cymwysterau y mae'n rhaid iddo eu dal; a
- (b) os yw'n bodloni'r holl amodau perthnasol o ran iechyd neu alluedd corfforol mewn rheoliadau a wnaed o dan adran 141 o Ddeddf Addysg 2002.

(3) At ddibenion y Rheoliadau hyn mae person yn gwneud cais am dystysgrif cofnod troseddol fanwl os yw'n cydlofnodi cais am dystysgrif fel person cofrestredig (o fewn ystyr adran 120 o Ddeddf yr Heddlu 1997) neu os cydlofnodir cais ar ei ran, ac os cyflwynir y cais i'r Ysgrifennydd Gwladol yn unol â Rhan V o'r Ddeddf honno.

(4) Er mwyn gwneud gwiriad manwl o'r cofnodion troseddol rhaid i berson-

"employment business" ("busnes cyflogi") has the meaning given by section 13(3) of the Employment Agencies Act 1973(1) and includes a local authority and a person carrying on an employment business;

"enhanced criminal record certificate" ("tystysgrif cofnod troseddol fanwl") means an enhanced criminal record certificate issued pursuant to Part V of the Police Act 1997;

"new member of staff" ("aelod newydd o staff") means a person who receives an offer from the governing body of a further education institution on or after 1 September 2007 to work in a position providing education at the institution under a contract of service or a contract for services with the governing body or otherwise than under a contract and does not include a person supplied by an employment business;

"relevant activity" ("gweithgaredd perthnasol") means regularly caring for, training, supervising or being solely in charge of persons aged under 18;

"relevant matter" ("mater perthnasol") has the meaning given by section 113A of the Police Act 1997.

(2) A person meets the relevant staff qualification requirements if-

- (a) the person meets all relevant requirements in the Further Education Teachers' Qualifications (Wales) Regulations 2002(2) or the Education (Induction Arrangements for School Teachers) (Wales) Regulations 2005(3) or in regulations made under section 136(a) of the Education Act 2002 as to the qualifications that they must hold; and
- (b) the person meets all relevant conditions with respect to health or physical capacity in regulations made under section 141 of the Education Act 2002.

(3) For the purposes of these Regulations a person applies for an enhanced criminal record certificate if they countersign an application for the certificate as a registered person (within the meaning of section 120 of the Police Act 1997) or if an application is countersigned on that person's behalf, and the application is submitted to the Secretary of State in accordance with Part V of that Act.

(4) In order to carry out an enhanced criminal record check a person must-

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(1) 1973 p. 35.

(2) 1997 p. 50; mewnosodwyd adrannau 113A, 113B a 113C gan Ddeddf Troseddu Cyfundrefnol Difrifol a'r Heddlu 2005 (p. 15), adran 163(2).

(3) O.S. 2002/1663 (Cy.158).

(4) O.S. 2005/1818 (Cy. 146).

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(1) 1973 c. 35.

(2) S.I. 2002/1663 (W.158).

(3) S.I. 2005/1818.(W.146).

- (a) gwneud cais am dystysgrif cofnod troseddol fanwl a'i chael; a
- (b) cyflwyno datganiad addasrwydd plant ynghyd â'r cais am y dystysgrif cofnod troseddol fanwl.

#### Amodau i gydymffurfio â hwy

4. Mae'r Rheoliadau hyn yn pennu amodau i gydymffurfio â hwy o ran personau sy'n darparu addysg mewn sefydliad addysg bellach(1).

#### Aelodau newydd o staff

5. Mae'n amod o ran aelod newydd o staff bod rhaid i gorff llywodraethu sefydliad addysg bellach-

- (a) gwirio ei hunaniaeth;
- (b) gwirio bod ganddo hawl i weithio yn y Deyrnas Unedig;
- (c) gwirio ei fod yn bodloni'r holl ofynion cymhwyso perthnasol ar gyfer staff;
- (ch) gwirio a yw'n ddarostyngedig i unrhyw gyfarwyddyd a wnaed o dan adran 142 o Ddeddf Addysg 2002; a
- (d) gwneud gwiriad manwl o'r cofnodion troseddol mewn perthynas ag ef os bydd y swydd a gynigir iddo yn cynnwys gweithgaredd perthnasol.

