OFFERYNNAU STATUDOL CYMRU

2011 Rhif 1016 (Cy.153)

GOFAL CYMDEITHASOL, CYMRU

Rheoliadau Cartrefi Gofal (Cymru) (Diwygiadau Amrywiol) 2011

NODYN ESBONIADOL

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

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Cartrefi Gofal (Cymru) 2002 i'w gwneud yn ofynnol i'r person sy'n rheoli cartref gofal feddu ar lefel gymhwyster sy'n ofynnol er mwyn ymgymryd â'r rôl honno ac iddo fod wedi ei gofrestru gyda Chyngor Gofal Cymru.

Maent yn gwneud diwygiadau canlyniadol hefyd i Reoliadau Cofrestru Gofal Cymdeithasol a Gofal Iechyd Annibynnol (Cymru) 2002.

WELSH STATUTORY INSTRUMENTS

2011 No. 1016 (W.153)

SOCIAL CARE, WALES

The Care Homes (Wales) (Miscellaneous Amendments) Regulations 2011

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Care Homes (Wales) Regulations 2002 to make it a requirement that the person who manages a care home possesses a minimum level of qualification to undertake that role and that such a person is registered with the Care Council for Wales.

They also make consequential amendments to the Registration of Social Care and Independent Health Care (Wales) Regulations 2002.

OFFERYNNAU STATUDOL CYMRU

2011 Rhif 1016 (Cy.153)

GOFAL CYMDEITHASOL, CYMRU

Rheoliadau Cartrefi Gofal (Cymru) (Diwygiadau Amrywiol) 2011

Gwnaed	*29 Mawrth 2011*
Gosodwyd gerbron Cynulliad Cenedlaethol Cymru	*31 Mawrth 2011*
Yn dod i rym	*1 Mehefin 2011*

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd gan adrannau 12(2), 22(1), 22(2)(a) a 118(5) i (7) o Ddeddf Safonau Gofal 2000(**1**) ac ar ôl ymgynghori ag unrhyw bersonau a oedd yn briodol yn eu barn hwy(**2**) yn gwneud y Rheoliadau a ganlyn:

Enwi, cychwyn a chymhwyso

1.–(1) Enw'r Rheoliadau hyn yw Rheoliadau Cartrefi Gofal (Cymru) (Diwygiadau Amrywiol) 2011 a deuant i rym ar 1 Mehefin 2011.

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

Dehongli

2. Yn y Rheoliadau hyn–

ystyr "y prif Reoliadau" ("*the principal Regulations*") yw Rheoliadau Cartrefi Gofal (Cymru) 2002(**3**);

ystyr "y Rheoliadau Cofrestru" ("*the Registration Regulations*") yw Rheoliadau Cofrestru Gofal Cymdeithasol a Gofal Iechyd Annibynnol (Cymru) 2002(**4**).

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

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

(**3**) O.S. 2002/324 (Cy.37).

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

WELSH STATUTORY INSTRUMENTS

2011 No. 1016 (W.153)

SOCIAL CARE, WALES

The Care Homes (Wales) (Miscellaneous Amendments) Regulations 2011

Made	*29 March 2011*
Laid before the National Assembly for Wales	*31 March 2011*
Coming into force	*1 June 2011*

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

Title, commencement and application

1.–(1) The title of these Regulations is the Care Homes (Wales) (Miscellaneous Amendments) Regulations 2011 and they come into force on 1 June 2011.

(2) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations–

"the principal Regulations" ("*y prif Reoliadau*") means the Care Homes (Wales) Regulations 2002(**3**);

"the Registration Regulations" ("*y Rheoliadau Cofrestru*") means the Registration of Social Care and Independent Health Care (Wales) Regulations 2002(**4**).

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

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

(**3**) S.I. 2002/324 (W.37).

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

Diwygio'r prif Reoliadau

3.–(1) Mae'r prif Reoliadau wedi eu diwygio'n unol â darpariaethau canlynol y rheoliad hwn.

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

""cymhwyster angenrheidiol" ("*required qualification*") yw cymhwyster a gynhwysir mewn rhestr a gedwir gan Weinidogion Cymru at ddibenion y Rheoliadau hyn;".

(3) Yn rheoliad 7 (ffitrwydd y darparydd cofrestredig)–

(a) yn lle paragraff (3)(c) rhodder y canlynol–

"(c) bod gwybodaeth neu ddogfennaeth lawn a boddhaol ar gael ar gyfer yr unigolyn mewn perthynas â'r materion perthnasol a bennir ym mharagraff (4).";

(b) ailrifer y ddarpariaeth bresennol ym mharagraff (4) a (5) yn baragraff (5) a (6) yn y drefn honno;

(c) ar ôl paragraff (3) mewnosoder y canlynol–

"(4) Dyma'r materion y cyfeiriwyd atynt ym mharagraff (3)–

(a) pan fo'r unigolyn yn rheoli neu'n bwriadu rheoli'r cartref gofal–

(i) ac eithrio pan fo paragraff (5) yn gymwys, mewn perthynas â phob un o'r materion a bennir ym mharagraffau 1 i 6 o Atodlen 2;

