



CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

**2003 Rhif 2527 (Cy.242)**

**2003 No. 2527 (W.242)**

**NYRSYS, BYDWRAGEDD AC  
YMWELWYR IECHYD,  
CYMRU**

**NURSES, MIDWIVES AND  
HEALTH VISITORS,  
WALES**

Rheoliadau Asiantaethau Nyrsys  
(Cymru) 2003

The Nurses Agencies (Wales)  
Regulations 2003

**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 cael eu gwneud o dan Ddeddf Safonau Gofal 2000 ("y Ddeddf"), ac maent yn gymwys i asiantaethau nyrsys yng Nghymru yn unig. Mae Rhannau I a II o'r Ddeddf yn darparu mai Cynulliad Cenedlaethol Cymru, mewn perthynas â Chymru a fydd yn cofrestru ac yn archwilio sefydliadau ac asiantaethau, gan gynnwys asiantaethau nyrsys. Mae'r Ddeddf hefyd yn darparu mai'r Cynulliad fydd yn gwneud rheoliadau sy'n llywodraethu'r ffordd y mae sefydliadau ac asiantaethau yn cael eu rhedeg.

These Regulations are made under the Care Standards Act 2000 ("the Act"), and apply in relation to nurses agencies in Wales only. Parts I and II of the Act provide for the National Assembly for Wales, in relation to Wales, to register and inspect establishments and agencies, including nurses agencies. The Act also provides for the Assembly to make regulations governing the conduct of establishments and agencies.

Yn ôl rheoliad 4, rhaid i bob asiantaeth baratoi datganiad o ddiben ynglŷn â'r materion a nodir yn Atodlen 1 ac arweiniad defnyddiwr gwasanaeth i'r asiantaeth (rheoliad 5). Rhaid i'r asiantaeth gael ei rhedeg mewn modd sy'n gyson â'r datganiad o ddiben.

By regulation 4, each agency must prepare a statement of purpose in relation to the matters set out in Schedule 1 and a service user's guide to the agency (regulation 5). The agency must be carried on in a manner which is consistent with the statement of purpose.

Mae rheoliadau 7 i 11 yn gwneud darpariaeth ynglŷn â ffitrwydd y personau sy'n rhedeg ac yn rheoli asiantaeth ac yn ei gwneud yn ofynnol i wybodaeth foddhaol gael ei sicrhau am y materion a bennir yn Atodlen 2. Os corff yw'r darpariwydd, rhaid iddo enwi unigolyn cyfrifol y mae'n rhaid i'r wybodaeth hon fod ar gael amdano (rheoliad 7). Mae rheoliad 8 yn rhagnodi o dan ba amgylchiadau y mae'n rhaid penodi rheolwr ar gyfer yr asiantaeth, ac mae rheoliad 9 yn gwneud darpariaeth ynglŷn â ffitrwydd y rheolwr. Mae rheoliad 10 yn gosod gofynion cyffredinol ynglŷn ag ymddygiad priodol yr asiantaeth, a'r angen am hyfforddiant priodol.

Regulations 7 to 11 make provision about the fitness of the persons carrying on and managing an agency and require satisfactory information to be obtained in relation to the matters specified in Schedule 2. Where the provider is an organisation, it must nominate a responsible individual in respect of whom this information must be available (regulation 7). Regulation 8 prescribes the circumstances where a manager must be appointed in respect of the agency, and regulation 9 makes provision concerning the fitness of the manager. Regulation 10 imposes general requirements in relation to the proper conduct of the agency, and the need for appropriate training.

Mae Rhan III yn gwneud darpariaeth ynglŷn ag ymddygiad asiantaethau, yn enwedig am ansawdd y gwasanaethau sydd i'w darparu gan asiantaeth. Mae rheoliad 12 yn gwneud darpariaeth am ffitrwydd pob nyrs sy'n cael ei chyflenwi gan asiantaeth. Mae rheoliad 13 yn nodi'r polisiau a'r gweithdrefnau y mae'n rhaid i'r person cofrestredig eu llunio a'u gweithredu os yw'r asiantaeth yn gweithredu fel busnes cyflogi. Yn ychwanegol, mae darpariaeth yn cael ei gwneud ynglŷn â staffio (rheoliad 14), darparu gwybodaeth i ddefnyddwyr gwasanaeth (rheoliad 16), cadw cofnodion (rheoliad 17 ac Atodlen 4) a chwynion (rheoliad 18). Mae darpariaeth yn cael ei gwneud hefyd am addasrwydd safleoedd (rheoliad 20) a'r rheolaeth ariannol ar yr asiantaeth (rheoliad 21). Mae rheoliadau 22 i 25 yn ymdrin â rhoi hysbysiadau i'r Cynulliad.

Mae Rhan IV yn ymdrin â materion amrywiol. Yn benodol, mae rheoliad 27 yn darparu ar gyfer tramgwyddau. Gellir cael bod torri rheoliadau 4 i 23 yn dramgwydd gan y person cofrestredig. Mae rheoliad 28 yn diwygio Rheoliadau Rheoleiddio Gofal Cymdeithasol a Gofal Iechyd Annibynnol (Ffioedd) (Cymru) 2002 drwy ragnodi'r ffi flynyddol ar gyfer cofrestru asiantaethau nyrsys. Mae rheoliad 29 yn gwneud diwygiadau i Reoliadau Cofrestru Gofal Cymdeithasol a Gofal Iechyd Annibynnol (Cymru) 2002 i gynnwys asiantaethau nyrsys ac mae rheoliad 30 yn ymdrin â threfniadau trosiannol.

Part III makes provision in relation to the conduct of agencies, in particular about the quality of services to be provided by an agency. Regulation 12 makes provision about the fitness of all nurses supplied by an agency. Regulation 13 sets out the policies and procedures which must be prepared and implemented by the registered person where the agency is acting as an employment business. In addition, provision is made as to staffing (regulation 14), the provision of information to service users (regulation 16), record keeping (regulation 17 and Schedule 4) and complaints (regulation 18). Provision is also made about the suitability of premises (regulation 20) and the financial management of the agency (regulation 21). Regulations 22 to 25 deal with the giving of notices to the Assembly.

Part IV deals with miscellaneous matters. In particular, regulation 27 provides for offences. A breach of regulations 4 to 23 may found an offence on the part of the registered person. Regulation 28 amends the Regulation of Social Care and Independent Healthcare (Fees) (Wales) Regulations 2002 by prescribing the annual fee in respect of the registration of nurses agencies. Regulation 29 makes amendments to the Registration of Social Care and Independent Health Care (Wales) Regulations 2002 to include nurses agencies and regulation 30 deals with transitional arrangements.

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YMWELWYR IECHYD,  
CYMRU****NURSES, MIDWIVES AND  
HEALTH VISITORS, WALES****Rheoliadau Asiantaethau Nyrsys  
(Cymru) 2003****The Nurses Agencies (Wales)  
Regulations 2003**

*Wedi'u gwneud* 1 Hydref 2003  
*Yn dod i rym* 2 Hydref 2003

*Made* 1st October 2003  
*Coming into force* 2nd October 2003

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Mae Cynulliad Cenedlaethol Cymru, drwy arfer y pwerau a roddwyd iddo gan adrannau 4(6), 16(3), 22(1), (2)(a) i (c), (f) i (j) a (7)(a) i (h) a (j), 25, 34(1), 35 a 118(5) i (7) o Ddeddf Safonau Gofal 2000(a) a phob pŵer arall sy'n ei alluogi yn cyswllt hwnnw, ar ôl ymgynghori â'r personau y mae'n barnu eu bod yn briodol(b), drwy hyn yn gwneud y Rheoliadau canlynol: -

RHAN I  
CYFFREDINOL

**Enwi, cychwyn a chymhwyso**

1. -(1) Enw'r Rheoliadau hyn yw Rheoliadau Asiantaethau Nyrsys (Cymru) 2003 a deuant i rym ar 2 Hydref 2003.

(2) Mae'r Rheoliadau hyn yn gymwys i asiantaethau nyrsys yng Nghymru yn unig.

**Dehongli**

2. -(1) Yn y rheoliadau hyn -

ystyr "arweiniad defnyddiwr gwasanaeth" ("*service user's guide*") yw'r arweiniad ysgrifenedig sy'n cael ei gynhyrchu yn unol â rheoliad 5;

ystyr "asiantaeth" ("*agency*") yw asiantaeth nyrsys;

ystyr "awdurdod" ("*authority*"), mewn perthynas â pherson -

(a) sy'n rhedeg neu sy'n dymuno rhedeg, asiantaeth i gyflenwi nyrsys o fewn ystyr "agency for the supply of nurses" yn Neddf 1957; a

(b) sy'n ddeiliad trwydded sydd wedi'i rhoi i'r person hwnnw gan awdurdod lleol o dan adran 2 o'r Ddeddf honno ac sy'n awdurdodi'r deiliad i redeg yr asiantaeth honno o'r safle sydd wedi'i bennu yn y drwydded, neu sydd wedi gwneud cais am drwydded o'r fath,

yw'r awdurdod lleol, sef, at ddibenion yr adran honno, yr awdurdod trwyddedu y mae'r safle wedi'i leoli yn ei ardal;

ystyr "claf" ("*patient*") yw person y mae

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(a) 2000 p.14. Mae'r pwerau yn arferadwy gan "the appropriate Minister", sydd wedi'i ddiffinio yn adran 121(1) (o'i darllen gyda adran 5(1)(b)), mewn perthynas â Chymru fel Cynulliad Cenedlaethol Cymru ac, mewn perthynas â Lloegr, yr Alban a Gogledd Iwerddon, fel yr Ysgrifennydd Gwladol. Mae "prescribed" a "regulations" wedi'u diffinio yn adran 121 (1) o'r Ddeddf.

(b) *Gweler* adran 22(9) o Ddeddf Safonau Gofal 2000 ynglyn â'r gofyniad i ymgynghori.

The National Assembly for Wales, in exercise of powers conferred upon it by sections 4(6), 16(3), 22(1), (2)(a) to (c), (f) to (j) and (7)(a) to (h) and (j), 25, 34(1), 35 and 118(5) to (7) of the Care Standards Act 2000(a) and of all other powers enabling it in that behalf, having consulted such persons as it considers appropriate(b), hereby makes the following Regulations:-

PART I  
GENERAL

**Citation, commencement and application**

1. -(1) These Regulations may be cited as the Nurses Agencies (Wales) Regulations 2003 and come into force on 2nd October 2003.

(2) These Regulations apply to nurses agencies in Wales only.

**Interpretation**

2. -(1) In these Regulations -

"1957 Act" ("*Deddf 1957*") means the Nurses Agencies Act 1957(c);

"the Act" ("*y Ddeddf*") means the Care Standards Act 2000;

"agency" ("*asiantaeth*") means a nurses agency;

"appropriate office" ("*swyddfa briodol*") means in relation to a nurses agency -

(a) if an office has been specified under paragraph (4) below for the area in which the nurses agency operates, that office;

(b) in any other case, any office of the National Assembly;

"authority" ("*awdurdod*") means, in respect of a person who -

(a) carries on, or wishes to carry on, an agency for the supply of nurses within the meaning of the 1957 Act; and

(b) is the holder of a licence which has been granted to that person by a local authority under section 2 of that Act and which authorises the holder to carry on that agency

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(a) 2000 c.14. The powers are exercisable by the appropriate Minister, who is defined in section 121(1)(as read with section 5(1)(b)), in relation to Wales as the National Assembly for Wales and, in relation to England, Scotland and Northern Ireland, as the Secretary of State. "Prescribed" and "regulations" are defined in section 121(1) of the Act.

(b) *See* section 22(9) of the Care Standards Act 2000 for the requirement to consult.

(c) 1957 c.16.

gwasanaeth nyrsio yn cael ei ddarparu iddo gan nyrs a gyflenwyd gan asiantaeth;

ystyr "corff" ("*organisation*") yw corff corfforedig;

ystyr "Cynulliad Cenedlaethol" ("*National Assembly*") yw Cynulliad Cenedlaethol Cymru;

ystyr "darparpwydd asiantaeth nyrsys" ("*nurses agency provider*") yw person sydd, yn union cyn 2 Hydref 2003 -

- (a) yn rhedeg asiantaeth i gyflenwi nyrsys o fewn ystyr "agency for the supply of nurses" yn Neddf 1957; a
- (b) yn ddeiliad trwydded sydd wedi'i rhoi i'r person hwnnw gan awdurdod lleol o dan adran 2 o'r Ddeddf honno ac sy'n awdurdodi'r deiliad i redeg yr asiantaeth honno o'r safle sydd wedi'i bennu yn y drwydded;

ystyr "darparpwydd cofrestredig" ("*registered provider*"), mewn perthynas ag asiantaeth, yw person sydd wedi'i gofrestru o dan Ran II o'r Ddeddf fel y person sy'n rhedeg yr asiantaeth honno;

ystyr "datganiad o ddiben" ("*statement of purpose*") yw'r datganiad ysgrifenedig a luniwyd yn unol â rheoliad 4;

ystyr "Deddf 1957" ("*1957 Act*") yw Deddf Asiantaethau Nyrsys 1957(a);

ystyr "defnyddiwr gwasanaeth" ("*service user*") yw person y mae asiantaeth -

- (a) yn cyflenwi nyrs, sy'n cael ei chyflogi gan yr asiantaeth, iddo; neu
- (b) yn darparu gwasanaethau at ddibenion cyflenwi nyrs i'r defnyddiwr gwasanaeth er mwyn iddi gael ei chyflogi gan y defnyddiwr gwasanaeth hwnnw;

ystyr "dyddiad effeithiol" ("*effective date*") yw'r dyddiad o bryd y mae darparpwydd presennol i'w drin at ddibenion Rhan II o'r Ddeddf, yn unol â pharagraff 1(6) o Atodlen 5 i'r Rheoliadau hyn, fel petai wedi gwneud cais am gofrestrriad ar gyfer yr ymgymeriad presennol a bod y cofrestrriad hwnnw wedi'i ganiatáu;

ystyr "y Ddeddf" ("*the Act*") yw Deddf Safonau Gofal 2000;

from premises specified in the licence, or has applied for such a licence,

the local authority which for the purposes of that section is the licensing authority in whose area the premises are situated;

"effective date" ("*dyddiad effeithiol*") means the date with effect from which an existing provider is for the purposes of Part II of the Act to be treated, in accordance with paragraph 1(6) of Schedule 5 to these Regulations, as having applied for and been granted registration in respect of the existing undertaking;

"existing undertaking" ("*ymgymeriad presennol*") means a person who, immediately before 2nd October 2003 -

- (a) carries on an agency for the supply of nurses within the meaning of the 1957 Act; and
- (b) is the holder of a licence which has been granted to that person by a local authority under section 2 of that Act and which authorises the holder to carry on that agency from premises specified in the licence;

"National Assembly" ("*Cynulliad Cenedlaethol*") means the National Assembly for Wales;

"nurse" ("*nyrs*") means a registered nurse, registered midwife or registered health visitor(a);

"nurses agency provider" ("*darparpwydd asiantaeth nyrsys*") means a person who, immediately before 2nd October 2003 -

- (a) carries on an agency for the supply of nurses within the meaning of the 1957 Act; and
- (b) is the holder of a licence which has been granted to that person by a local authority under section 2 of that Act and which authorises the holder to carry on that agency from premises specified in the licence;

"NHS trust" ("*ymddiriedolaeth GIG*") has the same meaning as in the National Health Service and Community Care Act 1990(b);

"organisation" ("*corff*") means a body

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(a) 1957 p.16.