6. Pan fo corff llywodraethu sefydliad addysg bellach yn barnu, oherwydd bod aelod newydd o staff wedi byw y tu allan i'r Deyrnas Unedig, nad yw gwneud gwiriad manwl o'r cofnodion troseddol yn ddigonol at ddibenion ystyried ei addasrwydd am swydd sy'n cynnwys gweithgaredd perthnasol, mae'n amod bod rhaid i'r corff llywodraethu wneud unrhyw wiriad pellach y mae'n barnu ei fod yn briodol, gan roi sylw i unrhyw ganllawiau a ddyroddir gan Weinidogion Cymru neu'r Ysgrifennydd Gwladol.

7. Yn ddarostyngedig i reoliad 9, rhaid i'r gwiriadau a bennir yn rheoliadau 5(a) i (ch) a 6 gael eu cwblhau cyn i'r aelod newydd o staff ddechrau gweithio yn y sefydliad addysg bellach.

8. Yn ddarostyngedig i reoliad 9, rhaid i'r gwiriad a bennir yn rheoliad 5(d) gael ei wneud cyn i'r aelod newydd o staff ddechrau gweithio yn y sefydliad addysg bellach neu cyn gynted ag y bo'n ymarferol ar ôl iddo ddechrau gweithio yno.

9. Nid oes rhaid i'r gwiriadau a bennir yn rheoliadau 5(d) a 6 gael eu gwneud pan fo'r aelod newydd o staff-

- (a) wedi gweithio naill ai mewn-

- (a) apply for and obtain an enhanced criminal record certificate; and
- (b) submit a children's suitability statement with the application for the enhanced criminal record certificate.

#### Conditions to be complied with

4. These Regulations specify conditions to be complied with in respect of persons providing education at a further education institution(1).

#### New members of staff

5. It is a condition in respect of a new member of staff that the governing body of a further education institution must-

- (a) check the person's identity;
- (b) check that the person has a right to work in the United Kingdom;
- (c) check that the person meets all relevant staff qualification requirements;
- (d) check whether the person is subject to any direction made under section 142 of the Education Act 2002; and
- (e) carry out an enhanced criminal record check in respect of the person where the position they are offered will involve a relevant activity.

6. Where the governing body of a further education institution considers that, by reason of a new member of staff having lived outside the United Kingdom, carrying out an enhanced criminal record check is not sufficient for the purposes of considering the person's suitability for a position that will involve a relevant activity, it is a condition that the governing body must make such further checks as it considers appropriate, having regard to any guidance issued by the Welsh Ministers or the Secretary of State.

7. Subject to regulation 9, the checks specified in regulations 5(a) to (d) and 6 must be completed before the new member of staff begins work at the further education institution.

8. Subject to regulation 9, the check specified in regulation 5(e) must be carried out before the new member of staff begins work at the further education institution or as soon as practicable after they begin work there.

9. The checks specified in regulations 5(e) and 6 do not need to be carried out where the new member of staff-

- (a) has worked in either-

(1) Mae i "sefydliad addysg bellach" yr ystyr a roddir i "further education institution" yn adran 140(3) o Ddeddf Addysg 2002.

(1) "further education institution" has the meaning given in section 140(3) of the Education Act 2002.



- (i) ysgol yng Nghymru mewn swydd a ddaeth ag ef i gysylltiad rheolaidd â phersonau o dan 18 oed; neu
  - (ii) sefydliad addysg bellach arall yng Nghymru mewn swydd a oedd yn cynnwys darparu addysg a gweithgaredd perthnasol; a
- (b) i fod i ddechrau yn y sefydliad addysg bellach ar ddyddiad nad yw'n fwy na thri mis ar ôl y dyddiad pryd y peidiodd â gweithio mewn swydd o'r math y cyfeirir ato ym mharagraff (a).

- (i) a school in Wales in a position which brought the new member of staff regularly into contact with persons aged under 18; or
  - (ii) another further education institution in Wales in a position which involved the provision of education and a relevant activity; and
- (b) is due to begin work at the further education institution on a date which is not more than three months after the date on which he or she ceased to work in a position of the kind referred to in paragraph (a).

### Staff sy'n symud o'r naill swydd i'r llall

10. Trinnir person nas cyflenwir gan fusnes cyflogi sy'n symud o swydd nad oedd yn cynnwys darparu addysg i swydd sy'n cynnwys darparu addysg yn yr un sefydliad addysg bellach ar 1 Medi 2007 neu ar ôl hynny fel aelod newydd o staff at ddibenion rheoliadau 5 i 9, ac mae cyfeiriadau yn y rheoliadau hynny at ddechrau gweithio i'w dehongli fel dechrau ar swydd sy'n darparu addysg.