(ii) pan fo paragraff (5) yn gymwys –

(aa) mewn perthynas â phob un o'r materion a bennir ym mharagraffau 1 a 3 i 6 o Atodlen 2, a

(bb) bod hysbysiad wedi dod i law o dan adran 113E(4)(a) o Ddeddf yr Heddlu 1997 yn datgan nad yw'r unigolyn wedi ei gynnwys ar restr o oedolion penodedig (o fewn ystyr adran 113E o'r Ddeddf honno)(**1**);

(b) pan na fo'r unigolyn yn rheoli nac yn bwriadu rheoli'r cartref gofal –

(i) ac eithrio pan fo paragraff (5) yn gymwys, mewn perthynas â phob un o'r materion a bennir ym mharagraffau 1 i 5 a 6 o Atodlen 2;

(ii) pan fo paragraff (5) yn gymwys–

(aa) mewn perthynas â phob un o'r materion a bennir ym mharagraffau 1, 3 i 5 a 6 o Atodlen 2, a

Amendment of the principal Regulations

3.–(1) The principal Regulations are amended in accordance with the following provisions of this regulation.

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

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

(3) In regulation 7 (fitness of registered provider)–

(a) for paragraph (3)(c) substitute the following–

"(c) full and satisfactory information or documentation is available in relation to him or her in respect of the relevant matters specified in paragraph (4).";

(b) renumber the existing provision in paragraph (4) and (5) as paragraph (5) and (6) respectively;

(c) after paragraph (3) insert the following–

"(4) The matters referred to in paragraph (3) are–

(a) where the individual manages or intends to manage the care home–

(i) except where paragraph (5) applies, in respect of each of the matters specified in paragraphs 1 to 6 of Schedule 2;

(ii) where paragraph (5) applies–

(aa) in respect of each of the matters specified in paragraphs 1 and 3 to 6 of Schedule 2, and

(bb) notification has been received under section 113E(4)(a) of the Police Act 1997 that the individual is not included on a specified adults' list (within the meaning of section 113E of that Act)(**1**);

(b) where the individual does not manage or intend to manage the care home–

(i) except where paragraph (5) applies, in respect of each of the matters specified in paragraphs 1 to 5 and 6 of Schedule 2;

(ii) where paragraph (5) applies–

(aa) in respect of each of the matters specified in paragraphs 1, 3 to 5 and 6 of Schedule 2, and

(**1**) 1997 p.50.

(**1**) 1997 c.50.

(bb) bod hysbysiad wedi dod i law o dan adran 113E(4)(a) o Ddeddf yr Heddlu 1997 nad yw'r unigolyn wedi ei gynnwys ar restr o oedolion penodedig (o fewn ystyr adran 113E o'r Ddeddf honno).".

(4) Yn lle paragraff (3) o reoliad 8 (penodi rheolwr), rhodder–

"(3) Os yw'r darparydd cofrestredig yn bwriadu rheoli'r cartref gofal, rhaid i'r unigolyn hwnnw–

(a) cydymffurfio â'r gofynion a bennir yn rheoliad 9 (ffitrwydd y rheolwr cofrestredig); a

(b) hysbysu swyddfa briodol Llywodraeth Cynulliad Cymru ar unwaith am y dyddiad y mae'r gwaith rheoli hwnnw i ddechrau.".

(5) Yn rheoliad 9 (ffitrwydd y rheolwr cofrestredig)–

(a) ym mharagraff (2)–

(i) yn is-baragraff (b)(ii), yn lle "medrau a'r profiad" rhodder "cymwysterau, y medrau a'r profiad", a

(ii) yn is-baragraff (c), yn lle "paragraff (3)" ym mhob man lle y mae'n digwydd, rhodder "paragraff (7)";

(b) ailrifer y ddarpariaeth bresennol ym mharagraff (3) yn baragraff (7);

(c) ar ôl paragraff (2) mewnosoder–

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

(4) Pan fo person, nad yw'n dal cymhwyster angenrheidiol, wedi ei benodi'n rheolwr cartref gofal cyn 1 Mehefin 2011, nid yw'r person hwnnw'n ffit i reoli cartref gofal onid yw'n ennill cymhwyster angenrheidiol heb fod yn hwyrach na–

(a) 1 Hydref 2011; neu

(b) unrhyw ddyddiad diweddarach y bydd Gweinidogion Cymru yn cytuno ei fod yn rhesymol o dan yr holl amgylchiadau.

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

(6) Nid yw person yn ffit i reoli cartref gofal onid yw wedi ei gofrestru'n rheolwr cartref gofal gyda Chyngor Gofal Cymru heb fod yn hwyrach na–

(a) 1 Hydref 2011; neu

(b) unrhyw ddyddiad diweddarach y bydd Gweinidogion Cymru yn cytuno ei fod yn rhesymol o dan yr holl amgylchiadau.".