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(a) See the Interpretation Act 1978 (c.30), Schedule 1. A definition of "registered" in relation to nurses, midwives and health visitors was inserted by the Nurses, Midwives and Health Visitors Act 1979 (c.36), section 23(4) and Schedule 7, paragraph 30, as substituted by article 54(3) of, and Schedule 5, paragraph 7 to, the Nursing and Midwifery Order 2001 (S.I. 2002/253), on a date to be appointed.

(b) 1990 c. 19. See section 5 of that Act as amended by paragraph 69 of Schedule 1 to the Health Authorities Act 1995 (c.17) and sections 13(1) and 14 of the Health Act 1999 (c.8).

ystyr "nyrs" ("*nurse*") yw nyrs gofrestredig, bydwaig gofrestredig neu ymwelydd iechyd cofrestredig(a);

ystyr "person cofrestredig" ("*registered person*"), mewn perthynas ag asiantaeth, yw unrhyw berson sy'n ddarparydd cofrestredig yr asiantaeth honno neu'n rheolwr cofrestredig arni;

ystyr "rheolwr cofrestredig" ("*registered manager*"), mewn perthynas ag asiantaeth, yw unrhyw berson sydd wedi'i gofrestru o dan Ran II o'r Ddeddf fel rheolwr yr asiantaeth honno;

ystyr "swyddfa briodol" ("*appropriate office*") mewn perthynas ag asiantaeth nyrsys -

- (a) os oes swyddfa wedi'i phennu o dan baragraff (4) isod ar gyfer yr ardal y mae'r asiantaeth nyrsys yn gweithredu ynddi, yw'r swyddfa honno;
- (b) mewn unrhyw achos arall, yw unrhyw un o swyddfeydd y Cynulliad Cenedlaethol;

mae "unigolyn cyfrifol" ("*responsible individual*") i'w ddehongli yn unol â rheoliad 7;

mae i "ymddiriedolaeth GIG" yr un ystyr ag "*NHS trust*" yn Neddf y Gwasanaeth Iechyd Gwladol a Gofal Cymunedol 1990(b);

ystyr "ymgymeriad presennol" ("*existing undertaking*") yw person sydd, yn union cyn 2 Hydref 2003 -

- (a) yn rhedeg asiantaeth i gyflenwi nyrsys o fewn ystyr "agency for the supply of nurses" yn Neddf 1957; a
- (b) yn ddeiliad trwydded sydd wedi'i rhoi i'r person hwnnw gan awdurdod lleol o dan adran 2 o'r Ddeddf honno ac sy'n awdurdodi'r deiliad i redeg yr asiantaeth honno o'r safle sydd wedi'i bennu yn y drwydded.

(2) Yn y Rheoliadau hyn, mae cyfeiriadau at gyflenwi nyrs yn golygu -

- (a) cyflenwi nyrs sy'n cael ei chyflogi at ddibenion asiantaeth i weithredu i berson arall neu o dan ei reolaeth; a
- (b) cyflwyno nyrs gan asiantaeth i ddefnyddiwr gwasanaeth er mwyn iddi gael ei chyflogi gan y defnyddiwr gwasanaeth hwnnw.

(3) Yn y diffiniad o "defnyddiwr gwasanaeth" ym

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(a) *Gweler* Deddf Dehongli 1978 (p.30), Atodlen 1. Mewn nosodwyd diffiniad o "registered" mewn perthynas â nyrsys, bydwragedd ac ymwelwyr iechyd gan Ddeddf Nyrsys, Bydwragedd ac Ymwelwyr Iechyd 1979 (p.36), adran 23(4) ac Atodlen 7, paragraff 30, fel y'u hamnewidiwyd gan erthygl 54(3) o Orchymyn Nyrsio a Bydwreigiaeth 2001 (O.S. 2002/253), ac Atodlen 5, paragraff 7 iddi, ar ddyddiad sydd i'w bennu.

(b) 1990 p. 19. *Gweler* adran 5 o'r Ddeddf honno fel y'i diwygiwyd gan baragraff 69 o Atodlen 1 i Ddeddf Awdurdodau Iechyd 1995 (p. 17) ac adrannau 13(1) a 14 o Ddeddf Iechyd 1999 (p. 8).

corporate;

"patient" ("*claf*") means a person to whom nursing is provided by a nurse supplied by an agency;

"registered manager" ("*rheolwr cofrestredig*"), in relation to an agency, means a person who is registered under Part II of the Act as the manager of that agency;

"registered person" ("*person cofrestredig*"), in relation to an agency, means any person who is the registered provider or the registered manager of that agency;

"registered provider" ("*darparydd cofrestredig*"), in relation to an agency, means a person who is registered under Part II of the Act as the person carrying on that agency;

"responsible individual" ("*unigolyn cyfrifol*") is to be construed in accordance with regulation 7;

"service user" ("*defnyddiwr gwasanaeth*") means a person to whom an agency -

- (a) supplies a nurse who is employed by the agency; or
- (b) provides services for the purpose of supplying the service user with a nurse for employment by that service user;

"service user's guide" ("*arweiniad defnyddiwr gwasanaeth*") means the written guide produced in accordance with regulation 5;

"statement of purpose" ("*datganiad o ddiben*") means the written statement compiled in accordance with regulation 4.

(2) In these Regulations, references to the supply of a nurse mean -

- (a) the supply of a nurse who is employed for the purposes of an agency to act for and under the control of another person; and
- (b) the introduction of a nurse by an agency to a service user for employment by that service user.

(3) In the definition of "service user" in paragraphs (1) and (2), the terms "employed" and "employment" include employment under a contract for services.

(4) The National Assembly may specify an office controlled by it as the appropriate office in relation to a nurses agency situated in a particular part of Wales.

mharagraffau (1) a (2), mae'r term "ei chyflogi" yn cynnwys cyflogaeth o dan gontract ar gyfer gwasanaethau.

(4) Caiff y Cynulliad Cenedlaethol bennu swyddfa y mae'n ei rheoli fel y swyddfa briodol mewn perthynas ag asiantaeth nyrsys sydd wedi'i lleoli mewn rhan benodol o Gymru.

### **Asiantaethau sydd wedi'u heithrio**

3. At ddibenion y Ddeddf, mae ymddiriedolaeth GIG sy'n cyflenwi nyrsys i weithio ar gyfer ymddiriedolaethau GIG eraill yn unig wedi'i heithrio rhag bod yn asiantaeth nyrsys.

### **Datganiad o ddiben**

4. -(1) Rhaid i'r person cofrestredig lunio mewn perthynas â'r asiantaeth ddatganiad ysgrifenedig (y cyfeirir ato yn y Rheoliadau hyn fel "y datganiad o ddiben") y mae'n rhaid iddo gynnwys datganiad ynglŷn â'r materion a restrir yn Atodlen 1.

(2) Rhaid i'r person cofrestredig ddarparu copi o'r datganiad o ddiben i swyddfa briodol y Cynulliad Cenedlaethol a rhaid iddo drefnu bod copi ohono ar gael ar gais i'w archwilio gan bob defnyddiwr gwasanaeth ac unrhyw berson sy'n gweithredu ar ran defnyddiwr gwasanaeth.

(3) Ni fydd dim yn rheoliad 20 yn ei gwneud yn ofynnol i'r person cofrestredig dorri neu beidio â chydymffurfio â'r canlynol, nac yn ei awdurdodi i wneud hynny -

- (a) unrhyw ddarpariaeth arall yn y Rheoliadau hyn; neu
- (b) yr amodau sydd mewn grym am y tro mewn perthynas â chofrestru'r person cofrestredig o dan Ran II o'r Ddeddf.

### **Arweiniad defnyddiwr gwasanaeth**

5. -(1) Rhaid i'r person cofrestredig baratoi arweiniad defnyddiwr gwasanaeth y mae'n rhaid iddo gynnwys -

- (a) crynodeb o'r datganiad o ddiben;
- (b) y telerau a'r amodau ar gyfer y gwasanaethau sydd i'w darparu i'r defnyddwyr gwasanaeth, gan gynnwys y telerau a'r amodau ynglŷn â swm y ffioedd a dull eu talu;
- (c) crynodeb o'r weithdrefn gwyno a sefydlwyd yn unol â rheoliad 18; ac
- (ch) cyfeiriad a rhif ffôn unrhyw swyddfa briodol benodedig y Cynulliad Cenedlaethol.

### **Excepted agencies**

3. For the purposes of the Act, an NHS trust which supplies nurses to work solely for other NHS trusts is excepted from being a nurses agency.

### **Statement of purpose**

4. -(1) The registered person must compile in relation to the agency a written statement (in these Regulations referred to as "the statement of purpose") which must consist of a statement as to the matters listed in Schedule 1.

(2) The registered person must supply a copy of the statement of purpose to the appropriate office of the National Assembly and must make a copy of it available on request for inspection by every service user and any person acting on behalf of a service user.

(3) Nothing in regulation 20 shall require or authorise the registered person to contravene, or not to comply with -

- (a) any other provision of these Regulations; or
- (b) the conditions for the time being in force in relation to the registration of the registered person under Part II of the Act.

### **Service user's guide**

5. -(1) The registered person must prepare a service user's guide which must include -

- (a) a summary of the statement of purpose;
- (b) the terms and conditions in respect of the services to be provided to service users, including as to the amount and method of payment of fees;
- (c) a summary of the complaints procedure established in accordance with regulation 18; and
- (d) the address and telephone number of any specified appropriate office of the National Assembly.



(2) Rhaid i'r person cofrestredig drefnu bod copi o'r arweiniad defnyddiwr gwasanaeth ar gael ar gais i'w archwilio ar safle'r asiantaeth gan bob defnyddiwr gwasanaeth ac unrhyw berson sy'n gweithredu ar ran defnyddiwr gwasanaeth.

### **Adolygu'r datganiad o ddiben a'r arweiniad defnyddiwr gwasanaeth**

6. Rhaid i'r person cofrestredig -
- (a) cadw'r ddatganiad o ddiben a'r arweiniad defnyddiwr gwasanaeth o dan sylw ac, os yw'n briodol, eu diwygio; a
  - (b) hysbysu swyddfa briodol y Cynulliad Cenedlaethol o fewn 28 diwrnod o unrhyw ddiwygiad o bwys.

## **RHAN II**

### **PERSONAU COFRESTREDIG**

#### **Ffiterwydd y darparydd cofrestredig**

7. -(1) Rhaid i berson beidio â rhedeg asiantaeth oni bai bod y person hwnnw yn ffit i wneud hynny.

(2) Nid yw berson yn ffit i redeg asiantaeth oni bai bod y person -

- (a) yn unigolyn sy'n bodloni'r gofynion a nodir ym mharagraff (3); neu
- (b) yn gorff a -
  - (i) bod y corff wedi hysbysu swyddfa briodol y Cynulliad Cenedlaethol o enw, cyfeiriad a safle unigolyn yn y corff (cyfeirir at yr unigolyn yn y rheoliadau hyn fel "yr unigolyn cyfrifol") sy'n gyfarwyddwr, rheolwr, ysgrifennydd neu swyddog arall i'r corff ac sy'n gyfrifol am oruchwylio'r rheolaeth ar yr asiantaeth; a
  - (ii) bod yr unigolyn hwnnw yn bodloni'r gofynion a nodir ym mharagraff (3).

(3) Dyma'r gofynion -

- (a) bod yr unigolyn yn addas o ran ei onestrwydd a'i gymeriad da;
- (b) bod yr unigolyn yn ffit yn gorfforol ac yn feddyliol i redeg yr asiantaeth; ac
- (c) bod gwybodaeth lawn a boddhaol ar gael mewn perthynas â'r unigolyn -
  - (i) ac eithrio os yw paragraff (4) yn gymwys, am bob mater a bennir ym mharagraffau 1 i 8 o Atodlen 2;
  - (ii) os yw paragraff (4) yn gymwys, am bob mater a bennir ym mharagraffau 1 a 3 i 9 o Atodlen 2.

(4) Mae'r paragraff hwn yn gymwys os yw unigolyn

(2) The registered person must make a copy of the service user's guide available on request for inspection at the agency premises by every service user and any person acting on behalf of a service user.

### **Review of statement of purpose and service user's guide**

6. The registered person must -
- (a) keep under review and, where appropriate, revise the statement of purpose and the service user's guide; and
  - (b) notify the appropriate office of the National Assembly of any significant revision within 28 days.

## **PART II**

### **REGISTERED PERSONS**

#### **Fitness of registered provider**

7. -(1) A person must not carry on an agency unless that person is fit to do so.

(2) A person is not fit to carry on an agency unless the person -

- (a) is an individual who satisfies the requirements set out in paragraph (3); or
- (b) is an organisation and -
  - (i) the organisation has given notice to the appropriate office of the National Assembly of the name, address and position in the organisation of an individual (in these Regulations referred to as "the responsible individual") who is a director, manager, secretary or other officer of the organisation and is responsible for supervising the management of the agency; and
  - (ii) that individual satisfies the requirements set out in paragraph (3).

(3) The requirements are that -

- (a) the individual is of integrity and good character;
- (b) the individual is physically and mentally fit to carry on the agency; and
- (c) full and satisfactory information is available in relation to the individual -
  - (i) except where paragraph (4) applies, in respect of each matter specified in paragraphs 1 to 8 of Schedule 2;
  - (ii) where paragraph (4) applies, in respect of each matter specified in paragraphs 1 and 3 to 9 of Schedule 2.

(4) This paragraph applies where an individual has

wedi gwneud cais am dystysgrif y cyfeirir ati ym mharagraff 2 o Atodlen 2 ond nad yw'r dystysgrif wedi'i dyroddi.