### Staff who move positions

10. A person not supplied by an employment business who moves from a position which did not involve the provision of education to a position which involves the provision of education at the same further education institution on or after 1 September 2007 is treated as a new member of staff for the purposes of regulations 5 to 9, and references in those regulations to beginning work shall be construed as references to taking up the position providing education.

### Staff cyflenwi

11. Mae'n amod bod rhaid i gorff llywodraethu sefydliad addysg bellach beidio â derbyn person a gynigir gan fusnes cyflogi i ddarparu addysg yn y sefydliad ("person perthnasol") oni bai i'r corff llywodraethu gael oddi wrth y busnes cyflogi gadarnhad ysgrifenedig bod y gwiriadau a bennir yn rheoliad 18 wedi'u gwneud o ran y person perthnasol.

### Supply staff

11. It is a condition that the governing body of a further education institution must not accept a person offered by an employment business to provide education at the institution (a "relevant person") unless the governing body has received from the employment business written confirmation that the checks specified in regulation 18 have been carried out in respect of the relevant person.

12. Pan fo swydd y person perthnasol yn cynnwys gweithgaredd perthnasol, rhaid i gorff llywodraethu sefydliad addysg bellach beidio â derbyn y person perthnasol i ddarparu addysg yn y sefydliad oni chydymffurfiwyd â'r amodau yn rheoliad 13 neu 14.

12. Where the relevant person's position will involve a relevant activity, the governing body of a further education institution must not accept the relevant person to provide education at the institution unless the conditions in regulation 13 or 14 have been complied with.

13. Yr amodau yn y rheoliad hwn yw bod y corff llywodraethu wedi cael oddi wrth y busnes cyflogi gadarnhad ysgrifenedig bod datganiad addasrwydd plant wedi cael ei gyflwyno a bod cais wedi'i wneud am dystysgrif cofnod troseddol fanwl gan y busnes cyflogi neu ar ei ran ond nid yw'r dystysgrif eto wedi'i chael.

13. The conditions in this regulation are that the governing body has received from the employment business written confirmation that a children's suitability statement has been submitted and an enhanced criminal record certificate applied for by or on behalf of the employment business but the certificate has not yet been received.

14. Yr amodau yn y rheoliad hwn yw bod y corff llywodraethu wedi cael cadarnhad ysgrifenedig oddi wrth y busnes cyflogi-

14. The conditions in this regulation are that the governing body has received written confirmation from the employment business-

- (a) bod, yn ddarostyngedig i reoliad 19, gwiriad manwl o'r cofnodion troseddol wedi'i wneud (p'un ai gan y busnes cyflogi hwnnw neu gan fusnes cyflogi arall) ddim mwy na thri mis cyn y dyddiad y mae'r person perthnasol i fod i ddechrau gweithio yn y sefydliad;

- (a) that, subject to regulation 19, an enhanced criminal record check has been carried out (whether by that employment business or another employment business) not more than three months before the date that the relevant person is due to begin work at the institution;

- (b) bod y busnes cyflogi wedi cael copi o'r dystysgrif cofnod troseddol fanwl; ac
- (c) sy'n datgan a yw'r dystysgrif cofnod troseddol fanwl yn rhoi manylion unrhyw fater perthnasol sy'n ymwneud â'r person a'r mater hwnnw yn un sydd wedi'i gofnodi yn y cofnodion canolog neu sy'n rhoi unrhyw wybodaeth a ddarperir yn unol ag adran 113B(4) o Ddeddf yr Heddlu 1997 neu a oes unrhyw wybodaeth wedi'i darparu yn unol ag adran 113B(6) o Ddeddf yr Heddlu 1997.

**15.** Os yw corff llywodraethu yn cael cadarnhad ysgrifenedig o dan reoliad 14 bod y dystysgrif cofnod troseddol fanwl yn rhoi manylion unrhyw fater perthnasol sy'n ymwneud â'r person perthnasol a'r mater hwnnw yn un sydd wedi'i gofnodi yn y cofnodion canolog neu sy'n rhoi unrhyw wybodaeth a ddarperir yn unol ag adran 113B(4) o Ddeddf yr Heddlu 1997 neu fod yr wybodaeth honno wedi'i darparu yn unol ag adran 113B(6) o Ddeddf yr Heddlu 1997, mae'n amod bod rhaid i gorff llywodraethu'r sefydliad addysg bellach beidio â derbyn y person perthnasol i ddarparu addysg yn y sefydliad oni bai bod copi o'r dystysgrif wedi dod i law oddi wrth y busnes cyflogi.

