



CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

2001 Rhif 2186 (Cy. 150)

2001 No. 2186 (W. 150)

**GWASANAETHAU
CYMDEITHASOL, CYMRU**

**SOCIAL SERVICES,
WALES**

**Rheoliadau Gofalwyr
(Gwasanaethau) a Thaliadau
Uniongyrchol (Diwygio)
(Cymru) 2001**

**The Carers (Services) and Direct
Payments (Amendment) (Wales)
Regulations 2001**

NODYN ESBONIADOL

EXPLANATORY NOTE

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

(This note is not part of the Regulations)

Mae Deddf Gofalwyr a Phlant Anabl 2000 yn gosod dyletswydd ar awdurdodau lleol i asesu anghenion gofalwyr o dan amgylchiadau penodol, ac yn rhoi i'r awdurdodau lleol y pŵer i gynnig gwasanaethau wedyn i ofalwyr i'w cefnogi yn eu rôl ofalu. Ymhellach, mae'n galluogi'r awdurdodau lleol i wneud taliadau uniongyrchol i ofalwyr yn lle'r gwasanaethau gofalwyr yr aseswyd bod arnynt eu hangen.

The Carers and Disabled Children Act 2000 imposes a duty on local authorities to assess the needs of carers in certain circumstances, and gives local authorities the power to then offer services to carers to support them in their caring role. It further enables local authorities to make direct payments to carers in lieu of the carers services they have been assessed as needing.

O dan adran 2 o'r Ddeddf, gall gwasanaeth sy'n cael ei ddarparu i ofalwr gael ei gyflwyno i'r person sy'n derbyn gofal gyda chytundeb y gofalwr a'r person sy'n derbyn gofal. Ni chaiff gwasanaeth a gyflwynir felly gynnwys unrhyw beth personol agos ei natur, ac eithrio o dan amgylchiadau rhagnodedig. Mae'r rheoliadau hyn yn darparu ar gyfer beth sy'n bersonol agos ei natur (rheoliad 2(1)). Maent yn rhagnodi ymhellach o dan ba amgylchiadau y gall gwasanaeth personol agos ei natur gael ei gyflwyno i'r person sy'n derbyn gofal (rheoliad 2(3)). Maent yn pennu hefyd pwy na all gael taliad uniongyrchol yn lle gwasanaethau gofalwyr (rheoliad 3).

Under section 2 of the Act, a service provided to a carer may be delivered to the person cared for with the agreement of the carer and the person cared for. A service so delivered may not include anything of an intimate nature, except in prescribed circumstances. These regulations provide for what is of an intimate nature (regulation 2(1)). They further prescribe the circumstances in which a service of an intimate nature may be delivered to the person cared for (regulation 2(3)). They also specify who may not be the recipient of a direct payment in lieu of carers services (regulation 3).

Yn olaf, mae'r rheoliadau yn gwneud mân ddiwygiad canlyniadol i'r Rheoliadau Gofal Cymunedol (Taliadau Uniongyrchol) 1997 (rheoliad 4).

Lastly, the regulations make a minor and consequential amendment to the Community Care (Direct Payments) Regulations 1997 (regulation 4).

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2001****The Carers (Services) and Direct
Payments (Amendment) (Wales)
Regulations 2001***Wedi'u gwneud* 12 Mehefin 2001
Yn dod i rym 1 Gorffennaf 2001*Made* 12th June 2001
Coming into force 1st July 2001

Mae Cynulliad Cenedlaethol Cymru, drwy arfer y pwerau a roddir gan adran 2(3) a (4) ac adran 11(1) a (3) o Ddeddf Gofalwyr a Phlant Anabl 2000(a) ac adran 1(1)(b)(ii) o Ddeddf Gofal Cymunedol (Taliadau Uniongyrchol) 1996(b), drwy hyn yn gwneud y Rheoliadau canlynol:

The National Assembly for Wales, in exercise of the powers conferred by section 2(3) and (4) and section 11(1) and (3) of the Carers and Disabled Children Act 2000(a) and section 1(1)(b)(ii) of the Community Care (Direct Payments) Act 1996(b), hereby makes the following Regulations:

Enwi, cychwyn, dehongli a chymhwysio**Citation, commencement, interpretation and application**

1.-(1) Enw'r Rheoliadau hyn yw Rheoliadau Gofalwyr (Gwasanaethau) a Thaliadau Uniongyrchol (Diwygio) (Cymru) 2001 a deuant i rym ar 1 Gorffennaf 2001.

1.-(1) These Regulations may be cited as the Carers (Services) and Direct Payments (Amendment) (Wales) Regulations 2001 and shall come into force on 1st July 2001.

(2) Yn y Rheoliadau hyn -

(2) In these Regulations -

ystyr "Deddf 1996" ("the 1996 Act") yw Deddf Gofal Cymunedol (Taliadau Uniongyrchol) 1996;

"the Act" ("y Ddeddf") means the Carers and Disabled Children Act 2000;

ystyr "y Ddeddf" ("the Act") yw Deddf Gofalwyr a Phlant Anabl 2000; ac

"the 1996 Act" ("Deddf 1996") means the Community Care (Direct Payments) Act 1996; and

ystyr "Rheoliadau 1997" ("the 1997 Regulations") yw Rheoliadau Gofal Cymunedol (Taliadau Uniongyrchol) 1997(c).

"the 1997 Regulations" ("Rheoliadau 1997") means the Community Care (Direct Payments) Regulations 1997(c).

(3) Mae'r Rheoliadau hyn yn gymwys i Gymru yn unig.