- (5) Rhaid i berson beidio â rhedeg asiantaeth -
- (a) os yw wedi'i ddyfarnu'n fethdalwr neu os dyfarnwyd atafaeliad ar ei ystad ac, (yn y naill achos neu'r llall) nad yw wedi'i ryddhau ac nad yw'r gorchymyn methdaliad wedi'i ddiddymu neu wedi'i ddileu; neu
  - (b) os yw wedi gwneud cyfansoddiad neu drefniant gyda'i gredydwyr ac nad yw wedi'i ryddhau mewn perthynas ag ef.

### **Penodi rheolwr**

**8.** -(1) Rhaid i'r darparrydd cofrestredig benodi unigolyn i reoli'r asiantaeth -

- (a) pan nad oes unrhyw reolwr cofrestredig ar gyfer yr asiantaeth; a
- (b) pan fo'r darparrydd cofrestredig -
  - (i) yn gorff; neu
  - (ii) yn berson anffit i reoli asiantaeth; neu
  - (iii) yn berson nad oes ganddo ofal amser llawn dros yr asiantaeth o ddydd i ddydd, neu nad yw'n bwriadu bod â gofal o'r fath drosti.

(2) Pan fydd y darparrydd cofrestredig yn penodi person i reoli'r asiantaeth, rhaid iddo hysbysu swyddfa briodol y Cynulliad Cenedlaethol ar unwaith -

- (a) o enw'r person a benodwyd felly; a
- (b) o'r dyddiad y mae'r penodiad i fod i ddod i rym.

### **Ffitrwydd y rheolwr**

**9.** -(1) Rhaid i berson beidio â rheoli asiantaeth oni bai ei fod yn ffit i wneud hynny.

- (2) Nid yw person yn ffit i reoli asiantaeth oni bai -
- (a) ei fod yn addas o ran ei onestrwydd a'i gymeriad da;
  - (b) o roi sylw i faint yr asiantaeth, ei datganiad o ddiben a nifer ac anghenion y defnyddwyr gwasanaeth -
    - (i) bod gan y person y cymwysterau, y medrau a'r profiad sy'n angenrheidiol i reoli'r asiantaeth; a
    - (ii) bod y person yn ffit yn gorfforol ac yn feddyliol i wneud hynny;
  - (c) bod gwybodaeth lawn a boddhaol ar gael mewn perthynas ag ef -
    - (i) ac eithrio os yw paragraff (3) yn gymwys, am bob mater a bennir ym mharagraffau 1 i 8 o Atodlen 2,
    - (ii) os yw paragraff (3) yn gymwys, am bob

applied for a certificate referred to in paragraph 2 of Schedule 2 but the certificate has not been issued.

(5) A person must not carry on an agency if -

- (a) he or she has been adjudged bankrupt or sequestration of his or her estate has been awarded and (in either case) he or she has not been discharged and the bankruptcy order has not been annulled or rescinded; or
- (b) he or she has made a composition or arrangement with his or her creditors and has not been discharged in respect of it.

### **Appointment of manager**

**8.** -(1) The registered provider must appoint an individual to manage the agency where -

- (a) there is no registered manager in respect of the agency; and
- (b) the registered provider -
  - (i) is an organisation; or
  - (ii) is not a fit person to manage an agency; or
  - (iii) is not, or does not intend to be, in full-time day to day charge of the agency.

(2) Where the registered provider appoints a person to manage the agency, he or she must forthwith give notice to the appropriate office of the National Assembly of -

- (a) the name of the person so appointed; and
- (b) the date on which the appointment is to take effect.

### **Fitness of manager**

**9.** -(1) A person must not manage an agency unless he or she is fit to do so.

- (2) A person is not fit to manage an agency unless-
- (a) he or she is of integrity and good character;
  - (b) having regard to the size of the agency, its statement of purpose and the number and needs of the service users-
    - (i) he or she has the qualifications, skills and experience necessary to manage the agency; and
    - (ii) he or she is physically and mentally fit to do so; and
  - (c) full and satisfactory information is available in relation to him or her -
    - (i) except where paragraph (3) applies, in respect of each matter specified in paragraphs 1 to 8 of Schedule 2,
    - (ii) where paragraph (3) applies, in respect of

mater a bennir ym mharagraffau 1 a 3 i 9 o Atodlen 2.

(3) Mae'r paragraff hwn yn gymwys os yw unigolyn wedi gwneud cais am dystysgrif y cyfeirir ati ym mharagraff 2 o Atodlen 2 ond nad yw'r dystysgrif wedi'i dyroddi.

### **Y person cofrestredig - gofynion cyffredinol a hyfforddiant**

**10.** -(1) Rhaid i'r darparydd cofrestredig a'r rheolwr cofrestredig, o ystyried maint yr asiantaeth, ei datganiad o ddiben a nifer ac anghenion y defnyddwyr gwasanaeth, redeg yr asiantaeth, neu (yn ôl fel y digwydd) ei rheoli, â gofal, medrusrwydd a medr digonol.

(2) Os yw'r darparydd cofrestredig -

- (a) yn unigolyn, rhaid iddo ymgymryd; neu
- (b) yn gorff, rhaid iddo sicrhau bod yr unigolyn cyfrifol yn ymgymryd,

o dro i dro â'r hyfforddiant sy'n briodol i sicrhau bod ganddo'r profiad a'r medrau sy'n angenrheidiol ar gyfer rhedeg yr asiantaeth.

(3) Rhaid i'r rheolwr cofrestredig ymgymryd o dro i dro â'r hyfforddiant sy'n briodol i sicrhau bod ganddo'r profiad a'r medrau sy'n angenrheidiol ar gyfer rheoli'r asiantaeth.

### **Hysbysu o dramgwyddau**

**11.** Os yw'r person cofrestredig neu'r unigolyn cyfrifol wedi'i gollfarnu o unrhyw dramgwydd troseddol, boed hwnnw wedi'i gyflawni yng Nghymru neu mewn man arall, rhaid iddo roi hysbysiad ysgrifenedig ar unwaith i swyddfa briodol y Cynulliad Cenedlaethol -

- (i) o ddyddiad a man y collfarniad;
- (ii) o'r tramgwydd y mae wedi'i gollfarnu ohono; a
- (iii) o'r gosb a osodwyd mewn perthynas â'r tramgwydd.

#### **RHAN III**

#### **RHEDEG ASiantaethau Nyrsys**

#### **PENNOD 1**

#### **ANSAWDD Y GWASANAETH SY'N CAEL EI DDARPARU**

### **Ffitrwydd y nyrsys sy'n cael eu cyflenwi gan asiantaeth**

**12.** -(1) Rhaid i'r person cofrestredig sicrhau na fydd unrhyw nyrs yn cael ei chyflenwi gan yr asiantaeth oni bai -

- (a) ei bod yn berson addas o ran ei gonestrwydd a'i chymeriad da;

each matter specified in paragraphs 1 and 3 to 9 of Schedule 2.

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

### **Registered person - general requirements and training**

**10.** -(1) The registered provider and the registered manager must, having regard to the size of the agency, its statement of purpose and the number and needs of the service users, carry on or (as the case may be) manage the agency with sufficient care, competence and skill.

(2) If the registered provider is -

- (a) an individual, he or she must undertake; or
- (b) an organisation, it must ensure that the responsible individual undertakes,

from time to time such training as is appropriate to ensure that he or she has the experience and skills necessary for carrying on the agency.

(3) The registered manager must undertake from time to time such training as is appropriate to ensure that he or she has the experience and skills necessary for managing the agency.

### **Notification of offences**

**11.** Where the registered person or the responsible individual is convicted of any criminal offence, whether committed in Wales or elsewhere, he or she must forthwith give notice in writing to the appropriate office of the National Assembly of -

- (i) the date and place of the conviction;
- (ii) the offence of which he or she was convicted; and
- (iii) the penalty imposed in respect of the offence.

#### **PART III**

#### **CONDUCT OF NURSES AGENCIES**

#### **CHAPTER 1**

#### **QUALITY OF SERVICE PROVISION**

### **Fitness of nurses supplied by an agency**

**12.** -(1) The registered person must ensure that no nurse is supplied by the agency unless-

- (a) he or she is of integrity and good character;

- (b) bod ganddi'r cymwysterau, y medrau a'r profiad sy'n angenrheidiol ar gyfer y gwaith y mae i'w gyflawni;
- (c) ei bod yn ffit yn gorfforol ac yn feddyliol ar gyfer y gwaith hwnnw; ac
- (ch) bod gwybodaeth lawn a boddhaol ar gael amdani ar gyfer pob un o'r materion a bennir yn Atodlen 3.

(2) Rhaid i'r person cofrestredig sicrhau bod gwaith dethol nyrs i'w chyflenwi yn cael ei wneud gan nyrs neu o dan ei goruchwyliaeth a bod gwybodaeth lawn a boddhaol ar gael am y nyrs sy'n gwneud y gwaith dethol -

- (i) ac eithrio os yw paragraff (3) yn gymwys, am bob mater a bennir ym mharagraffau 1 i 8 o Atodlen 2;
- (ii) os yw paragraff (3) yn gymwys, am bob mater a bennir ym mharagraffau 1 a 3 i 9 o Atodlen 2.

(3) Mae'r paragraff hwn yn gymwys os yw unigolyn wedi gwneud cais am dystysgrif y cyfeirir ati ym mharagraff 2 o Atodlen 2 ond nad yw'r dystysgrif wedi'i dyroddi.

(4) Rhaid i'r person cofrestredig sicrhau bod pob nyrs sy'n cael ei chyflenwi gan yr asiantaeth pan fydd yn gweithredu fel busnes cyflogi(a) yn cael ei chyfarwyddo bod rhaid iddi wisgo bob amser, pan fydd yn gweithio i ddefnyddiwr gwasanaeth, gerdyn adnabod sy'n dangos ei henw, enw'r asiantaeth a ffotograff diweddar.

### Polisiâu a gweithdrefnau

13. -(1) Mae paragraffau (2) a (3) yn gymwys pan fydd asiantaeth sy'n gweithredu fel busnes cyflogi yn cyflenwi nyrs i ddarparu gofal nyrsio ym mhreswylfa breifat defnyddiwr gwasanaeth neu glaf.

(2) Rhaid i'r person cofrestredig baratoi polisiâu ysgrifenedig a'u rhoi ar waith mewn perthynas â'r canlynol -

- (a) sicrhau bod y gwasanaethau sy'n cael eu darparu i bob claf yn cyd-fynd â'r datganiad o ddiben ac yn diwallu anghenion unigol y claf hwnnw;
- (b) o dan ba amgylchiadau y caiff nyrsys roi meddyginiaeth i'r claf neu helpu i'w rhoi;
- (c) y tasgau eraill y caiff neu na chaiff nyrsys eu cyflawni mewn cysylltiad â gofal claf, a'r tasgau na chaniateir eu cyflawni os nad yw'r nyrs wedi cael hyfforddiant arbenigol;
- (ch) trefniadau i helpu cleifion ynglŷn â materion symudedd yn eu cartrefi, yn ôl yr angen;

(a) *Gweler* adran 121(1) o'r Ddeddf i weld y diffiniad o "employment business".

- (b) he or she has the qualifications, skills and experience which are necessary for the work which he or she is to perform;
- (c) he or she is physically and mentally fit for that work; and
- (d) full and satisfactory information is available in relation to him or her in respect of each of the matters specified in Schedule 3.

(2) The registered person must ensure that the selection of a nurse for supply is made by or under the supervision of a nurse and that in relation to the nurse carrying out the selection full and satisfactory information is available -

- (i) except where paragraph (3) applies, in respect of each matter specified in paragraphs 1 to 8 of Schedule 2;
- (ii) where paragraph (3) applies, in respect of each matter specified in paragraphs 1 and 3 to 9 of Schedule 2.

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

(4) The registered person must ensure that every nurse supplied by the agency acting as an employment business(a) is instructed that when working for a service user he or she must at all times wear identification showing his or her name, the name of the agency and a recent photograph.

### Policies and procedures

13. -(1) Paragraphs (2) and (3) apply where an agency acting as an employment business supplies a nurse to provide nursing care in the private residence of a service user or patient.

(2) The registered person must prepare and implement written policies in relation to -

- (a) ensuring that the services provided to each patient are in accordance with the statement of purpose and meet that patient's individual needs;
- (b) circumstances in which nurses may administer or assist in the administration of a patient's medication;
- (c) the other tasks which nurses may or may not perform in connection with a patient's care, and the tasks which may only be performed if the nurse has received specialist training;
- (d) arrangements to assist patients with mobility in their homes, where required;

(a) *See* section 121(1) of the Act for the definition of "employment business".

- (d) mesurau i sicrhau diogelwch y claf a diogelu ei eiddo;
- (dd) trefniadau i sicrhau bod preifatrwydd, urddas a dymuniadau'r claf yn cael eu parhau;
- (e) mesurau i ddiogelu'r claf rhag camdriniaeth neu esgeulustod;
- (f) mesurau i ddiogelu nyrsys rhag camdriniaeth neu niwed arall;
- (ff) y weithdrefn sydd i'w dilyn ar ôl i honiad o gamdriniaeth, esgeulustod neu niwed arall gael ei wneud.

(3) Rhaid i'r weithdrefn y cyfeiriwyd ati ym mharagraff (2) (ff) ddarparu yn benodol ar gyfer y canlynol -

- (a) bod cofnodion ysgrifenedig yn cael eu cadw o unrhyw honiad o gamdriniaeth, esgeulustod neu niwed arall ac o'r camau a gymerwyd mewn ymateb i hynny; a
- (b) bod swyddfa briodol y Cynulliad Cenedlaethol yn cael gwybod o unrhyw ddigwyddiad yr hysbyswyd yr heddlu ohono, a hynny heb fod yn hwyrach na 24 awr ar ôl i'r person cofrestredig -
  - (i) hysbysu'r heddlu o'r mater; neu
  - (ii) cael gwybod yr hysbyswyd yr heddlu o'r mater.

(4) Rhaid i'r person cofrestredig sicrhau na fydd unrhyw wybodaeth bersonol am glaf y mae nyrs wedi'i chyflenwi gan yr asiantaeth ar ei gyfer yn cael ei datgelu i unrhyw aelod o staff yr asiantaeth oni bai ei bod yn angenrheidiol gwneud hynny er mwyn darparu gwasanaeth effeithiol i'r claf.

### Staffio

**14.** -(1) Os yw asiantaeth yn gweithredu fel busnes cyflogi, rhaid i'r person cofrestredig, o ystyried maint yr asiantaeth, ei datganiad o ddiben a nifer ac anghenion y defnyddwyr gwasanaeth, gymryd pob mesur rhesymol i sicrhau bod nifer priodol o bersonau gyda chymwysterau, medrau a phrofiad addas yn cael eu cyflogi at ddibenion yr asiantaeth.

