



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2013 Rhif 225 (Cy.30)

2013 No. 225 (W.30)

**GOFAL CYMDEITHASOL,
CYMRU**

**SOCIAL CARE,
WALES**

**Rheoliadau Asiantaethau Gofal
Cartref (Cymru) (Diwygio)
2013**

**The Domiciliary Care Agencies
(Wales) (Amendment) Regulations
2013**

NODYN ESBONIADOL

EXPLANATORY NOTE

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

(This note is not part of the Regulations)

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Asiantaethau Gofal Cartref (Cymru) 2004 ("Rheoliadau 2004") a wneir o dan Ddeddf Safonau Gofal 2000.

These Regulations amend the Domiciliary Care Agencies (Wales) Regulations 2004 ("the 2004 Regulations") which are made under the Care Standards Act 2000.

Mae'r diwygiadau yn ei gwneud hi'n ofynnol bod rheolwyr asiantaethau gofal cartref yn meddu ar gymhwyster gofynnol a'u bod wedi eu cofrestru gyda Chyngor Gofal Cymru.

The amendments require managers of domiciliary care agencies in Wales to hold a required qualification and to be registered with the Care Council for Wales.

Mae rheoliad 4 yn gwneud diwygiadau canlyniadol i Rheoliadau Cofrestru Gofal Cymdeithasol a Gofal Iechyd Annibynnol (Cymru) 2002.

Regulation 4 makes consequential amendments to the Registration of Social Care and Independent Health Care (Wales) Regulations 2002.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar wneud Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. Yn ganlyniad i hyn, paratowyd asesiad effaith rheoleiddiol o ran y costau a'r buddion tebygol o gydymffurfio â'r Rheoliadau hyn. Ceir copi oddi wrth: Is-adran Polisi a Strategaethau Gwasanaethau Cymdeithasol, Adran Iechyd, Gwasanaethau Cymdeithasol a Phlant, Llywodraeth Cymru, Parc Cathays, Caerdydd CF10 3NQ.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from Social Services Policy and Strategies Division, the Department for Health, Social Services and Children, Welsh Government, Cathays Park, Cardiff CF10 3NQ.

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Gwnaed 5 Chwefror 2013
*Gosodwyd gerbron Cynulliad
Cenedlaethol Cymru* 7 Chwefror 2013
Yn dod i rym 28 Chwefror 2013

Made 5 February 2013
*Laid before the National
Assembly for Wales* 7 February 2013
Coming into force 28 February 2013

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir gan adrannau 12(2), 22(1), 22(2)(a), 22(3) a 118(5) i (7) o Ddeddf Safonau Gofal 2000(1) ac wedi iddynt ymgynghori â'r personau hynny oedd, yn eu barn hwy, yn briodol(2) yn gwneud y Rheoliadau a ganlyn:

The Welsh Ministers, in exercise of the powers conferred by sections 12(2), 22(1), 22(2)(a), 22(3) and 118(5) to (7) of the Care Standards Act 2000(1) and having consulted such persons as they consider appropriate(2) make the following Regulations:

Enwi, cychwyn a chymhwys

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Asiantaethau Gofal Cartref (Cymru) (Diwygio) 2013 a deuant i rym ar 28 Chwefror 2013.

Title, commencement and application

1.—(1) The title of these Regulations is the Domiciliary Care Agencies (Wales) (Amendment) Regulations 2013 and they come into force on 28 February 2013.

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

(2) These Regulations apply in relation to Wales.

Dehongli

2. Yn y Rheoliadau hyn—

ystyr "y prif Reoliadau" ("*the principal Regulations*") yw Rheoliadau Asiantaethau Gofal Cartref (Cymru) 2004(3);

Interpretation

2. In these Regulations—

"the principal Regulations" ("*y prif Reoliadau*") means the Domiciliary Care Agencies (Wales) Regulations 2004(3);

(1) 2000 p.14 ("y Ddeddf"). Mae'r pwerau hyn yn arferadwy gan yr "appropriate Minister". Diffinir y term hwn yn adran 121(1) o'r Ddeddf mewn perthynas â Chymru, i olygu Cynulliad Cenedlaethol Cymru. Trosglwyddwyd swyddogaethau Cynulliad Cenedlaethol Cymru o dan y Ddeddf i Weinidogion Cymru gan baragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p.32). Gweler adran 121(1) o'r Ddeddf am ddiffiniadau o "prescribed" a "regulations".

(2) Gweler adran 22(9) o'r Ddeddf am y gofyniad i ymgynghori.

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

(1) 2000 c.14 ("the Act"). These powers are exercisable by the "appropriate Minister". This term is defined in section 121(1) of the Act in relation to Wales as the National Assembly for Wales. The functions of the National Assembly for Wales under the Act were transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32). See section 121(1) of the Act for the definitions of "prescribed" and "regulations".