(bb) notification has been received under section 113E(4)(a) of the Police Act 1997 that the individual is not included on a specified adults' list (within the meaning of section 113E of that Act).".

(4) For paragraph (3) of regulation 8 (appointment of manager), substitute–

"(3) If the registered provider intends to manage the care home, that individual must–

(a) comply with the requirements specified in regulation 9 (fitness of registered manager); and

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

(5) In regulation 9 (fitness of registered manager)–

(a) in paragraph (2)–

(i) in sub-paragraph (b)(ii), for "skills and experience" substitute "qualifications, skills and experience", and

(ii) in sub-paragraph (c), for "paragraph (3)" in each place it occurs, substitute "paragraph (7)";

(b) renumber the existing provision in paragraph (3) as paragraph (7);

(c) after paragraph (2) insert–

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

(4) Where a person, who does not hold a required qualification, was appointed as the manager of a care home before 1 June 2011, that person is not fit to manage a care home unless he or she obtains a required qualification not later than–

(a) 1 October 2011; or

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

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

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

(a) 1 October 2011; or

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

(6) Yn rheoliad 19 (ffitrwydd y gweithwyr)–

(a) ym mharagraff (2)(ch)(i), yn lle "1 i 6" rhodder "1 i 5 a 6";

(b) ym mharagraff (2)(ch)(ii), yn lle "1 a 3 i 6" rhodder "1, 3 i 5 a 6";

(c) ym mharagraff (5)(a) yn lle "3 i 6", rhodder "3 i 5 a 6".

(7) Yn Atodlen 2 (yr wybodaeth a'r dogfennau sydd i fod ar gael mewn perthynas â phersonau sy'n rhedeg neu'n rheoli cartrefi gofal neu'n gweithio ynddo)–

(a) ym mharagraff 5, ar ôl "perthnasol" mewnosoder "neu angenrheidiol";

(b) ar ôl paragraff 5, mewnosoder–

"(5A) Pan fo'n berthnasol, tystiolaeth ddogfennol am gofrestriad gyda Chyngor Gofal Cymru.".

Diwygio'r Rheoliadau Cofrestru

4.–(1) Mae'r Rheoliadau Cofrestru wedi eu diwygio'n unol â darpariaethau canlynol y rheoliad hwn.

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

(a) ar ôl paragraff 1(b) mewnosoder–

"(ba) where the establishment is a care home, whether the applicant is registered with the Care Council for Wales and, if so, details of his or her registration;";

(b) ar ôl paragraff 2(c), mewnosoder–

"(ca) where the establishment is a care home, whether the responsible individual is registered with the Care Council for Wales and, if so, details of his or her registration;".

(3) Yn Atodlen 3 (yr wybodaeth a'r dogfennau sydd i'w darparu mewn cais am gofrestriad fel rheolwr sefydliad neu asiantaeth), yn Rhan 1 (gwybodaeth), ar ôl paragraff 2A, mewnosoder–

"(2B) Where the establishment is a care home, details of the applicant's registration with the Care Council for Wales.".

(6) In regulation 19 (fitness of workers)–

(a) in paragraph (2)(d)(i), for "1 to 6" substitute "1 to 5 and 6";

(b) in paragraph (2)(d)(ii), for "1 and 3 to 6" substitute "1, 3 to 5 and 6";

(c) in paragraph (5)(a) for "3 to 6", substitute "3 to 5 and 6".

(7) In Schedule 2 (information and documents to be available in respect of persons carrying on, managing, or working at, a care home)–

(a) in paragraph 5, after "relevant" insert "or required";

(b) after paragraph 5, insert–

"(5A) Where relevant, documentary evidence of registration with the Care Council for Wales.".

Amendment of the Registration Regulations

4.–(1) The Registration Regulations are amended in accordance with the following provisions of this regulation.

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

(a) after paragraph 1(b), insert–

"(ba) where the establishment is a care home, whether the applicant is registered with the Care Council for Wales and, if so, details of his or her registration;";

(b) after paragraph 2(c), insert–

"(ca) where the establishment is a care home, whether the responsible individual is registered with the Care Council for Wales and, if so, details of his or her registration;".

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

"(2B) Where the establishment is a care home, details of the applicant's registration with the Care Council for Wales.".

Gwenda Thomas

Y Dirprwy Weinidog dros Wasanaethau Cymdeithasol, o dan awdurdod y Gweinidog dros Iechyd a Gwasanaethau Cymdeithasol, un o Weinidogion Cymru

29 Mawrth 2011

Deputy Minister for Social Services, under authority of the Minister for Health and Social Services, one of the Welsh Ministers

29 March 2011

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2011 Rhif 1016 (Cy.153)

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Rheoliadau Cartrefi Gofal (Cymru) (Diwygiadau Amrywiol) 2011

2011 No. 1016 (W.153)

SOCIAL CARE, WALES

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