(2) Rhaid i'r person cofrestredig sicrhau bod pob un o gyflogeion yr asiantaeth -

- (a) yn cael ei oruchwylio'n briodol; a
- (b) yn cael disgrifiad swydd sy'n amlinellu ei gyfrifoldebau.

(3) Rhaid i'r person cofrestredig sefydlu gweithdrefn ar gyfer casglu gwybodaeth oddi wrth ddefnyddwyr gwasanaeth am berfformiad y nyrsys sy'n cael eu cyflogi at ddibenion yr asiantaeth, a rhaid iddo gymryd unrhyw gamau sy'n angenrheidiol i fynd i'r afael ag unrhyw agwedd ar arferion clinigol nyrs.

(4) Rhaid i'r person cofrestredig ddarparu i bob nyrs

- (e) measures to protect the safety and property of the patient;
- (f) arrangements to ensure that the privacy, dignity and wishes of the patient are respected;
- (g) measures to safeguard the patient against abuse or neglect;
- (h) measures to safeguard nurses against abuse or other harm;
- (i) the procedure to be followed after an allegation of abuse, neglect or other harm has been made.

(3) The procedure referred to in paragraph (2)(i) must in particular provide for -

- (a) written records to be kept of any allegation of abuse, neglect or other harm and of the action taken in response; and
- (b) the appropriate office of the National Assembly to be notified of any incident reported to the police, not later than 24 hours after the registered person-
  - (i) has reported the matter to the police; or
  - (ii) is informed that the matter has been reported to the police.

(4) The registered person must ensure that any personal information about a patient for whom a nurse is supplied by the agency is not disclosed to any member of the agency's staff unless it is necessary to do so in order to provide an effective service to the patient.

### Staffing

**14.** -(1) Where an agency is acting as an employment business, the registered person must, having regard to the size of the agency, its statement of purpose and the number and needs of the service users, take all reasonable measures to ensure that there is at all times an appropriate number of suitably qualified, skilled and experienced persons employed for the purposes of the agency.

(2) The registered person must ensure that each employee of the agency -

- (a) receives appropriate supervision; and
- (b) is provided with a job description outlining his or her responsibilities.

(3) The registered person must establish a procedure for collecting information from service users about the performance of nurses employed for the purposes of the agency, and must take such steps as may be necessary to address any aspect of a nurse's clinical practice.

(4) The registered person must provide to each nurse

sy'n cael ei chyflogi at ddibenion yr asiantaeth ddatganiad ysgrifenedig ar y telerau a'r amodau y bydd yn cael ei chyflenwi i weithio odanynt i ddefnyddiwr gwasanaeth, ac o dan ei reolaeth.

(5) Rhaid i'r datganiad o delerau ac amodau a ddarperir o dan baragraff (4) bennu, yn benodol, statws cyflogaeth y nyrs.

### **Y llawlyfr staff**

**15.** -(1) Pan fydd yr asiantaeth yn gweithredu fel busnes cyflogi, rhaid i'r person cofrestredig baratoi llawlyfr staff a darparu copi i bob aelod o'r staff.

(2) Rhaid i'r llawlyfr gael ei baratoi yn unol â pharagraff (1) a rhaid iddo gynnwys datganiad ynghylch -

- (a) yr ymddygiad a ddisgwylir oddi wrth y staff, a'r camau disgyblu y gellir eu cymryd yn eu herbyn;
- (b) rôl a chyfrifoldebau'r nyrsys a'r staff eraill;
- (c) y gofynion ynglŷn â chadw cofnodion;
- (ch) gweithdrefnau recriwtio; a
- (d) gofynion a chyfleoedd hyfforddi a datblygu.

### **Darparu gwybodaeth i ddefnyddwyr gwasanaeth**

**16.** -(1) Rhaid i'r person cofrestredig sicrhau bod y defnyddiwr gwasanaeth yn cael ei hysbysu, cyn bod nyrs yn cael ei chyflenwi -

- (a) o enw'r nyrs sydd i'w chyflenwi a'r dull o gysylltu â'r nyrs honno;
- (b) o enw'r aelod o staff yr asiantaeth sy'n gyfrifol am gyflenwi'r nyrs honno; ac
- (c) os yw'r asiantaeth yn gweithredu fel busnes cyflogi, o'r manylion ynglŷn â'r ffordd y gall y defnyddiwr gwasanaeth gysylltu â'r person cofrestredig, neu berson sydd wedi'i enwi i weithredu ar ran y person cofrestredig.

(2) Os y claf yw'r defnyddiwr gwasanaeth hefyd, rhaid i'r person cofrestredig sicrhau bod yr wybodaeth a bennwyd ym mharagraff (1) yn cael ei darparu, os yw'n briodol, i'r person sy'n gweithredu ar ran y claf.

### **Cofnodion**

**17.** Rhaid i'r person cofrestredig sicrhau bod y cofnodion a bennir yn Atodlen 4 yn cael eu cadw a'u bod -

- (a) yn cael eu cadw'n gyfoes, mewn cyflwr da ac mewn modd diogel; a
- (b) yn cael eu cadw am gyfnod heb fod yn llai na thair blynedd gan ddechrau ar ddyddiad yr eitem ddiwethaf.

who is employed for the purposes of the agency a written statement of the terms and conditions on which he or she will be supplied to work for, and under the control of, a service user.

(5) The statement of terms and conditions provided under paragraph (4) must, in particular, specify the employment status of the nurse.

### **Staff handbook**

**15.** -(1) Where the agency is acting as an employment business, the registered person must prepare a staff handbook and provide a copy to every member of staff.

(2) The handbook prepared in accordance with paragraph (1) must include a statement as to -

- (a) the conduct expected of staff, and disciplinary action which may be taken against them;
- (b) the role and responsibilities of nurses and other staff;
- (c) record keeping requirements;
- (d) recruitment procedures; and
- (e) training and development requirements and opportunities.

### **Provision of information to service users**

**16.** -(1) The registered person must ensure that before a nurse is supplied, the service user is informed of -

- (a) the name of the nurse who is to be supplied and the means of contacting that nurse;
- (b) the name of the member of staff of the agency who is responsible for the supply of that nurse; and
- (c) where the agency is acting as an employment business, details of how the service user may contact the registered person, or a person nominated to act on behalf of the registered person.

(2) Where the service user is also the patient, the registered person must ensure that the information specified in paragraph (1) is, where appropriate, provided to the person acting on behalf of the patient.

### **Records**

**17.** The registered person must ensure that the records specified in Schedule 4 are maintained and that they are -

- (a) kept up to date, in good order and in a secure manner; and
- (b) retained for a period of not less than three years beginning on the date of the last entry.

## Cwynion

18. -(1) Rhaid i'r person cofrestredig sefydlu gweithdrefn ("y weithdrefn gwyno") ar gyfer ystyried cwynion sy'n cael eu gwneud i'r person cofrestredig gan ddefnyddiwr gwasanaeth neu berson sy'n gweithredu ar ran y defnyddiwr gwasanaeth.

(2) Rhaid i'r person cofrestredig ddarparu copi ysgrifenedig o'r weithdrefn gwyno i bob defnyddiwr gwasanaeth ac, os gofynnir iddo wneud hynny, i unrhyw berson sy'n gweithredu ar ran defnyddiwr gwasanaeth.

(3) Rhaid i'r copi ysgrifenedig o'r weithdrefn gwyno gynnwys -

(a) enw a rhif ffôn unrhyw swyddfa briodol benodedig y Cynulliad Cenedlaethol; a

(b) y weithdrefn (os oes un) y mae swyddfa briodol y Cynulliad Cenedlaethol wedi hysbysu'r person cofrestredig ohoni ar gyfer gwneud cwynion i swyddfa briodol y Cynulliad Cenedlaethol ynglŷn â'r asiantaeth.

(4) Rhaid i'r person cofrestredig sicrhau bod ymchwiliad llawn yn cael ei gynnal i bob cwyn sy'n cael ei gwneud o dan y weithdrefn gwyno.

(5) Rhaid i'r person cofrestredig, o fewn y cyfnod o 28 diwrnod gan ddechrau ar y dyddiad y cafodd y gŵyn ei gwneud, roi gwybod i'r person a wnaeth y gŵyn am y camau sydd i'w cymryd mewn ymateb i hynny, neu unrhyw gyfnod byrrach a fydd yn rhesymol o dan yr amgylchiadau.

(6) Rhaid i'r person cofrestredig gadw cofnod o bob cwyn, gan gynnwys manylion yr ymchwiliad a wnaed, y canlyniad ac unrhyw gamau a gymerwyd o ganlyniad i hynny a bydd gofynion rheoliad 17 yn gymwys i'r cofnod hwnnw.

(7) Rhaid i'r person cofrestredig roi i swyddfa briodol y Cynulliad Cenedlaethol bob blwyddyn ddatganiad sy'n cynnwys crynodeb o'r cwynion a wnaed yn ystod y 12 mis blaenorol a'r camau a gymerwyd mewn ymateb i hynny.

(8) Rhaid i'r person cofrestredig sicrhau bod adroddiad yn cael ei gyflwyno yn brydlon ac yn ysgrifenedig i'r Cyngor Nyrsio a Bydwreigiaeth ar unrhyw dystiolaeth am gamymddygiad gan nyrs(a).

## Adolygu ansawdd y gwasanaeth sy'n cael ei ddarparu

19. -(1) Rhaid i'r person cofrestredig gyflwyno a chynnal system ar gyfer adolygu bob hyn a hyn fel y bo'n briodol ansawdd y gwasanaethau sy'n cael eu darparu gan yr asiantaeth.

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(a) Sefydlwyd y Cyngor Nyrsio a Bydwreigiaeth o dan erthygl 3 o Orchymyn Nyrsio a Bydwreigiaeth 2001 (O.S. 2002/253).

## Complaints

18. -(1) The registered person must establish a procedure ("the complaints procedure") for considering complaints made to the registered person by a service user or a person acting on behalf of the service user.

(2) The registered person must supply a written copy of the complaints procedure to every service user and, upon request, to any person acting on behalf of a service user.

(3) The written copy of the complaints procedure must include -

(a) the address and telephone number of any specified appropriate office of the National Assembly; and

(b) the procedure (if any) which has been notified by the appropriate office of the National Assembly to the registered person for making complaints to the appropriate office of the National Assembly relating to the agency.

(4) The registered person must ensure that every complaint made under the complaints procedure is fully investigated.

(5) The registered person must, within the period of 28 days beginning on the date on which the complaint is made, or such shorter period as may be reasonable in the circumstances, inform the person who made the complaint of the action that is to be taken in response.

(6) The registered person must maintain a record of each complaint, including details of the investigation made, the outcome and any action taken in consequence and the requirements of regulation 17 apply to that record.

(7) The registered person must supply to the appropriate office of the National Assembly annually a statement containing a summary of the complaints made during the preceding twelve months and the action taken in response.

(8) The registered person must ensure that any evidence of misconduct by a nurse is reported promptly and in writing to the Nursing and Midwifery Council(a).

## Review of quality of service provision

19. -(1) The registered person must introduce and maintain a system for reviewing at appropriate intervals the quality of services provided by the agency.

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(a) The Nursing and Midwifery Council was established by article 3 of the Nursing and Midwifery Order 2001 (S.I. 2002/253).

(2) Rhaid i'r person cofrestredig gyflwyno adroddiad i swyddfa briodol y Cynulliad Cenedlaethol mewn perthynas ag unrhyw adolygiad y mae'r person cofrestredig wedi'i gynnal at ddibenion paragraff (1), a threfnu bod copi o'r adroddiad ar gael i'r defnyddwyr gwasanaeth a'r personau sy'n gweithredu ar ran y defnyddwyr gwasanaeth ei archwilio, os byddant yn gofyn amdano.

(3) Rhaid i'r system y cyfeirir ati ym mharagraff (1) ddarparu ar gyfer ymgynghori â'r defnyddwyr gwasanaeth a'r personau sy'n gweithredu ar ran y defnyddwyr gwasanaeth.

## PENNOD 2

### Y SAFLE

#### Ffitrwydd y safle

**20.** Rhaid i'r person cofrestredig beidio â defnyddio safle at ddibenion asiantaeth oni bai bod y safle yn addas ar gyfer cyflawni nodau ac amcanion yr asiantaeth sydd wedi'u nodi yn y datganiad o ddiben.

## PENNOD 3

### MATERION ARIANNOL

#### Y sefyllfa ariannol

**21.** -(1) Rhaid i'r darparwydd cofrestredig redeg yr asiantaeth mewn modd sy'n debyg o sicrhau y bydd yr asiantaeth yn hyfyw yn ariannol er mwyn cyflawni'r nodau a'r amcanion sydd wedi'u nodi yn y datganiad o ddiben.

(2) Os bydd swyddfa briodol y Cynulliad Cenedlaethol yn gofyn amdanynt, rhaid i'r person cofrestredig ddarparu i'r swyddfa honno unrhyw wybodaeth a dogfennau y mae arni eu hangen er mwyn ystyried hyfywedd ariannol yr asiantaeth, gan gynnwys -

- (a) cyfrifon blynyddol yr asiantaeth wedi'u hardystio gan gyfrifydd; a
- (b) tystysgrif yswiriant i'r darparwydd cofrestredig ar gyfer atebolrwydd a allai ddod i'w ran mewn perthynas â'r asiantaeth ynglŷn â marwolaeth, niwed, atebolrwydd cyhoeddus, difrod neu gollod arall.

## PENNOD 4

### YR HYSBYSIADAU SYDD I'W RHOI I'R CYNULLIAD CENEDLAETHOL

#### Hysbysu o absenoldeb

**22.** -(1) Os yw -

(2) The registered person must supply to the appropriate office of the National Assembly a report in respect of any review conducted by the registered person for the purposes of paragraph (1) and must make a copy of the report available upon request for inspection by service users and persons acting on behalf of service users.

(3) The system referred to in paragraph (1) must provide for consultation with service users and persons acting on behalf of service users.

## CHAPTER 2

### PREMISES

#### Fitness of premises

**20.** The registered person must not use premises for the purposes of an agency unless the premises are suitable for the purpose of achieving the aims and objectives of the agency set out in the statement of purpose.

## CHAPTER 3

### FINANCIAL MATTERS

#### Financial position

**21.** -(1) The registered provider must carry on the agency in such manner as is likely to ensure that the agency will be financially viable for the purpose of achieving the aims and objectives set out in the statement of purpose.