**16.** Mae'n amod bod rhaid i gorff llywodraethu sefydliad addysg bellach, yn y sefydliad, wirio hunaniaeth person perthnasol cyn y caiff y person hwnnw ddechrau gweithio yn y sefydliad (yn annibynnol ar unrhyw wiriad o'r fath a wnaed gan y busnes cyflogi).

**17.** Mae'n amod bod rhaid, yn y contract neu yn y trefniadau eraill y mae corff llywodraethu sefydliad addysg bellach yn ymrwymo â busnes cyflogi iddynt, iddi fod yn ofynnol i'r busnes cyflogi gydymffurfio â'r gofynion a ganlyn o ran unrhyw berson perthnasol-

- (a) hysbysu'r corff llywodraethu yn ysgrifenedig bod y gwiriadau a bennir yn rheoliad 18 wedi'u gwneud;
- (b) pan fo swydd person yn cynnwys gweithgaredd perthnasol, hysbysu'r corff llywodraethu yn ysgrifenedig-
  - (i) yn ddarostyngedig i reoliad 19, bod gwiriad manwl o'r cofnodion troseddol wedi'i wneud (p'un ai gan y busnes cyflogi hwnnw neu gan fusnes cyflogi arall) ddim mwy na thri mis cyn y dyddiad pryd y mae'r person i fod i ddechrau gweithio yn y sefydliad; neu
  - (ii) bod datganiad addasrwydd plant wedi cael ei gyflwyno a bod cais am dystysgrif cofnod troseddol fanwl wedi'i gwneud gan y busnes cyflogi neu ar ei ran ond nid yw'r dystysgrif eto wedi'i chael; ac

- (b) that the employment business has obtained a copy of the enhanced criminal record certificate; and
- (c) as to whether the enhanced criminal record certificate gives details of any relevant matter relating to the person which is recorded in central records or gives any information provided in accordance with section 113B(4) of the Police Act 1997 or as to whether any information has been provided in accordance with section 113B(6) of the Police Act 1997.

**15.** If the governing body receives written confirmation under regulation 14 that the enhanced criminal record certificate gives details of any relevant matter relating to the relevant person which is recorded in central records or gives any information provided in accordance with section 113B(4) of the Police Act 1997 or that information has been provided in accordance with section 113B(6) of the Police Act 1997, it is a condition that the governing body of the further education institution must not accept the relevant person to provide education at the institution unless a copy of the certificate has been received from the employment business.

**16.** It is a condition that the governing body of a further education institution must, at the institution, check the identity of a relevant person before that person may begin work at the institution (irrespective of any such check already carried out by the employment business).

**17.** It is a condition that in the contract or other arrangements that the governing body of a further education institution enters into with an employment business, the employment business must be required to comply with the following requirements in respect of any relevant person-

- (a) to notify the governing body in writing that the checks specified in regulation 18 have been carried out;
- (b) where the person's position involves a relevant activity, to notify the governing body in writing that-
  - (i) subject to regulation 19, an enhanced criminal record check has been carried out (whether by that employment business or another employment business) not more than three months before the date that the person is due to begin work at the institution; or
  - (ii) a children's suitability statement has been submitted and an enhanced criminal record certificate has been applied for by or on behalf of the employment business but the certificate has not yet been received; and

- (c) pan fo'r dystysgrif cofnod troseddol fanwl yn rhoi manylion am unrhyw fater perthnasol sy'n ymwneud â'r person a'r mater hwnnw yn un sydd wedi'i gofnodi yn y cofnodion canolog neu sy'n rhoi unrhyw wybodaeth a ddarperir yn unol ag adran 113B(4) o Ddeddf yr Heddlu 1997 neu pan fo gwybodaeth wedi'i darparu yn unol ag adran 113B(6) o Ddeddf yr Heddlu 1997, hysbysu'r corff llywodraethu a darparu copi o'r dystysgrif.