(3) These Regulations apply to Wales only.

(a) 2000 p.16. Cyfeirir at adran 11(1) ar gyfer y diffiniadau o "prescribed" a "regulations".

(a) 2000 c.16. Section 11(1) is cited for the definitions of "prescribed" and "regulations".

(b) 1996 p.30. Cyfnewidiwyd paragraff (b) o adran 1(1) o'r Ddeddf hon gan adran 5(b) o Ddeddf Gofalwyr a Phlant Anabl 2000 (p.16), a fewnosododd is-baragraffau (i) a (ii). Mae pŵer yr Ysgrifennydd Gwladol yn adran 1(1)(b)(ii) o Ddeddf 1996 i wneud rheoliadau wedi freinio yng Nghynulliad Cenedlaethol Cymru yn rhinwedd Gorchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999, O.S. 1999/672.

(b) 1996 c.30. Paragraph (b) of section 1(1) of this Act was substituted by section 5(b) of the Carers and Disabled Children Act 2000 (c.16), which inserted sub-paragraphs (i) and (ii). The Secretary of State power in section 1 (1)(b)(ii) of the 1996 Act to make regulations is vested in the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672.

(c) O.S. 1997/734.

(c) S.I. 1997/734.

Gwasanaethau personol agos eu natur ac amgylchiadau rhagnodedig

2.-(1) At ddibenion adran 2(3) o'r Ddeddf mae gwasanaeth a gyflwynir i'r person sy'n derbyn gofal yn bersonol agos ei natur os yw'n cynnwys -

- (a) codi, golchi, tacluso, bwydo, gwisgo, bathio, defnyddio'r toiled, rhoi meddyginiaethau, neu weithgareddau o fath tebyg sy'n golygu cael cysylltiad corfforol â'r person sy'n derbyn gofal;
- (b) rhoi cymorth mewn cysylltiad â golchi, tacluso, bwydo, gwisgo, bathio, rhoi meddyginiaethau neu ddefnyddio'r toiled; neu
- (c) goruchwyllo'r person wrth iddo wisgo amdano, bathio, neu ddefnyddio'r toiled.

(2) Os bydd gwasanaeth yn cael ei gyflwyno i'r person sy'n derbyn gofal, dyma'r amgylchiadau lle gall y gwasanaeth gynnwys gwasanaeth personol agos ei natur -

- (a) wrth i'r gwasanaeth hwnnw gael ei gyflwyno mae'r person sy'n derbyn gofal yn gofyn i'r person sy'n cyflwyno'r gwasanaeth ddarparu gwasanaeth personol agos ei natur; neu
- (b) mae'r person sy'n derbyn gofal mewn sefyllfa lle mae'n debyg o ddioddef anaf personol difrifol oni bai bod gwasanaeth personol agos ei natur yn cael ei ddarparu iddo ac
 - (i) nid yw'r person sy'n derbyn gofal yn gallu cydsynio bod y gwasanaeth hwnnw yn cael ei ddarparu, neu
 - (ii) mae'r person sy'n darparu'r gwasanaeth yn credu'n rhesymol ei bod yn angenrheidiol darparu'r gwasanaeth hwnnw am fod anaf personol difrifol ar fin cael ei wneud yn ôl pob tebyg.

Personau na ellir gwneud taliadau uniongyrchol iddynt

3. Mae person sy'n dod o fewn unrhyw un o'r categorïau o bobl a ddisgrifir yn rheoliad 2(2)(b) i (n) o Reoliadau 1997 wedi'i ragnodi at ddibenion adran 1(1)(b)(ii) o Ddeddf 1996.

Diwygio Rheoliadau 1997

4. Yn rheoliad 2(1) o Reoliadau 1997 yn lle'r geiriau "section 1(1)(b) of the Act" rhoddir "section 1(1)(b)(i) of the Act".

Services of an intimate nature and prescribed circumstances

2.-(1) For the purposes of section 2(3) of the Act a service delivered to the person cared for is of an intimate nature if it involves -

- (a) lifting, washing, grooming, feeding, dressing, bathing, toileting, administering medicines, or activities of a similar kind involving physical contact with the person cared for;
- (b) assistance in connection with washing, grooming, feeding, dressing, bathing administration of medicines or using the toilet; or
- (c) supervising the person whilst the person is dressing, bathing, or using the toilet.

(2) Where a service is being delivered to the person cared for the circumstances in which the service may include a service of an intimate nature are where -

- (a) during the delivery of that service the person cared for asks the person delivering the service to provide a service of an intimate nature; or
- (b) the person cared for is in a situation in which he or she is likely to suffer serious personal harm unless a service of an intimate nature is provided to him or her and
 - (i) the person cared for is unable to consent to the provision of that service, or
 - (ii) the person providing the service reasonably believes it is necessary to provide that service because the likelihood of serious personal harm to the person cared for is imminent.

Persons to whom direct payments may not be made

3. A person who comes within any one of the categories of people described in regulation 2(2)(b) to (n) of the 1997 Regulations is specified for the purposes of section 1(1)(b)(ii) of the 1996 Act.

Amendment of the 1997 Regulations

4. In regulation 2(1) of the 1997 Regulations for the words "section 1(1)(b) of the Act" there shall be substituted "section 1(1)(b)(i) of the Act".

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

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

12 Mehefin 2001

12th June 2001

D. Elis-Thomas

Llywydd Cynulliad Cenedlaethol Cymru

The Presiding Officer of the National Assembly for Wales.

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£2.00

W/279/07/01

ON

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ISBN 0-11-090264-5



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