(2) The registered person must, if the appropriate office of the National Assembly so requests, provide that office with such information and documents as it may require in order to consider the financial viability of the agency, including -

- (a) the annual accounts of the agency certified by an accountant; and
- (b) a certificate of insurance for the registered provider in respect of liability which may be incurred in relation to the agency in respect of death, injury, public liability, damage or other loss.

## CHAPTER 4

### NOTICES TO BE GIVEN TO THE NATIONAL ASSEMBLY

#### Notice of absence

**22.** -(1) Where -



- (a) y darparrydd cofrestredig, a hwnnw'n unigolyn â gofal amser-llawn o ddydd i ddydd dros yr asiantaeth; neu
- (b) y rheolwr cofrestredig,

yn bwriadu bod yn absennol o'r asiantaeth am gyfnod parhaus o 28 diwrnod neu fwy, rhaid i'r person cofrestredig roi hysbysiad ysgrifenedig i swyddfa briodol y Cynulliad Cenedlaethol o'r absenoldeb arfaethedig.

(2) Ac eithrio mewn argyfwng, rhaid i'r hysbysiad y cyfeirwyd ato ym mharagraff (1) gael ei roi heb fod yn hwyrach nag un mis cyn i'r absenoldeb arfaethedig ddechrau neu o fewn unrhyw gyfnod byrrach y cytunir arno gyda swyddfa briodol y Cynulliad Cenedlaethol a rhaid i'r hysbysiad bennu -

- (a) pa mor hir y bydd yr absenoldeb arfaethedig neu pa mor hir y disgwylir iddo fod;
- (b) y rheswm dros yr absenoldeb;
- (c) y trefniadau sydd wedi'u gwneud ar gyfer rhedeg yr asiantaeth yn ystod yr absenoldeb hwnnw;
- (ch) enw, cyfeiriad a chymwysterau'r person a fydd yn gyfrifol am yr asiantaeth yn ystod yr absenoldeb hwnnw; a
- (d) yn achos absenoldeb y rheolwr cofrestredig, y trefniadau sydd wedi'u gwneud, neu y bwriedir eu gwneud, ar gyfer penodi person arall i reoli'r asiantaeth yn ystod yr absenoldeb hwnnw, gan gynnwys y dyddiad arfaethedig erbyn pryd y mae'r penodiad i'w wneud.

(3) Os yw'r absenoldeb yn codi yn sgil argyfwng, rhaid i'r person cofrestredig roi hysbysiad o'r absenoldeb o fewn un wythnos ar ôl i'r argyfwng ddigwydd gan bennu'r materion a nodwyd ym mharagraff (2)(a) i (d).

(4) Os yw -

- (a) y darparrydd cofrestredig, a hwnnw'n unigolyn â gofal amser-llawn o ddydd i ddydd dros yr asiantaeth; neu
- (b) y rheolwr cofrestredig,

wedi bod yn absennol o'r asiantaeth am gyfnod parhaus o 28 diwrnod neu fwy, ac na roddwyd hysbysiad o'r absenoldeb i swyddfa briodol y Cynulliad Cenedlaethol, rhaid i'r person cofrestredig roi hysbysiad ysgrifenedig yn ddi-oed i swyddfa briodol y Cynulliad Cenedlaethol o'r absenoldeb, gan bennu'r materion a nodwyd ym mharagraff (2)(a) i (d).

(5) Rhaid i'r person cofrestredig hysbysu swyddfa briodol y Cynulliad Cenedlaethol fod y darparrydd cofrestredig neu (yn ôl fel y digwydd) y rheolwr cofrestredig wedi dychwelyd i'r gwaith a rhaid iddo hysbysu hyn heb fod yn hwyrach na saith diwrnod ar ôl dyddiad y dychweliad.

- (a) the registered provider, being an individual in full-time day to day charge of the agency; or
- (b) the registered manager,

proposes to be absent from the agency for a continuous period of 28 days or more, the registered person must give notice in writing to the appropriate office of the National Assembly of the proposed absence.

(2) Except in the case of an emergency, the notice referred to in paragraph (1) must be given no later than one month before the proposed absence commences or within such shorter period as may be agreed with the appropriate office of the National Assembly and the notice must specify -

- (a) the length or expected length of the absence;
- (b) the reason for the absence;
- (c) the arrangements which have been made for running the agency during that absence;
- (d) the name, address and qualifications of the person who will be responsible for the agency during that absence; and
- (e) in the case of the absence of the registered manager, the arrangements that have been, or are proposed to be, made for appointing another person to manage the agency during that absence, including the proposed date by which the appointment is to be made.

(3) Where the absence arises as a result of an emergency, the registered person must give notice of the absence within one week of its occurrence specifying the matters set out in paragraph (2)(a) to (e).

(4) Where -

- (a) the registered provider, being an individual in full-time day to day charge of the agency; or
- (b) the registered manager,

has been absent from the agency for a continuous period of 28 days or more, and the appropriate office of the National Assembly has not been given notice of the absence, the registered person must, without delay, give notice in writing to the appropriate office of the National Assembly of the absence, specifying the matters set out in paragraph (2)(a) to (e).

(5) The registered person must notify the appropriate office of the National Assembly of the return to duty of the registered provider or (as the case may be) the registered manager not later than 7 days after the date of return.

## Hysbysu o newidiadau

23. Rhaid i'r person cofrestredig roi hysbysiad ysgrifenedig i swyddfa briodol y Cynulliad Cenedlaethol cyn gynted ag y bo'n ymarferol gwneud hynny os yw unrhyw un o'r pethau canlynol yn digwydd neu os bwriedir iddynt ddigwydd -

- (a) bod person ac eithrio'r person cofrestredig yn rhedeg neu'n rheoli'r asiantaeth;
- (b) bod person yn rhoi'r gorau i redeg neu i reoli'r asiantaeth;
- (c) os unigolyn yw'r person cofrestredig, ei fod yn newid ei enw;
- (ch) os corff yw'r darparrydd cofrestredig -
  - (i) bod enw neu gyfeiriad y corff yn newid;
  - (ii) bod unrhyw newid cyfarwyddwr, rheolwr, ysgrifennydd neu swyddog cyffelyb arall i'r corff yn digwydd;
  - (iii) bod unrhyw newid o ran pwy yw'r unigolyn cyfrifol;
- (d) os unigolyn yw'r darparrydd cofrestredig, bod ymddiriedolwr mewn methdaliad yn cael ei benodi;
- (dd) os cwmni yw'r darparrydd cofrestredig, bod derbynnydd, rheolwr, datodwr neu ddatodwr dros dro yn cael ei benodi;
- (e) os yw darparrydd cofrestredig mewn partneriaeth y mae ei busnes yn cynnwys rhedeg asiantaeth niysys, bod derbynnydd neu reolwr yn cael, neu'n debyg o gael, ei benodi ar gyfer y bartneriaeth; neu
- (f) bod y darparrydd cofrestredig yn caffael safle ychwanegol at ddibenion yr asiantaeth.

## Penodi datodwyr etc.

24. -(1) Rhaid i unrhyw berson y mae paragraff (2) yn gymwys iddo -

- (a) hysbysu swyddfa briodol y Cynulliad Cenedlaethol ar unwaith o'i benodiad gan nodi'r rhesymau drosto;
- (b) penodi rheolwr i gymryd gofal amser-llawn o ddydd i ddydd dros yr asiantaeth mewn unrhyw achos lle nad oes rheolwr cofrestredig; ac
- (c) heb fod yn fwy na 28 diwrnod ar ôl y penodiad, hysbysu swyddfa briodol y Cynulliad Cenedlaethol o'r dull arfaethedig o weithredu'r asiantaeth yn y dyfodol.

(2) Mae'r paragraff hwn yn gymwys i unrhyw berson a benodir -

- (a) yn dderbynnydd neu'n rheolwr eiddo cwmni sy'n ddarparrydd cofrestredig mewn perthynas ag asiantaeth;

## Notice of changes

23. The registered person must give notice in writing to the appropriate office of the National Assembly as soon as it is practicable to do so if any of the following events takes place or is proposed to take place -

- (a) a person other than the registered person carries on or manages the agency;
- (b) a person ceases to carry on or manage the agency;
- (c) where the registered person is an individual, that individual changes name;
- (d) where the registered provider is an organisation -
  - (i) the name or address of the organisation is changed;
  - (ii) there is any change of director, manager, secretary or other similar officer of the organisation;
  - (iii) there is any change in the identity of the responsible individual;
- (e) where the registered provider is an individual, a trustee in bankruptcy is appointed;
- (f) where the registered provider is a company, a receiver, manager, liquidator or provisional liquidator is appointed;
- (g) where a registered provider is in a partnership whose business includes carrying on a nurses agency, a receiver or manager is, or is likely to be, appointed in respect of the partnership; or
- (h) the registered provider acquires additional premises for the purposes of the agency.

## Appointment of liquidators etc.

24. -(1) Any person to whom paragraph (2) applies must -

- (a) forthwith notify the appropriate office of the National Assembly of his or her appointment indicating the reasons for it;
- (b) appoint a manager to take full-time day to day charge of the agency in any case where there is no registered manager; and
- (c) not more than 28 days after appointment, notify the appropriate office of the National Assembly of the intended future operation of the agency.

(2) This paragraph applies to any person appointed as -

- (a) the receiver or manager of the property of a company which is a registered provider in respect of an agency;

- (b) yn ddatodwr neu'n ddatodwr dros dro ar gwmni sy'n ddarparrydd cofrestredig mewn perthynas ag asiantaeth;
- (c) yn dderbynydd neu'n rheolwr eiddo partneriaeth y mae ei busnes yn cynnwys rhedeg asiantaeth;
- (ch) yn ymddiriedolwr mewn methdaliad i ddarparrydd cofrestredig mewn perthynas ag asiantaeth.

### **Marwolaeth y person cofrestredig**

**25.** -(1) Os oes mwy nag un person wedi'i gofrestru ar gyfer asiantaeth, a bod person cofrestredig yn marw, rhaid i'r person cofrestredig sy'n goroesi hysbysu yn ysgrifenedig swyddfa briodol y Cynulliad Cenedlaethol yn ddi-oed o'r farwolaeth.

(2) Os un person yn unig sydd wedi'i gofrestru ar gyfer asiantaeth, a bod y person hwnnw yn marw, rhaid i'w gynrychiolwyr personol hysbysu swyddfa briodol y Cynulliad Cenedlaethol yn ysgrifenedig -

- (a) o'r farwolaeth yn ddi-oed; a
- (b) o fewn 28 diwrnod o'u bwriadau ynglŷn â rhedeg yr asiantaeth yn y dyfodol.

(3) Caiff cynrychiolwyr personol y darparrydd cofrestredig ymadawedig redeg yr asiantaeth heb fod wedi'u cofrestru ar ei chyfer -

- (a) am gyfnod heb fod yn hwy nag 28 diwrnod; a
- (b) am unrhyw gyfnod pellach a benderfynnir yn unol â pharagraff (4).

(4) Caiff y Cynulliad Cenedlaethol estyn y cyfnod a bennwyd ym mharagraff (3)(a) am unrhyw gyfnod pellach, heb fod yn hwy na blwyddyn, y bydd y Cynulliad Cenedlaethol yn penderfynu arno, a rhaid iddo hysbysu'r cynrychiolwyr personol yn ysgrifenedig o unrhyw benderfyniad o'r fath.

(5) Rhaid i'r cynrychiolwyr personol benodi person i gymryd gofal amser-llawn o ddydd i ddydd dros yr asiantaeth yn ystod unrhyw gyfnod pryd y byddant, yn unol â pharagraff (3), yn rhedeg yr asiantaeth, heb fod wedi'u cofrestru ar ei chyfer.

### RHAN IV AMRYWIOL

#### **Cydymffurfio â'r rheoliadau**

**26.** Os oes mwy nag un person cofrestredig mewn perthynas ag asiantaeth, ni fydd yn ofynnol i unrhyw un o'r personau cofrestredig wneud unrhyw beth y mae'n ofynnol o dan y rheoliadau hyn iddo gael ei wneud gan y person cofrestredig os yw wedi'i wneud gan un o'r personau cofrestredig eraill.

- (b) the liquidator or provisional liquidator of a company which is the registered provider in respect of an agency;
- (c) the receiver or manager of the property of a partnership whose business includes carrying on an agency;
- (d) the trustee in bankruptcy of a registered provider in respect of an agency.

### **Death of registered person**

**25.** -(1) If more than one person is registered in respect of an agency, and a registered person dies, the surviving registered person must without delay notify the appropriate office of the National Assembly of the death in writing.

(2) If only one person is registered in respect of an agency, and that person dies, his or her personal representatives must notify the appropriate office of the National Assembly in writing -

- (a) without delay of the death; and
- (b) within 28 days of their intentions regarding the future running of the agency.

(3) The personal representatives of the deceased registered provider may carry on the agency without being registered in respect of it -

- (a) for a period not exceeding 28 days; and
- (b) for any further period as may be determined in accordance with paragraph (4).

(4) The National Assembly may extend the period specified in paragraph (3)(a) by such further period, not exceeding one year, as the National Assembly determines, and must notify any such determination to the personal representatives in writing.

(5) The personal representatives must appoint a person to take full-time day to day charge of the agency during any period in which, in accordance with paragraph (3), they carry on the agency without being registered in respect of it.

### PART IV MISCELLANEOUS

#### **Compliance with regulations**

**26.** Where there is more than one registered person in respect of an agency, anything which is required under these Regulations to be done by the registered person must, if done by one of the registered persons, not be required to be done by any of the other registered persons.

## Tramgwyddau

27. -(1) Bydd torri neu fethu â chydymffurfio ag unrhyw un o darpariaethau rheoliadau 4 i 23 yn dramgwydd.

(2) Caiff y Cynulliad Cenedlaethol ddwyn achos yn erbyn y person a oedd ar un adeg, ond nad yw bellach, yn berson cofrestredig, mewn perthynas â methiant i gydymffurfio â rheoliad 17.

## Ffioedd

28. -(1) Mae Rheoliadau Cofrestru Gofal Cymdeithasol a Gofal Iechyd Annibynnol (Ffioedd)(Cymru) 2002(a) yn cael eu diwygio yn unol â darpariaethau canlynol y rheoliad hwn.

(2) Yn y paragraff sy'n dwyn y pennawd "Arrangements of Regulations", ychwanegir y llinell ganlynol at y diwedd "13. Annual fee - nurses agencies".

(3) Yn rheoliad 2(1) -

- (a) ar ôl y diffiniad o "the Act" ychwanegwch -  
"the 1957 Act" means the Nurses Agencies Act 1957";
- (b) ar ôl y geiriau "agency" means a fostering agency" ychwanegwch y geiriau "or nurses agency";
- (c) yn y diffiniad o "existing undertaking" ychwanegwch yn y man priodol -  
"(e) a nurses agency that is licensed immediately before 2 Hydref 2003 under the 1957 Act";.