**18.** Y gwiriadau mewn perthynas â pherson perthnasol yw-

- (a) gwiriad o'i hunaniaeth;
- (b) gwiriad bod ganddo hawl i weithio yn y Deyrnas Unedig;
- (c) gwiriad ei fod yn bodloni'r holl ofynion cymhwys ar gyfer staff;
- (ch) gwiriad i gadarnhau a yw'n ddarostyngedig i unrhyw gyfarwyddyd a wnaed o dan adran 142 o Ddeddf Addysg 2002; a
- (d) yn ddarostyngedig i reoliad 19, pan fo'r busnes cyflogi yn barnu, oherwydd ei fod wedi byw y tu allan i'r Deyrnas Unedig, nad yw gwneud gwiriad manwl o'r cofnodion troseddol yn ddigonol at ddibenion ystyried ei addasrwydd am swydd a fydd yn cynnwys gweithgaredd perthnasol, unrhyw wiriadau pellach y mae'r busnes cyflogi yn barnu eu bod yn briodol, gan roi sylw i unrhyw ganllawiau a ddyroddir gan Weinidogion Cymru neu'r Ysgrifennydd Gwladol.

**19.**-(1) Pan fo'r amgylchiadau ym mharagraff (2) yn gymwys, nid yw'r gwiriad a bennir yn rheoliad 18(d) yn ofynnol a gall fod y gwiriad manwl o'r cofnodion troseddol y cyfeirir ato yn rheoliadau 14(a) a 17(b) wedi cael ei wneud mwy na thri mis cyn y dyddiad pryd y mae'r person perthnasol i fod i ddechrau gweithio yn y sefydliad.

(2) Dyma'r amgylchiadau-

- (a) mae'r person perthnasol wedi gweithio naill ai mewn-
  - (i) ysgol yng Nghymru mewn swydd a ddaeth ag ef i gysylltiad rheolaidd â phersonau o dan 18 oed; neu
  - (ii) sefydliad addysg bellach arall yng Nghymru mewn swydd a oedd yn cynnwys darparu addysg a gweithgaredd perthnasol,

yn ystod cyfnod a ddaeth i ben dim mwy na thri mis cyn y dyddiad y mae i fod i ddechrau gweithio yn y sefydliad.

### Cadw cofnodion

**20.** Mae'n amod bod rhaid i gorff llywodraethu sefydliad addysg bellach gadw cofrestr o ran pob

- (c) where the enhanced criminal record certificate gives details of any relevant matter relating to the person which is recorded in central records or gives any information provided in accordance with section 113B(4) of the Police Act 1997 or where information has been provided in accordance with section 113B(6) of the Police Act 1997, to notify the governing body and provide a copy of the certificate.

**18.** The checks in respect of a relevant person are-

- (a) a check of the person's identity;
- (b) a check that the person has a right to work in the United Kingdom;
- (c) a check that the person meets all relevant staff qualification requirements;
- (d) a check to establish whether the person is subject to any direction made under section 142 of the Education Act 2002; and
- (e) subject to regulation 19, where the employment business considers that, by reason of the person having lived outside the United Kingdom, carrying out an enhanced criminal record check is not sufficient for the purposes of considering their suitability for a position that will involve a relevant activity, such further checks as the employment business considers appropriate, having regard to any guidance issued by the Welsh Ministers or the Secretary of State.

**19.**-(1) Where the circumstances in paragraph (2) apply, the check specified in regulation 18(e) is not required and the enhanced criminal record check referred to in regulations 14(a) and 17(b) may have been carried out more than three months before the date that the relevant person is due to begin work at the institution.

(2) The circumstances are-

- (a) the relevant person has worked in either-
  - (i) a school in Wales in a position which brought them regularly into contact with persons aged under 18; or
  - (ii) another further education institution in Wales in a position which involved the provision of education and a relevant activity,

during a period which ended not more than three months before the date that the person is due to begin work at the institution.

### Record keeping

**20.** It is a condition that a governing body of a further education institution must keep a register in



person sy'n darparu addysg yn y sefydliad.

**21.** Rhaid cadw'r gofrestr o-

- (a) 1 Medi 2007 o ran personau sy'n dechrau gweithio yn y sefydliad ar 1 Medi 2007 neu ar ôl hynny; a
- (b) 1 Medi 2008 o ran personau sydd yn y swydd ar 1 Medi 2008 ac a ddechreuodd weithio yn y sefydliad cyn 1 Medi 2007.

**22.** Mae'n amod bod rhaid i gorff llywodraethu sefydliad addysg bellach sicrhau bod yr wybodaeth a bennir yn Rhan 1 o'r Atodlen yn cael ei chofnodi yn y gofrestr yn erbyn enw pob person sy'n darparu addysg yn y sefydliad nas darparwyd gan fusnes cyflogi.