(2) See section 22(9) of the Act for the requirement to consult.

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

ystyr "y Rheoliadau Cofrestru" ("*the Registration Regulations*") yw Rheoliadau Cofrestru Gofal Cymdeithasol a Gofal Iechyd Annibynnol (Cymru) 2002(1).

Diwygio'r prif Reoliadau

3.—(1) Mae'r prif Reoliadau wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 2 (dehongli), mewnosoder yn y man priodol yn ôl trefn yr wyddor—

"ystyr "cymhwyster gofynnol" ("*required qualification*") yw cymhwyster sy'n gynwysedig mewn rhestr a gynhelir gan Weinidogion Cymru(2) at ddiben y Rheoliadau hyn;".

(3) Yn rheoliad 8(3)(c) (ffitrydd y darparrydd cofrestredig), ar ôl "person" mewnosoder "ond dim ond os yw'r person hwnnw yn rheoli neu'n bwriadu rheoli'r asiantaeth y bydd y dogfennau a grybwyllir ym mharagraffau 6A a 6B o Atodlen 2 yn ofynnol".

(4) Yn rheoliad 9 (penodi rheolwr)—

(a) ar ddiwedd paragraff (5), ar ôl y geiriau "Atodlen 2" mewnosoder "ac nad yw'r wybodaeth a grybwyllir ym mharagraffau 6A a 6B o Atodlen 2 yn ofynnol".

(b) ar ôl paragraff (5), mewnosoder—

"(6) Os yw'r darparrydd cofrestredig yn bwriadu rheoli'r asiantaeth, rhaid i'r unigolyn hwnnw—

(a) cydymffurfio â'r gofynion a bennir yn rheoliad 10 (ffitrydd y rheolwr); a

(b) hysbysu swyddfa briodol Gweinidogion Cymru ar unwaith am y dyddiad y bydd rheolaeth o'r fath yn dechrau."

(5) Yn rheoliad 10 (ffitrydd y rheolwr)—

(a) ar ddechrau paragraff (2)(c) mewnosoder "yn ddarostyngedig i baragraff (7),";

(b) ar ôl paragraff (2), mewnosoder y canlynol—

"(3) Yn ddarostyngedig i baragraff (4), mae cyfeiriad at gymwysterau, medrau a phrofiad yn cynnwys gofyniad bod yn rhaid i'r person feddu ar gymhwyster gofynnol.

(4) Pan fo person, nad yw yn dal cymhwyster gofynnol, wedi cael ei benodi yn rheolwr ar asiantaeth cyn 28 Chwefror 2013 nid yw'r person hwnnw yn ffit i reoli asiantaeth oni bai ei fod yn cael cymhwyster gofynnol heb fod yn hwyrach na—

(a) 31 Rhagfyr 2013; neu

"the Registration Regulations" ("*y Rheoliadau Cofrestru*") means the Registration of Social Care and Independent Health Care (Wales) Regulations 2002(1).

Amendment of the principal Regulations

3.—(1) The principal Regulations are amended as follows.

(2) In regulation 2 (interpretation), insert in the appropriate place in the alphabetical order—

""required qualification" ("*cymhwyster gofynnol*") means a qualification contained in a list maintained by the Welsh Ministers(2) for the purpose of these Regulations;".

(3) In regulation 8(3)(c) (fitness of registered provider) after "person" insert "except that the documents mentioned in paragraphs 6A and 6B of Schedule 2 are only required if the person manages or intends to manage the agency".

(4) In regulation 9 (appointment of manager)—

(a) at the end of paragraph (5), after the words "Schedule 2" insert "and the information mentioned in paragraphs 6A and 6B of Schedule 2 is not required".

(b) after paragraph (5), insert—

"(6) If the registered provider intends to manage the agency, that individual must—

(a) comply with the requirements specified in regulation 10 (fitness of registered manager); and

(b) forthwith give notice to the appropriate office of the Welsh Ministers of the date on which such management is to begin."

(5) In regulation 10 (fitness of manager)—

(a) at the beginning of subparagraph (2)(c) insert "subject to paragraph (7),";

(b) after paragraph (2), insert the following—

"(3) Subject to paragraph (4), a reference to qualifications, skills and experience includes a requirement that the person must possess a required qualification.

(4) Where a person, who does not hold a required qualification, was appointed as the manager of an agency before 28 February 2013 that person is not fit to manage an agency unless he or she obtains a required qualification not later than—

(a) 31 December 2013; or

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

(2) Cynulliad Cenedlaethol Cymru yw'r awdurdod cofrestru at ddiben Deddf Safonau Gofal 2000 mewn perthynas â Chymru (*gweler* adran 5(1) o'r Ddeddf honno). Trosglwyddwyd y swyddogaeth hon i Weinidogion Cymru gan baragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006.