(4) Ar ôl rheoliad 12 (Annual fee - fostering agencies and local authority fostering services), mewnosodwch y rheoliad canlynol -

### "Annual fee - nurses agencies

13.-(1) The annual fee in respect of a nurses agency is £500.

(2) The annual fee in respect of a nurses agency shall be first payable by the registered provider on the date specified in respect of him or her in paragraph (3) ("the first date") and thereafter on the anniversary of the first date.

(3) The specified date is -

- (a) in the case of the registered provider of a nurses agency that is an existing undertaking -
  - (i) in a case where a licence fee was payable under the 1957 Act in respect of the undertaking, the anniversary of the date on which the last fee was payable;
  - (ii) in any other case, 31st December 2003;

## Offences

27. -(1) A contravention or failure to comply with any of the provisions of regulations 4 to 23 shall be an offence.

(2) The National Assembly may bring proceedings against a person who was once, but no longer is, a registered person, in respect of a failure to comply with regulation 17.

## Fees

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

(2) In the paragraph headed "Arrangement of Regulations", the following line is added at the end "13. Annual fee - nurses agencies".

(3) In regulation 2(1) -

- (a) after the definition of "the Act" add -  
"the 1957 Act" means the Nurses Agencies Act 1957";
- (b) after the words "agency" means a fostering agency" add the words "or nurses agency";
- (c) in the definition of "existing undertaking" add at the appropriate place -  
"(e) a nurses agency that is licensed immediately before 2nd October 2003 under the 1957 Act";.

(4) After regulation 12 (Annual fee - fostering agencies and local authority fostering services), insert the following regulation -

### "Annual fee - nurses agencies

13.-(1) The annual fee in respect of a nurses agency is £500.

(2) The annual fee in respect of a nurses agency shall be first payable by the registered provider on the date specified in respect of him or her in paragraph (3) ("the first date") and thereafter on the anniversary of the first date.

(3) The specified date is -

- (a) in the case of the registered provider of a nurses agency that is an existing undertaking -
  - (i) in a case where a licence fee was payable under the 1957 Act in respect of the undertaking, the anniversary of the date on which the last fee was payable;
  - (ii) in any other case, 31st December 2003;

(a) O.S. 2002/921 fel y'i diwygiwyd gan O.S.2003/237 ag O.S. 2003/781.

(a) S.I. 2002/921 as amended by S.I. 2003/237 and S.I. 2003/781.

(b) in the case of a registered provider who is a new provider, the date on which a certificate of registration is first issued under Part II of the Act in respect of that registered provider of the nurses agency."

(b) in the case of a registered provider who is a new provider, the date on which a certificate of registration is first issued under Part II of the Act in respect of that registered provider of the nurses agency."

### Cofrestru

**29.** Mae rheoliad 2(1) o Reoliadau Cofrestru Gofal Cymdeithasol a Gofal Iechyd Annibynnol (Cymru) 2002 (a) yn cael ei ddiwygio fel a ganlyn -

(a) yn y diffiniad o "appropriate office of the National Assembly", mewnosodwch ar ôl is-baragraff (e) -

"(f) (i) if an office has been specified under regulation 2(4) of the Nurses Agencies (Wales) Regulations 2003 (b), that office;

(ii) in any other case, any office of the National Assembly."

(b) yn y diffiniad o "statement of purpose", mewnosodwch ar ôl is-baragraff (e) -

"(f) in relation to a nurses agency, the written statement required to be compiled in relation to the nurses agency in accordance with regulation 4(1) of the Nurses Agency (Wales) Regulations 2003."

### Registration

**29.** Regulation 2(1) of the Registration of Social Care and Independent Health Care (Wales) Regulations 2002 (a) is amended as follows -

(a) in the definition of "appropriate office of the National Assembly", after sub-paragraph (e) insert -

"(f) (i) if an office has been specified under regulation 2(4) of the Nurses Agencies (Wales) Regulations 2003 (b), that office;

(ii) in any other case, any office of the National Assembly."

(b) in the definition of "statement of purpose", after sub-paragraph (e) insert -

"(f) in relation to a nurses agency, the written statement required to be compiled in relation to the nurses agency in accordance with regulation 4(1) of the Nurses Agency (Wales) Regulations 2003."

### Darpariaethau trosiannol

**30.** Bydd Atodlen 5 i'r rheoliadau hyn, sy'n gwneud darpariaethau trosiannol, yn effeithiol.

### Transitional provisions

**30.** Schedule 5 to these Regulations, which makes transitional provisions, shall have effect.

Llofnodwyd ar rhan Cynulliad Cenedlaethol Cymru o dan adran 66(1) o Ddeddf Llywodraeth Cymru 1998(c)

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

1 Hydref 2003

1st October 2003

*D. Elis-Thomas*

Llywydd y Cynulliad Cenedlaethol

The Presiding Officer of the National Assembly

(a) O.S. 2002/919 (Cy. 107) fel y'i diwygiwyd gan O.S. 2002/237.

(b) O.S.

(c) 1998 p.38.

(a) S.I. 2002/919 (W. 107) as amended by S.I. 2002/237

(b) S.I.

(c) 1998 c.38.

## ATODLEN 1

## SCHEDULE 1

Rheoliad 4

Regulation 4

### YR WYBODAETH SYDD I'W CHYNNWYS YN Y DATGANIAD O DDIBEN

### INFORMATION TO BE INCLUDED IN THE STATEMENT OF PURPOSE

1. Nodau ac amcanion yr asiantaeth.
2. Natur y gwasanaethau y mae'r asiantaeth yn eu darparu.
3. Enw a chyfeiriad y darparydd cofrestredig ac unrhyw reolwr cofrestredig.
4. Cymwysterau a phrofiad perthnasol y darparydd cofrestredig ac unrhyw reolwr cofrestredig.
5. Ystod cymwysterau'r nyrsys sy'n cael eu cyflenwi gan yr asiantaeth, a'r mathau o sefydliadau y maent yn cael eu cyflenwi i weithio ynddynt.
6. Y weithdrefn gwyno a sefydlwyd yn unol â rheoliad 18.

1. The aims and objectives of the agency.
2. The nature of the services which the agency provides.
3. The name and address of the registered provider and of any registered manager.
4. The relevant qualifications and experience of the registered provider and any registered manager.
5. The range of qualifications of nurses supplied by the agency, and the types of settings in which they are supplied to work.
6. The complaints procedure established in accordance with regulation 18.

## ATODLEN 2

## SCHEDULE 2

Rheoliadau 7(3), 9(2) a 12(2)

Regulations 7(3), 9(2) and 12(2)

### YR WYBODAETH SY'N OFYNNOL MEWN PERTHYNAS Â DARPARWYR A RHEOLWYR COFRESTREDIG ASIANTAETH A NYRSYS SY'N GYFRIFOL AM DDEWIS NYRSYS I'W CYFLENWI I DDEFNYDDWYR GWASANAETH

### INFORMATION REQUIRED IN RESPECT OF REGISTERED PROVIDERS AND MANAGERS OF AN AGENCY AND NURSES RESPONSIBLE FOR SELECTING NURSES FOR SUPPLY TO SERVICE USERS

1. Prawf o bwy yw'r person, gan gynnwys ffotograff diweddar.
2. Naill ai -
  - (a) os oes angen y dystysgrif at ddiben sy'n gysylltiedig ag adran 115(5)(ea) o Ddeddf yr Heddlu 1997 (cofrestru o dan Ran II o Ddeddf Safonau Gofal 2000)(a), neu os yw'r swydd yn dod o dan adran 115(3) neu (4) o'r Ddeddf honno(b), tystysgrif cofnod troseddol fanwl a ddyroddwyd o dan adran 115 o'r Ddeddf

1. Proof of identity, including a recent photograph.
2. Either -
  - (a) where the certificate is required for a purpose relating to section 115(5)(ea) of the Police Act 1997 (registration under Part II of the Care Standards Act 2000)(a), or the position falls within section 115(3) or (4) of that Act(b), an enhanced criminal record certificate issued under section 115 of that Act; or

(a) Mewnswydd adran 115(5)(ea) gan Ddeddf Safonau Gofal 2000, adran 104.

(b) Mae swydd o fewn adran 115(3) os yw'n golygu bod y person wrthi'n rheolaidd yn gofalu am bersonau o dan 18 oed, yn eu hyfforddi, yn eu goruchwyllo, neu os yw'r personau hynny o dan ei ofal ef yn unig. Mae swydd o fewn adran 115(4) os yw'n fath a bennir mewn rheoliadau ac os yw'n golygu bod y person wrthi'n rheolaidd yn gofalu am bersonau sy'n 18 oed neu drosodd, yn eu hyfforddi, yn eu goruchwyllo, neu os yw'r personau hynny o dan ei ofal ef yn unig.

(a) Section 115(5)(ea) is inserted by the Care Standards Act 2000, section 104.

(b) A position is within section 115(3) if it involves regularly caring for, training, supervising or being in sole charge of persons aged under 18. A position is within section 115(4) if it is of a kind specified in regulations and involves regularly caring for, training, supervising or being in sole charge of persons aged 18 or over.

honno; neu

- (b) mewn unrhyw achos arall, tystysgrif cofnod troseddol a ddyroddwyd o dan adran 113 o'r Ddeddf honno,

gan gynnwys, os yw'n gymwys, y materion a bennir yn adrannau 133(3A) a 115(6A) o'r Ddeddf honno a'r darpariaethau canlynol pan fyddant mewn grym, sef adran 113(3C)(a) a (b) ac adran 115(6B)(a) a (b) o'r Ddeddf honno(a).

3. Dau dystlythyr, gan gynnwys tystlythyr sy'n ymwneud â'r cyfnod cyflogaeth diwethaf nad oedd wedi para'n llai na thri mis.

4. Os yw person wedi gweithio o'r blaen mewn swydd a oedd yn golygu gweithio gyda phlant neu oedolion hawdd eu niweidio, cadarnhad o'r rheswm pam y daeth y gyflogaeth neu'r swydd honno i ben ac eithrio os yw'r Cynulliad Cenedlaethol wedi penderfynu bod pob cam rhesymol wedi'i gymryd i sicrhau cadarnhad o'r fath ond nad yw ar gael.

5. Tystiolaeth ddogfennol am unrhyw gymwysterau a hyfforddiant perthnasol.

6. Hanes cyflogaeth llawn, ynghyd ag esboniad ysgrifenedig boddhaol am unrhyw fylchau yn y gyflogaeth.

7. Mewn perthynas â nyrs y mae rheoliad 12(2) yn gymwys iddi, cadarnhad o'i chofrestriad cyfredol â'r Cyngor Nyrsio a Bydwreigiaeth(b), gan gynnwys manylion am y Rhan o'r gofrestr y mae enw'r nyrs wedi'i gofrestru ynddi.

8. Manylion unrhyw yswiriant indemnio proffesiynol.

9. Gwiriad heddlu, sef adroddiad a luniwyd gan neu ar ran prif swyddog heddlu o fewn ystyr "chief officer" yn Neddf yr Heddlu 1997 ac sy'n cofnodi, adeg llunio'r adroddiad, bob tramgwydd troseddol -

- (a) yr oedd y person wedi'i gollfarnu o'i herwydd gan gynnwys collfarnau sydd wedi'u disbyddu o fewn ystyr "spent" yn Neddf Adsefydlu Tramgwyddwyr 1974(c) ac y caniateir eu datgelu yn rhinwedd Gorchymyn Deddf Adsefydlu Tramgwyddwyr 1974 (Eithriadau) 1975(ch); neu
- (b) yr oedd y person wedi'i rybuddio amdanynt ac wedi'u cyfaddef adeg cael y rhybudd.

- (b) in any other case, a criminal record certificate issued under section 113 of that Act,

including, where applicable, the matters specified in sections 113(3A) and 115(6A) of that Act and the following provisions once they are in force, namely section 113(3C)(a) and (b) and section 115(6B)(a) and (b) of that Act(a).

3. Two written references, including a reference relating to the last period of employment of not less than three months duration.

4. Where a person has previously worked in a position which involved work with children or vulnerable adults, verification of the reason why the employment or position ended except where the National Assembly has determined that all reasonable steps have been taken to obtain such verification but it is not available.

5. Documentary evidence of any relevant qualifications and training.

6. A full employment history, together with a satisfactory written explanation of any gaps in employment.

7. In respect of a nurse to whom regulation 12(2) applies, confirmation of current registration with the Nursing and Midwifery Council(b), including details of the Part of the register in which the nurse is registered.

8. Details of any professional indemnity insurance.

9. A police check being a report produced by or on behalf of a chief officer of police within the meaning of the Police Act 1997 which records, as at the time the report is produced, all criminal offences -

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

(a) Mae adran 113(3A) ac 115(6A) wedi'u hychwanegu at Ddeddf yr Heddlu 1997 gan adran 8 o Ddeddf Amddiffyn Plant 1999 (p.14), ac wedi'u diwygio gan adrannau 104 a 116 o Ddeddf Safonau Gofal 2000 a pharagraff 25 o Atodlen 4 iddi. Mae adrannau 113(3C) a 115(6B) i'w hychwanegu at Ddeddf yr Heddlu 1997 gan adran 90 o Ddeddf Safonau Gofal 2000 ar ddyddiad sydd i'w bennu.

(b) Mae'r gofrestr yn cael ei chadw yn unol â pharagraff 10 o Atodlen 2 i Orchymyn Nyrsio a Bydwreigiaeth 2001 (O.S. 2002/253).

(c) 1974 p.53.

(ch) O.S. 1975/1023. Mae diwygiadau perthnasol wedi'u gwneud gan O.S. 1986/1249, O.S. 1986/2268 ac O.S. 2001/1192.

(a) Sections 113(3A) and 115(6A) are added to the Police Act 1997 by section 8 of the Protection of Children Act 1999 (c.14), and amended by sections 104 and 116 of, and paragraph 25 of Schedule 4 to, the Care Standards Act 2000. Sections 113(3C) and 115(6B) are added to the Police Act 1997 by section 90 of the Care Standards Act 2000 on a date to be appointed.

(b) The register is maintained pursuant to paragraph 10 of Schedule 2 to the Nursing and Midwifery Order 2001 (S.I. 2002/253).

(c) 1974 c.53.

(d) S.I. 1975/1023. Relevant amendments have been made by S.I. 1986/1249, S.I. 1986/2268 and S.I. 2001/1192.