**23.** Mae'n amod bod rhaid i gorff llywodraethu sefydliad addysg bellach sicrhau bod yr wybodaeth a bennir yn Rhan 2 o'r Atodlen yn cael ei chofnodi yn erbyn enw pob person sy'n darparu addysg yn y sefydliad a darparwyd gan y busnes cyflogi.

**24.** Nid yw'n berthnasol at ddibenion rheoliadau 22 a 23 p'un a gafwyd yr wybodaeth i'w chofnodi yn unol â rhwymedigaeth gyfreithiol ai peidio.

**25.** Caniateir cadw'r gofrestr y mae'n ofynnol ei chadw yn unol â rheoliad 20 ar ffurf electronig, ar yr amod bod modd atgynhyrchu'r wybodaeth a gofnodwyd felly ar ffurf ddarllenadwy.

respect of all persons who are providing education at the institution.

**21.** The register must be kept from-

- (a) 1 September 2007 in respect of persons who begin work at the institution on or after 1s September 2007; and
- (b) 1 September 2008 in respect of persons who are in post on 1 September 2008 and who began work at the institution before 1 September 2007.

**22.** It is a condition that the governing body of a further education institution must ensure that there is recorded in the register against the name of each person providing education at the institution who has not been supplied by an employment business the information that is specified in Part 1 of the Schedule.

**23.** It is a condition that the governing body of a further education institution must ensure that there is recorded in the register against the name of each person providing education at the institution who has been supplied by an employment business the information that is specified in Part 2 of the Schedule.

**24.** It is immaterial for the purposes of regulations 22 and 23 whether the information to be recorded was obtained pursuant to a legal obligation.

**25.** The register required to be kept pursuant to regulation 20 may be kept in electronic form, provided that the information so recorded is capable of being reproduced in legible form.

*Jane Hutt*

Y Gweinidog dros Addysg, Plant a Phobl Ifanc, un o Weinidogion Cymru

Minister for Education, Children and Young People, one of the Welsh Ministers

26 Gorffennaf 2007

26 July 2007

## ATODLEN 1

Rheoliadau 22 a 23

Gwybodaeth i'w chofnodi

### RHAN 1

Gwybodaeth i'w chofnodi gan gorff llywodraethu sefydliad addysg bellach o ran personau sy'n darparu addysg nas cyflenwyd gan fusnes cyflogi

1. a yw swydd y person yn cynnwys gweithgaredd perthnasol;
2. a yw hunaniaeth y person wedi'i gwirio;
3. a wnaed gwiriad i gadarnhau a yw'r person yn ddarostyngedig i unrhyw gyfarwyddyd a wnaed o dan adran 142 o Ddeddf Addysg 2002;
4. a wnaed gwiriad i sicrhau bod y person yn bodloni'r holl ofynion cymhwyso perthnasol ar gyfer staff;
5. pan fo swydd y person yn cynnwys gweithgaredd perthnasol, a wnaed gwiriad manwl o'r cofnodion troseddol mewn perthynas ag ef;
6. a wnaed gwiriadau o'r math a ddisgrifir yn rheoliad 6 y barnwyd eu bod yn briodol mewn perthynas â'r person;
7. a wnaed gwiriad i gadarnhau bod gan y person hawl i weithio yn y Deyrnas Unedig;
8. ar gyfer pob gwiriad a wnaed yn y Rhan hon, y dyddiad pryd y cwblhawyd y gwiriad.

### RHAN 2

Gwybodaeth sydd i'w chofnodi gan gorff llywodraethu sefydliad addysg bellach o ran personau sy'n darparu addysg a gyflenwyd gan fusnes cyflogi

1. a yw swydd y person yn cynnwys gweithgaredd perthnasol;
2. a gafwyd hysbysiad ysgrifenedig oddi wrth y busnes cyflogi-
  - (a) bod hunaniaeth y person wedi'i gwirio;
  - (b) bod gwiriad wedi'i wneud i gadarnhau a yw'r person yn ddarostyngedig i unrhyw gyfarwyddyd a wnaed o dan adran 142 o Ddeddf Addysg 2002;

## SCHEDULE 1

Regulations 22 and 23

Information to be recorded

### PART 1

Information to be recorded by the governing body of a further education institution in respect of persons providing education who have not been supplied by an employment business

1. whether the person's position involves a relevant activity;
2. whether the identity of the person has been checked;
3. whether a check has been carried out to establish whether the person is subject to any direction made under section 142 of the Education Act 2002;
4. whether a check has been carried out to ensure that the person meets all relevant staff qualification requirements;
5. where the person's position involves a relevant activity, whether an enhanced criminal record check has been carried out in respect of that person;
6. whether further checks of the kind described in regulation 6 that were considered appropriate in respect of the person have been carried out;
7. whether a check has been carried out to confirm that the person has a right to work in the United Kingdom;
8. for each check listed in this Part that has been carried out, the date on which the check was completed.