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

(2) The National Assembly for Wales is the registration authority for the purpose of the Care Standards Act 2000 in relation to Wales (*see* section 5(1) of that Act). This function was transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

(b) unrhyw ddyddiad hwyrach y bydd Gweinidogion Cymru yn cytuno sydd yn rhesymol o dan yr holl amgylchiadau.

(5) Nid yw unrhyw beth ym mharagraffau (3) neu (4) yn effeithio ar unrhyw ofyniad i reolwr feddu ar gymwysterau neu fedrau eraill neu brofiad arall sy'n berthnasol i'r materion hynny a nodwyd ym mharagraff (2)(b).

(6) Nid yw person yn ffit i reoli asiantaeth oni fo wedi ei gofrestru fel rheolwr asiantaeth gyda Chyngor Gofal Cymru heb fod yn hwyrach na—

(a) 31 Rhagfyr 2013; neu

(b) unrhyw ddyddiad hwyrach y bydd Gweinidogion Cymru yn cytuno sydd yn rhesymol o dan yr holl amgylchiadau.

(7) Pan fo Gweinidogion Cymru wedi cytuno ar estyniad amser o dan baragraffau (4)(b) neu (6)(b), mae'n rhaid bod yr wybodaeth y cyfeiriwyd ati ym mharagraffau 6A a 6B o Atodlen 2 ar gael yn unol â thelerau'r cytundeb hwnnw. "

(6) Yn Atodlen 2 (yr wybodaeth sy'n ofynnol mewn perthynas â darparwyr a rheolwyr cofrestredig asiantaeth a phersonau sydd wedi'u henwi i ddirprwyo ar gyfer person cofrestredig) ar ôl paragraff 6, mewnosoder—

"6A. Tystiolaeth ddogfennol am gymhwyster gofynnol.

6B. Tystiolaeth ddogfennol am gofrestru gyda Chyngor Gofal Cymru."

Diwygio'r Rheoliadau Cofrestru

4.—(1) Mae'r Rheoliadau Cofrestru wedi eu diwygio fel a ganlyn.

(2) Yn Atodlen 1 (yr wybodaeth sydd i'w darparu wrth wneud cais am gofrestrriad fel person sy'n rhedeg sefydliad neu asiantaeth), yn Rhan 1 (gwybodaeth am y ceisydd)—

(a) ym mharagraff 1(ba), ar ôl "care home" mewnosoder "or the agency is a domiciliary care agency";

(b) ym mharagraff 2(ca), ar ôl "care home" mewnosoder "or the agency is a domiciliary care agency".

(3) Yn Atodlen 3 (yr wybodaeth a dogfennau sydd i'w darparu wrth wneud cais am gofrestrriad fel rheolwr sefydliad neu asiantaeth), yn Rhan 1 (gwybodaeth), ar ôl paragraff 2B, mewnosoder—

"2C. Where the agency is a domiciliary care agency, details of the applicant's registration with the Care Council for Wales."

(b) such later date as the Welsh Ministers agree is reasonable in all the circumstances.

(5) Nothing in paragraphs (3) or (4) affects any requirement for a manager to possess other qualifications, skills or experience relevant to the matters set out in paragraph (2)(b).

(6) A person is not fit to manage an agency unless the person is registered as a manager of an agency with the Care Council for Wales not later than—

(a) 31 December 2013; or

(b) such later date as the Welsh Ministers agree is reasonable in all the circumstances.

(7) Where the Welsh Ministers have agreed an extension of time under paragraphs (4)(b) or 6(b), the information referred to in paragraphs 6A and 6B of Schedule 2 must be available in accordance with the terms of that agreement."

(6) In Schedule 2 (information required in respect of registered providers and managers of an agency and persons nominated to deputise for a registered person) after paragraph 6, insert—

"6A. Documentary evidence of a required qualification.

6B. Documentary evidence of registration with the Care Council for Wales."

Amendment of the Registration Regulations

4.—(1) The Registration Regulations are amended as follows.

(2) In Schedule 1 (information to be supplied on an application for registration as a person who carries on an establishment or agency), in Part 1 (information about the applicant)—

(a) in paragraph 1(ba), after "care home" insert "or the agency is a domiciliary care agency";

(b) in paragraph 2(ca), after "care home" insert "or the agency is a domiciliary care agency".

(3) In Schedule 3 (information and documents to be supplied on an application for registration as the manager of an establishment or agency), in Part 1 (information), after paragraph 2B, insert—

"2C. Where the agency is a domiciliary care agency, details of the applicant's registration with the Care Council for Wales."

Lesley Griffiths

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol,
un o Weinidogion Cymru

The Minister for Health and Social Services, one of the
Welsh Ministers

5 February 2013

5 February 2013

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