### ATODLEN 3

### SCHEDULE 3

Rheoliad 12(1)

Regulation 12(1)

#### YR WYBODAETH SY'N OFYNNOL MEWN PERTHYNAS Â NYRSYS SYDD I'W CYFLENWI GAN ASIANTAETH

#### INFORMATION REQUIRED IN RESPECT OF NURSES TO BE SUPPLIED BY AN AGENCY

1. Enw, cyfeiriad, dyddiad geni a rhif ffôn.
2. Enw, cyfeiriad a rhif ffôn y perthynas agosaf.
3. Prawf o bwy yw'r person, gan gynnwys ffotograff diweddar.
4. Naill ai -
  - (a) os yw'r swydd y mae'r nyrs yn cael ei chyflenwi i'w chyflawni yn dod o dan adran 115(3) neu (4) o Ddeddf yr Heddlu 1997, tystysgrif cofnod troseddol fanwl a ddyroddwyd o dan adran 115 o'r Ddeddf honno; neu
  - (b) mewn unrhyw achos arall, tystysgrif cofnod troseddol a ddyroddwyd o dan adran 113 o'r Ddeddf honno,

gan gynnwys, os yw'n gymwys, y materion a bennir yn adrannau 113(3A) a 115(6A) o'r Ddeddf honno a'r darpariaethau canlynol pan fyddant mewn grym, sef adran 113(3C)(a) a (b) ac adran 115(6B)(a) a (b) o'r Ddeddf hono.

5. Gwiriad heddlu, sef adroddiad a luniwyd gan neu ar ran prif swyddog heddlu o fewn ystyr "chief officer" yn Neddf yr Heddlu 1997 ac sy'n cofnodi, adeg llunio'r adroddiad, bob tramgwydd troseddol -

- (a) y caniateir eu ddatgelu yn rhinwedd Gorchymyn Deddf Adsefydlu Tramgwyddwyr 1974 (Eithriadau) 1975(a); neu
- (b) yr oedd y person wedi'i rybuddio amdanynt ac wedi'u cyfaddef adeg cael y rhybudd.

6. Dau dystlythyr oddi wrth nyrsys neu broffesiynolion ieuchyd eraill, gan gynnwys tystlythyr sy'n ymwneud â'r cyfnod cyflogaeth diwethaf fel nyrs nad oedd wedi para'n llai na thri mis.

7. Os yw'r nyrs wedi gweithio o'r blaen mewn swydd a oedd yn golygu gweithio gyda phlant neu oedolion hawdd eu niweidio, cadarnhad o'r rheswm pam y rhoes y gorau i weithio yn y swydd honno, ac eithrio os nad yw'r Cynulliad Cenedlaethol wedi penderfynu bod pob cam rhesymol wedi'i gymryd i sicrhau cadarnhad o'r fath ond nad yw ar gael.

1. Name, address, date of birth and telephone number.
2. Name, address and telephone number of next of kin.
3. Proof of identity, including a recent photograph.
4. Either -
  - (a) where the position which the nurse is supplied to perform falls within section 115(3) or (4) of the Police Act 1997, an enhanced criminal record certificate issued under section 115 of that Act; or
  - (b) in any other case, a criminal record certificate issued under section 113 of that Act,

including, where applicable, the matters specified in sections 113(3A) and 115(6A) of that Act and the following provisions once they are in force, namely section 113(3C)(a) and (b) and section 115(6B)(a) and (b) of that Act.

5. A police check, being a report produced by or on behalf of a chief officer of police within the meaning of the Police Act 1997 which records, as at the time the report is produced, all criminal offences -

- (a) which may be disclosed by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975(a); or
- (b) in respect of which the person has been cautioned and which, at the time the caution was given, the person admitted.

6. Two written references from nurses or other health professionals, including a reference relating to the last period of employment as a nurse of not less than three months duration.

7. Where a nurse has previously worked in a position which involved work with children or vulnerable adults, verification of the reason why he or she ceased to work in that position, except where the National Assembly has determined that all reasonable steps have been taken to obtain such verification but it is not available.

(a) O.S. 1975/1023. Mae diwygiadau perthnasol wedi'u gwneud gan O.S. 1986/1249, 1986/2268, 2001/1192 a 2002/441.

(a) S.I. 1975/1023. Relevant amendments have been made by S.I. 1986/1249, 1986/2268, 2001/1192 and 2002/441.



8. Tystiolaeth bod y nyrs yn medru Saesneg i raddau boddhaol, os oedd cymwysterau nyrsio'r nyrs wedi'u sicrhau y tu allan i'r Deyrnas Unedig.

9. Tystiolaeth ddogfennol am unrhyw gymwysterau a hyfforddiant perthnasol.

10. Hanes cyflogaeth llawn, ynghyd ag esboniad ysgrifenedig boddhaol am unrhyw fylchau yn y gyflogaeth a manylion unrhyw gyflogaeth gyfredol ac eithrio at ddibenion yr asiantaeth.

11. Cofnod o statws imwneiddio.

12. Cadarnhad o'i chofrestriad cyfredol â'r Cyngor Nyrsio a Bydwreigiaeth, gan gynnwys manylion am y Rhan o'r gofrestr y mae'r nyrs wedi'i chofrestru ynddi.

13. Manylion unrhyw yswiriant indemnio proffesiynol.

8. Evidence of a satisfactory knowledge of the English language, where the nurse's nursing qualifications were obtained outside the United Kingdom.

9. Documentary evidence of any relevant qualifications and training.

10. A full employment history, together with a satisfactory written explanation of any gaps in employment and details of any current employment other than for the purposes of the agency.

11. Record of immunisation status.

12. Confirmation of current registration with the Nursing and Midwifery Council, including details of the Part of the register in which the nurse is registered.

13. Details of any professional indemnity insurance.

#### ATODLEN 4

#### SCHEDULE 4

Rheoliad 17

Regulation 17

#### Y COFNODION SYDD I'W CADW AR GYFER ARCHWILIAD

#### RECORDS TO BE MAINTAINED FOR INSPECTION

##### Cofnodion sy'n ymwneud â chyflenwi nyrsys

1. Copïau o'r holl gytundebau rhwng yr asiantaeth a'r nyrsys a gyflenwyd neu sydd i'w cyflenwi gan yr asiantaeth a thystiolaeth bod copi o unrhyw delerau ac amodau safonol wedi'i ddarparu gan yr asiantaeth i bob nyrs.

2. Manylion y tâl sy'n daladwy i bob nyrs sy'n cael ei chyflogi gan yr asiantaeth a'i hamodau gwaith.

3. Copïau o unrhyw ddatganiad a roddwyd i ddefnyddiwr gwasanaeth ac sy'n nodi cymwysterau a phrofiad perthnasol nyrs a gyflenwyd i'r defnyddiwr gwasanaeth hwnnw.

4. Mynegai defnyddwyr gwasanaeth yn ôl trefn yr wyddor, gan gynnwys enw llawn, cyfeiriad a rhif ffôn pob un ohonynt ac unrhyw rifau cyfresol a bennwyd ar eu cyfer.

5. Mynegai yn ôl trefn yr wyddor o'r nyrsys a gyflenwyd neu sydd ar gael i'w cyflenwi gan yr asiantaeth, gan gynnwys unrhyw rhifau cyfresol a bennwyd ar eu cyfer.

6. Manylion pob cyflenwad nyrs i ddefnyddiwr

##### Records relating to supply of nurses

1. Copies of all agreements between the agency and nurses supplied or to be supplied by the agency and evidence that a copy of any standard terms and conditions has been supplied by the agency to each nurse.

2. Details of the remuneration payable to each nurse who is employed by the agency and her conditions of employment.

3. Copies of any statement given to a service user setting out the qualifications and relevant experience of a nurse supplied to that service user.

4. An alphabetical index of service users, including the full name, address and telephone number of each of them and any serial numbers assigned to them.

5. An alphabetical index of nurses supplied or available for supply by the agency, including any serial numbers assigned to them.

gwasanaeth.

7. Os yw'r asiantaeth yn gweithredu fel busnes cyflogi a bod nyrs yn cael ei chyflenwi i ddarparu gofal nyrsio ym mhreswylfa breifat defnyddiwr gwasanaeth neu glaf, manylion -

- (a) yr afiechyd neu'r anabledd y mae'r claf yn dioddef ganddo;
- (b) enw a chyfeiriad ymarferydd meddygol cyffredinol y claf;
- (c) y proffesiynolion ieuchyd eraill y mae'r claf yn cael triniaeth ganddynt;
- (ch) perthynas agosaf y claf;
- (d) crefydd y claf;
- (dd) meddianwyr eraill yn y safle lle darperir y gwasanaeth nyrsio; ac
- (e) y cynllun nyrsio a luniwyd ar gyfer y claf a chofnod manwl o'r gofal nyrsio sy'n cael ei ddarparu.

### **Cofnodion eraill**

1. Yr holl wybodaeth sy'n cael ei ddarparu i'r Cynulliad Cenedlaethol at ddibenion cofrestru mewn perthynas â'r asiantaeth.

2. Manylion pob honiad o gam-drin -

- (a) yn erbyn nyrs; neu
- (b) gan nyrs (nad yw'n destun cwyn sydd wedi'i gwneud o dan reoliad 18),

ac sy'n cael ei chyflogi gan yr asiantaeth, gan gynnwys manylion yr ymchwiliadau a wnaed, y canlyniad ac unrhyw gamau a gymerwyd o ganlyniad i hynny.

## **ATODLEN 5**

Rheoliad 30

### **Trosglwyddo o drwyddedu o dan Ddeddf 1957 i gofrestru o dan Ddeddf 2000**

1. -(1) Mae'r is-baragraff hwn yn gymwys i ddarparwydd asiantaeth nyrsys (y cyfeirir ato fel "y darparwydd" ("the provider")) yn narpariaethau canlynol yr Atodlen hon) pan fydd yn cael ei drin yn unol ag is-baragraff (6) fel petai wedi gwneud cais am gofrestriad o dan Ran II o Ddeddf 2000 a bod y cofrestriad hwnnw wedi'i ganiatáu o dan y Ddeddf honno mewn perthynas â'r asiantaeth yr oedd wedi'i drwyddedu i'w rhedeg o dan Ddeddf 1957.

(2) Bydd Deddf 1957 yn parhau mewn grym er mywn rhoi effaith i ddarpariaethau canlynol y paragraff hwn.

(3) Nes y bydd is-baragraff (1) yn gymwys i

6. Details of each supply of a nurse to a service user.

7. Where the agency is acting as an employment business and a nurse is supplied to provide nursing care in the private residence of a service user or patient, details of -

- (a) the illness or disability from which the patient is suffering;
- (b) the name and address of the patient's general medical practitioner;
- (c) other health professionals from whom the patient is receiving treatment;
- (d) the patient's next of kin;
- (e) the patient's religion;
- (f) other occupants at the premises where nursing will be provided; and
- (g) the nursing plan devised for the patient and a detailed record of the nursing care provided.

### **Other records**

1. All information provided to the National Assembly for the purposes of registration in relation to the agency.

2. Details of every allegation of abuse -

- (a) against a nurse; or
- (b) by a nurse (which is not the subject of a complaint made under regulation 18),

who is employed by the agency, including details of the investigations made, the outcome and any action taken in consequence.

## **SCHEDULE 5**

Regulation 30

### **Transition from licensing under the 1957 Act to registration under the 2000 Act**

1. -(1) This sub-paragraph applies to a nurses agency provider (referred to as "the provider" ("y darparwydd")) in the following provisions of this Schedule) when in accordance with sub-paragraph (6) he or she is treated as having applied for and been granted registration under Part II of the 2000 Act in respect of the agency that he or she was licensed to carry on under the 1957 Act.

(2) The 1957 Act shall continue in force for the purpose of giving effect to the following provisions of this paragraph.

(3) Until such time as sub-paragraph (1) applies in

ddarparydd asiantaeth nyrsys, bydd darpariaethau Deddf 1957 yn parhau mewn grym mewn perthynas â'r darpariadau, ac ar ei gyfer, fel petai unrhyw gyfeiriad yn Neddf 1957 at yr awdurdod trwyddedu yn gyfeiriad at y Cynulliad Cenedlaethol.

(4) Rhaid i'r Cynulliad Cenedlaethol, gan ystyried unrhyw sylwadau a gyflwynwyd gan y darpariadau o dan is-baragraff (9), benderfynu pan fydd yn gweld yn dda, ar y materion a ddisgrifir yn is-baragraff (5), a chyflwyno hysbysiad o'i benderfyniad i'r darpariadau.

(5) Y materion yw -

- (a) yr amodau (os o gwbl) yr oedd cofrestru'r darpariadau o dan Ddeddf 1957 yn ddarostyngedig iddynt;
- (b) unrhyw fater arall i'r graddau y mae penderfynu ar y mater hwnnw yn angenrheidiol i alluogi'r darpariadau, yn unol ag is-baragraff (6), i gael ei drin at ddibenion Rhan II o Ddeddf 2000 fel petai wedi gwneud cais am gofrestrriad ar gyfer yr asiantaeth a bod y cofrestrriad hwnnw wedi'i ganiatáu;

a rhaid ymdrin ag unrhyw benderfyniad gan y Cynulliad Cenedlaethol o dan is-baragraff (4) at ddibenion adran 21 o Ddeddf 2000 (apelau i'r Tribiwnlys) fel petai'n benderfyniad gan y Cynulliad o dan Ran II o'r Ddeddf honno.

(6) Os yw'r Cynulliad Cenedlaethol wedi gwneud penderfyniad yn unol ag is-baragraff (4), yna o ddyddiad a bennir gan y Cynulliad Cenedlaethol ymlaen ('y dyddiad effeithiol') -

- (a) rhaid ymdrin â'r darpariadau, at ddibenion Rhan II o Ddeddf 2000, fel petai wedi gwneud cais am gofrestrriad ar gyfer yr ymgymeriad presennol a bod y cofrestrriad hwnnw wedi'i ganiatáu;
- (b) bydd yr amodau (os o gwbl) y penderfynwyd arnynt yn unol ag is-baragraff (5)(a), i'r graddau y maent yn gallu bod yn amodau y mae cofrestru at ddibenion Rhan II o Ddeddf 2000 yn ddarostyngedig iddynt, yn effeithiol -
  - (i) fel petaent yn amodau y mae'r cofrestrriad at y dibenion hynny yn ddarostyngedig iddynt; a
  - (ii) at ddibenion adran 19(1) o Ddeddf 2000, fel pe baent wedi'u cytuno yn ysgrifenedig rhwng y darpariadau a'r Cynulliad Cenedlaethol.