### PART 2

Information to be recorded by the governing body of a further education institution in respect of persons providing education who have been supplied by an employment business

1. whether the person's position involves a relevant activity;
2. whether written notification has been received from the employment business that-
  - (a) the identity of the person has been checked;
  - (b) a check has been carried out to establish whether the person is subject to any direction made under section 142 of the Education Act 2002;

- (c) bod gwiriad wedi'i wneud i sicrhau bod y person yn bodloni'r holl ofynion cymhwyso perthasol ar gyfer staff;
- (ch) bod gwiriadau pellach o'r math a ddisgrifir yn rheoliad 18(d) y barnwyd eu bod yn briodol mewn perthynas â'r person wedi'u gwneud;
- (d) bod gwiriad wedi'i wneud i gadarnhau bod gan y person hawl i weithio yn y Deyrnas Unedig;
- (dd) pan fo swydd y person yn cynnwys gweithgaredd perthnasol-
  - (i) y gwnaed gwiriad manwl o'r cofnodion troseddol mewn perthynas â'r person hwnnw; neu
  - (ii) bod cais am dystysgrif cofnod troseddol fanwl wedi'i gwneud a bod datganiad addasrwydd plant wedi cael ei gyflwyno gan y busnes cyflogi neu ar ei ran mewn perthynas â'r person hwnnw;

3. ar gyfer pob hysbysiad ysgrifenedig a restrir ym mharagraff 2 ac a gafwyd, y dyddiad pryd y cafwyd yr hysbysiad;

4. pan fo'r busnes cyflogi wedi cael tystysgrif cofnod troseddol fanwl, a yw'n rhoi manylion am unrhyw fater perthnasol sy'n ymwneud â'r person a'r mater hwnnw yn un a gofnodwyd yn y cofnodion canolog neu sy'n rhoi unrhyw wybodaeth a ddarperir yn unol ag adran 113B(4) o Ddeddf yr Heddlu 1997 neu a oes unrhyw wybodaeth wedi ei darparu yn unol ag adran 113B(6) o Ddeddf yr Heddlu 1997;

5. a oes copi o dystysgrif cofnod troseddol fanwl wedi'i ddarparu i gorff llywodraethu y sefydliad addysg bellach.

- (c) a check has been carried out to ensure that the person meets all relevant staff qualification requirements;
- (d) any further checks of the kind described in regulation 18(e) that were considered to be appropriate in respect of the person have been carried out;
- (e) a check has been carried out to confirm that the person has a right to work in the United Kingdom;
- (f) where the person's position involves a relevant activity-
  - (i) an enhanced criminal record check has been carried out in respect of that person; or
  - (ii) an enhanced criminal record certificate has been applied for and a children's suitability statement submitted by or on behalf of the employment business in respect of that person;

3. for each written notification listed in paragraph 2 that has been received, the date on which the notification was received;

4. where the employment business has obtained an enhanced criminal record certificate, whether it gives details of any relevant matter relating to the person which is recorded in central records or gives any information provided in accordance with section 113B(4) of the Police Act 1997 or whether any information has been provided in accordance with section 113B(6) of the Police Act 1997;

5. whether a copy of an enhanced criminal record certificate has been provided to the governing body of the further education institution.

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OFFERYNNAU STATUDOL  
CYMRU

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**2007 Rhif 2220 (Cy.175)**

**ADDYSG, CYMRU**

Rheoliadau Personau sy'n Darparu  
Addysg mewn Sefydliadau Addysg  
Bellach yng Nghymru (Amodau)  
2007

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WELSH  
STATUTORY INSTRUMENTS

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**2007 No. 2220 (W.175)**

**EDUCATION, WALES**

The Persons Providing Education  
at Further Education Institutions in  
Wales (Conditions) Regulations  
2007

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