(7) Ar, neu cyn, y dyddiad effeithiol ar gyfer penderfyniad o dan y paragraff hwn rhaid i'r Cynulliad Cenedlaethol ddyroddi tystysgrif i'r darpariadau -

- (a) y mae'n rhaid i'w chynnwys fod yn unol ag unrhyw reoliadau a wnaed o dan adran 16(1)(b) o Ddeddf 2000 am gynnwys tystysgrifau sy'n cael eu dyroddi o dan Ran II o'r Ddeddf honno; a

relation to a nurses agency provider the provisions of the 1957 Act shall continue in force in relation to, and in respect of, the provider as if any reference in the 1957 Act to the licensing authority is a reference to the National Assembly.

(4) The National Assembly, having regard to any representations made by the provider under sub-paragraph (9), shall determine at such time as it thinks fit, the matters described in sub-paragraph (5), and serve notice of its determination upon the provider.

(5) The matters are -

- (a) the conditions (if any) to which the registration of the provider under the 1957 Act was subject;
- (b) any other matter in so far as the determination of that matter is necessary to enable the provider, in accordance with sub-paragraph (6), to be treated for the purposes of Part II of the 2000 Act as having applied for and been granted registration in respect of the agency;

and any determination of the National Assembly under sub-paragraph (4) shall for the purposes of section 21 of the 2000 Act (appeals to the Tribunal) be treated as if it were a decision of the Assembly under Part II of that Act.

(6) When the National Assembly has made a determination in accordance with sub-paragraph (4), then with effect from a date specified by the National Assembly ('the effective date') -

- (a) the provider shall, for the purposes of Part II of the 2000 Act, be treated as having applied for and been granted registration in respect of the existing undertaking;
- (b) the conditions (if any) determined in accordance with sub-paragraph (5)(a) shall, in so far as they are capable of being conditions to which the registration for the purposes of Part II of the 2000 Act is subject, have effect -
  - (i) as if they were conditions to which the registration for those purposes is subject; and
  - (ii) as if, for the purposes of section 19(1) of the 2000 Act, they had been agreed in writing between the provider and the National Assembly.

(7) On, or before, the effective date in respect of a determination under this paragraph the National Assembly shall issue a certificate to the provider -

- (a) the contents of which shall be in accordance with any regulations made under section 16(1)(b) of the 2000 Act about the contents of certificates issued under Part II of that Act; and

(b) y mae'n rhaid ei thrin fel petai'n dystysgrif ar gyfer yr ymgymeriad presennol sydd wedi'i dyroddi gan y Cynulliad Cenedlaethol o dan Ran II o Ddeddf 2000.

(8) Bydd darpariaethau is-baragraffau (5) a (6) heb ragfarn i bwerau'r Cynulliad Cenedlaethol i amrywio, dileu neu osod unrhyw amod yn unol â Rhan II o Ddeddf 2000.

(9) Cyn gwneud penderfyniad ynglŷn â'r materion a ddisgrifiwyd yn is-baragraff (5) mewn perthynas ag ymgymeriad presennol rhaid i'r Cynulliad Cenedlaethol roi hysbysiad ysgrifenedig i'r darparydd yn rhoi gwybod i'r darparydd y caiff gyflwyno, cyn pen 28 diwrnod ar ôl i'r hysbysiad hwnnw ddod i law, sylwadau ysgrifenedig am y penderfyniad, ac na chaiff unrhyw benderfyniad ei wneud cyn i'r 28 diwrnod hynny ddod i ben.

### **Trosglwyddo ceisiadau am drwyddedu o dan Ddeddf 1957 sydd heb eu penderfynu**

2. -(1) Mae is-baragraff (3) yn gymwys i gais am drwydded o dan Ddeddf 1957 i redeg asiantaeth er mwyn cyflenwi nyrsys -

- (a) sydd wedi'i wneud i awdurdod cyn 2 Hydref 2003 ac nad yw wedi'i ganiatáu ar y dyddiad hwnnw; a
- (b) nad yw is-baragraff (2) yn gymwys iddo.

(2) Mae'r is-baragraff hwn yn gymwys i gais y mae'r awdurdod wedi rhoi'r canlynol mewn perthynas ag ef i'r person a wnaeth y cais -

- (a) hysbysiad o dan adran 2(4) o Ddeddf 1957 o wrthod trwydded, neu roi trwydded yn ddarostyngedig i amodau a naill ai -
  - (i) bod y cyfnod ar gyfer apelio mewn perthynas â'r hysbysiad hwnnw heb ddod i ben; neu
  - (ii) bod y person a wnaeth y cais wedi apelio ond nad yw'r apêl wedi'i phenderfynu neu wedi'i gollwng; neu
- (b) y cyfle i gael gwrandawriad o dan adran 2(5) o'r Ddeddf honno mewn perthynas ag unrhyw gynnig i wrthod rhoi trwydded, oni bai -
  - (i) bod y person, o fewn yr amser a ganiatwyd gan yr awdurdod yn yr hysbysiad i roi cyfle iddo gael gwrandawriad, heb fanteisio ar y cyfle a gynigiwyd felly nac wedi nodi ei fod yn dymuno gwneud hynny; neu
  - (ii) bod yr awdurdod wedi rhoi hysbysiad o wrthod trwydded.

(3) Os yw'r is-baragraff hwn yn gymwys i gais rhaid i'r cais hwnnw gael ei drin fel cais am gofrestrriad o dan Ran II o Ddeddf 2000.

(b) which shall be treated as if it were a certificate in respect of the existing undertaking issued by the National Assembly under Part II of the 2000 Act.

(8) The provisions of sub-paragraphs (5) and (6) shall be without prejudice to the powers of the National Assembly to vary, remove or impose any condition in accordance with Part II of the 2000 Act.

(9) Before making a determination as to the matters described in sub-paragraph (5) in relation to an existing undertaking the National Assembly shall give notice in writing to the provider informing the provider that he or she may, within twenty eight days of the receipt of that notice, make written representations about the determination, and that no determination will be made before the expiry of those twenty eight days.

### **Transfer of outstanding applications for licensing under the 1957 Act**

2. -(1) Sub-paragraph (3) applies to an application for a licence under the 1957 Act to carry on an agency for the supply of nurses -

- (a) which has been made to an authority before 2nd October 2003 and which has not been granted at that date; and
- (b) to which sub-paragraph (2) does not apply.

(2) This sub-paragraph applies to an application in respect of which the authority has given the person who made the application -

- (a) notice under section 2(4) of the 1957 Act of the refusal of a licence, or the grant of a licence subject to conditions and either -
  - (i) the period for appealing in respect of that notice has not expired; or
  - (ii) the person who made the application has appealed but the appeal has not been determined or abandoned; or
- (b) the opportunity of being heard under section 2(5) of that Act in respect of any proposal to refuse to grant a licence, unless -
  - (i) the person has not, within the time allowed by the authority in the notice giving opportunity to be heard, taken the opportunity so offered or indicated that he or she wishes to do so; or
  - (ii) the authority has given notice of the refusal of a licence.

(3) Where this sub-paragraph applies in relation to an application that application shall be treated as an application for registration under Part II of the 2000 Act.

(4) Os yw is-baragraff (2) yn gymwys -

- (a) bydd Ddeddf 1957, yn ddarostyngedig i baragraff canlynol nesaf yr is-baragraff hwn, yn parhau mewn grym mewn perthynas â'r materion canlynol -
  - (i) y penderfyniad i roi neu wrthod trwydded o dan adran 2 o'r Ddeddf honno;
  - (ii) apêl yn erbyn penderfyniad o'r fath;
- (b) bydd y swyddogaethau, y pwerau a'r dyletswyddau a oedd gan yr awdurdod, yn union cyn 2 Hydref 2003, o dan y Ddeddf honno mewn perthynas â'r materion a grybwyllwyd ym mharagraff blaenorol yr is-baragraff hwn yn gymwys i'r Cynulliad Cenedlaethol yn hytrach na'r awdurdod, a byddant yn arferadwy gan y Cynulliad Cenedlaethol;
- (c) rhaid ymdrin â'r penderfyniad i fabwysiadu cynnig i ganiatáu cais o'r dyddiad y mae'n effeithiol, at ddibenion Rhan II o'r Ddeddf -
  - (i) fel petai'n benderfyniad i fabwysiadu cynnig i ganiatáu cais am gofrestrriad ar gyfer asiantaeth niwsys;
  - (ii) fel petai wedi dod yn effeithiol yn unol ag adran 19(5) o'r Ddeddf.

#### **Y cyfnod tra'n aros am benderfyniad ynglŷn â dileu**

3. Os yw'r awdurdod wedi dirymu trwydded y darparrydd presennol mewn perthynas â'r ymgymeriad presennol, a naill ai -

- (a) bod y cyfnod ar gyfer apelio yn erbyn y dirymiad heb ddod i ben; neu
- (b) bod y darparrydd presennol wedi apelio o dan adran 2(4) o Ddeddf 1957 ac nad yw'r apêl wedi'i phenderfynu nac wedi'i gollwng,

rhaid peidio ag ymdrin â'r darparrydd presennol, at ddibenion Rhan II o'r Ddeddf, fel petai'r cofrestrriad wedi'i ganiatáu ar gyfer yr ymgymeriad presennol hwnnw.

#### **Y cyfnod tra'n aros am gynnig ynglŷn â dileu**

4. -(1) Mae'r is-baragraff hwn yn gymwys os, yn union cyn y dyddiad effeithiol -

- (a) y mae'r awdurdod neu'r Cynulliad Cenedlaethol yn pwyso a mesur a ddylid dirymu trwydded y darparrydd presennol ar gyfer yr ymgymeriad presennol;
- (b) yn unol ag adran 2 (5) o Ddeddf 1957, y rhoddwyd cyfle i'r darparrydd bresennol gael gwrandawriad; ac
- (c) nad yw'r awdurdod na'r Cynulliad Cenedlaethol wedi penderfynu ar y mater.

(4) Where sub-paragraph (2) applies -

- (a) the 1957 Act shall, subject to the next following paragraph of this sub-paragraph, continue in force in relation to the following matters -
  - (i) the decision to grant or refuse a licence under section 2 of that Act;
  - (ii) an appeal against such a decision;
- (b) the functions, powers and duties that immediately before 2nd October 2003 the authority had under that Act in relation to the matters mentioned in the preceding paragraph of this sub-paragraph shall apply to, and be exercisable by, the National Assembly instead of the authority;
- (c) the decision to adopt a proposal to grant an application with effect from the date on which it takes effect, shall be treated for the purposes of Part II of the Act -
  - (i) as if it were a decision to adopt a proposal to grant an application for registration in respect of a nurses agency;
  - (ii) as if it had taken effect in accordance with section 19(5) of the Act.

#### **Pending decision as to cancellation**

3. Where the authority have revoked the licence of the existing provider in respect of the existing undertaking, and either -

- (a) the period for appealing against the revocation has not expired; or
- (b) the existing provider has appealed under section 2(4) of the 1957 Act and the appeal has not been determined or abandoned,

the existing provider shall not be treated, for the purposes of Part II of the Act, as having been granted registration in respect of that existing undertaking.

#### **Pending proposal as to cancellation**

4. -(1) This sub-paragraph applies where, immediately before the effective date -

- (a) the authority or the National Assembly are considering whether to revoke the licence of the existing provider in respect of the existing undertaking;
- (b) in pursuance of section 2(5) of the 1957 Act the existing provider has been given an opportunity of being heard; and
- (c) the authority or the National Assembly have not determined the matter.

(2) Os yw is-baragraff (1) yn gymwys -

- (a) yn ddarostyngedig i baragraff (b) o'r is-baragraff hwn, rhaid ymdrin â'r hysbysiad sy'n rhoi gwybod i'r darparrydd presennol y mae i gael cyfle i gael gwrandawriad, at ddibenion Rhan II o'r Ddeddf, ac er gwaethaf y ffaith nad yw'n cydymffurfio â'r gofynion ar gyfer hysbysiad o'r fath o dan y Ddeddf, fel petai'n hysbysiad o gynnig a roddwyd o dan adran 17(4) o'r Ddeddf i ddileu'r cofrestrriad o'r dyddiad effeithiol ymlaen (ac eithrio yn unol â chais o dan adran 15(1)(b)), ar gyfer ymgymeriad presennol;
- (b) bydd adran 18(2) o'r Ddeddf yn effeithiol fel petai -
  - (i) y gair "written" wedi'i hepgor ym mharagraff (a);
  - (ii) y paragraff canlynol wedi'i roi yn lle paragraff (c) -

"(c) the person who is registered in respect of the agency has been given an opportunity to make oral or written representations to the National Assembly concerning the matter within a reasonable period and has failed to make them within that period."

#### **Trosglwyddo gwybodaeth a dogfennau**

5. Rhaid i awdurdod drosglwyddo i'r Cynulliad Cenedlaethol -

- (a) yr holl wybodaeth a'r dogfennau sydd yn ei feddiant ac sy'n ymwneud â thrwyddedu unrhyw asiantaeth nyrsys ar unwaith wrth i'r Rheoliadau hyn ddod i rym ac yr oedd yn arfer swyddogaethau'r awdurdod trwyddedu o dan Ddeddf 1957 mewn perthynas â hwy yn union cyn i'r rheoliadau hyn ddod i rym;
- (b) cyn gynted ag y bo'n ymarferol, yr holl wybodaeth neu'r holl ddogfennau hynny sy'n dod i'w meddiant ar ôl i'r Rheoliadau hyn ddod i rym.

(2) Where sub-paragraph (1) applies -

- (a) subject to paragraph (b) of this sub-paragraph, the notice informing the existing provider that he or she is to be given the opportunity of being heard shall, for the purposes of Part II of the Act, and notwithstanding that it does not comply with the requirements for such a notice under the Act, be treated with effect from the effective date as if it were a notice of proposal given under section 17(4) of the Act to cancel the registration (otherwise than in accordance with an application under section 15(1)(b)), in respect of the existing undertaking;
- (b) section 18(2) of the Act shall have effect as if -
  - (i) in paragraph (a) the word "written" were omitted;
  - (ii) for paragraph (c) the following paragraph were substituted -

"(c) the person who is registered in respect of the agency has been given an opportunity to make oral or written representations to the National Assembly concerning the matter within a reasonable period and has failed to make them within that period."

#### **Transfer of Information and documents**

5. An authority shall pass to the National Assembly -

- (a) forthwith at the coming into force of these Regulations all information and documents which are in their possession relating to the licensing of any nurses agency in relation to which immediately before the coming into force of these regulations it is exercising the functions of the licensing authority under the 1957 Act;
- (b) as soon as practicable, all such information or documents which come into their possession after the coming into force of these Regulations.