



CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

2001 Rhif 3807 (Cy.315) (C.124)

2001 No. 3807 (W.315)(C.124)

**GOFAL CYMDEITHASOL,
CYMRU**

SOCIAL CARE, WALES

**GWASANAETHAU CYMORTH
GWLADOL, CYMRU**

**NATIONAL ASSISTANCE
SERVICES, WALES**

**Gorchymyn Deddf Iechyd a Gofal
Cymdeithasol 2001 (Cychwyn
Rhif 1) (Cymru) 2001**

**The Health and Social Care Act
2001 (Commencement No. 1)
(Wales) Order 2001**

NODYN ESBONIADOL

EXPLANATORY NOTE

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

(This note is not part of the Order)

Mae'r Gorchymyn hwn yn penodi 3 Rhagfyr 2001 fel y diwrnod y daw adran 49 o Ddeddf Iechyd a Gofal Cymdeithasol 2001 ("Deddf 2001") i rym a'r 19 Rhagfyr 2001 fel y diwrnod y daw is-adrannau (2) i (10) o adran 50 o Ddeddf 2001 i rym mewn perthynas â Chymru.

This Order appoints 3rd December 2001 as the day on which section 49 of the Health and Social Care Act 2001 ("the 2001 Act") is to come into force and 19th December 2001 as the day on which subsections (2) to (10) of section 50 of the 2001 Act are to come into force for certain purposes in relation to Wales.

Mae adran 49 o Ddeddf 2001 yn tynnu gofal nyrsio gan nyrs gofrestredig o blith y gwasanaethau a all gael eu darparu gan awdurdodau lleol yn unol â deddfiadau sy'n ymwneud â darparu gwasanaethau gofal cymunedol. Diffiniad adran 49(2) o ofal nyrsio gan nyrs gofrestredig yw unrhyw wasanaethau a ddarperir gan nyrs gofrestredig sy'n golygu darparu gofal neu gynllunio, goruchwyllo neu ddirprwyo gwaith i ddarparu gofal. Nid yw'r diffiniad yn cynnwys unrhyw wasanaethau nad oes angen iddynt gael eu darparu gan nyrs gofrestredig, o roi sylw i'w natur ac i amgylchiadau eu darparu.

Section 49 of the 2001 Act excludes nursing care by a registered nurse from the services which can be provided by local authorities pursuant to enactments relating to the provision of community care services. Nursing care by a registered nurse is defined by section 49(2) as meaning any services provided by a registered nurse and involving the provision of care or the planning, supervision or delegation of the provision of care. The definition excludes from the definition any services which, having regard to their nature and the circumstances in which they are provided, do not need to be provided by a registered nurse.

Mae erthygl 2(1) yn dwyn adran 49 i rym yng Nghymru mewn perthynas â phersonau sy'n cael llety o dan adran 21 o Ddeddf Cymorth Gwladol 1948 ("Deddf 1948") a lle ceir amgylchiadau penodol. Gyda rhai eithriadau, gall llety felly gael ei ddarparu ar gyfer personau 18 oed neu drosodd, y mae arnynt angen gofal a sylw nad ydynt ar gael iddynt fel arall, oherwydd eu hoedran, salwch, anabledd neu unrhyw

Article 2(1) brings section 49 into force in Wales in relation to persons who are provided with accommodation under section 21 of the National Assistance Act 1948 ("the 1948 Act") and where particular circumstances apply. Such accommodation may, with certain exceptions, be provided to persons aged 18 or over who, by reason of their age, illness, disability or any other circumstances are in need of

amgylchiadau eraill. Gall llety felly gael ei ddarparu hefyd ar gyfer mamau sy'n disgwyl a mamau sy'n magu babi y mae arnynt angen gofal a sylw nad ydynt ar gael iddynt fel arall.

Yr amgylchiadau penodol y mae erthygl 2(1) yn gymwys iddynt yw lle byddai personau o'r fath yn gorfod gwneud taliadau am eu llety ac am y gofal nyrsio mewn cysylltiad â'r llety hwnnw (o dan adran 22 neu 26 o Ddeddf 1948) ar y gyfradd safonol neu ar gyfradd is nad yw'n llai na'r gyfradd safonol llai £100.

Mae erthygl 2(2) yn darparu bod adran 49 yn dal yn gymwys i berson hyd yn oed os bydd yn peidio â bodloni erthygl 2(1)(b).

Mae erthygl 3 yn dwyn is - adrannau (2) i (10) o adran 50 i rym yng Nghymru. Effaith is-adran (1) sy'n cael ei chychwyn gan yr Ysgrifennydd Gwladol o 8 Ebrill 2002 ymlaen, yw dirwyn i ben effaith adran 26A o Ddeddf Cymorth Gwladol 1948 o'r dyddiad hwnnw ymlaen. Mae adran 26A yn atal cynghorau sir a chynghorau bwrdeistref sirol yng Nghymru (a chynghorau perthnasol yn Lloegr) rhag darparu llety preswyl ar gyfer personau a oedd mewn llety o'r fath ar 31 Mawrth 1993. Mae effaith y ddarpariaeth gyfatebol ar gyfer yr Alban hefyd yn dirwyn i ben o 8 Ebrill 2002 ymlaen.

Mae is-adran (2) o adran 50 yn darparu mai person y mae adran 26A o Ddeddf 1948 (neu'r ddarpariaeth gyfatebol yn yr Alban) yn gymwys iddo yn union cyn y diwrnod daw is-adran (1) i rym ("y diwrnod penodedig") yw "person cymwys" at ddibenion yr adran honno. Mae is-adran (3) yn ei gwneud yn ofynnol i'r awdurdodau lleol sicrhau gwasanaethau gofal cymunedol i bersonau cymwys o'r diwrnod penodedig ymlaen neu cyn gynted wedyn ag y bydd yn rhesymol ymarferol. Mae is-adran (4) yn ei gwneud yn ofynnol i'r awdurdodau lleol nodi ac asesu personau cymwys yn eu hardal. Os oes gwasanaethau gofal cymunedol yn cael eu darparu o dan is-adran (3), mae is-adran (5) yn darparu y bydd trefniadau preifat person gyda'r cartref preswyl o dan sylw yn dod i ben. Mae is-adran (6) yn darparu y bydd rhaid i'r awdurdod lleol perthnasol wneud taliadau os nad oes asesiad wedi'i wneud erbyn y diwrnod penodedig. Mae is-adran (7) yn caniatáu adennill unrhyw daliadau a wneir o dan is-adran (6) a ragnodir drwy gyfrwng rheoliadau. Mae is-adran (8) yn caniatáu i reoliadau gael eu gwneud fel nad yw adran 50 yn gymwys i bersonau o ddisgrifiadau a ragnodir yn y rheoliadau hynny. Mae is-adran (9) yn caniatáu i reoliadau gael eu gwneud ynghylch ystyr "ordinary residence" at ddibenion yr adran ac ynghylch rhagnodi symiau sy'n daladwy o dan is-adran (7). Mae is-adran (10) yn darparu diffiniadau at ddibenion yr adran.

care and attention which is not otherwise available to them. It may also be provided for expectant and nursing mothers who are in need of care and attention which is not otherwise available to them.

The particular circumstances to which article 2(1) applies are where such persons would be liable to make a payment for their accommodation and the nursing care in connection with that accommodation (under section 22 or 26 of the 1948 Act) at the standard rate or at a lower rate which is not less than the standard rate minus £100.

Article 2(2) provides that section 49 continues to apply to a person even if the person ceases to satisfy article 2(1)(b).

Article 3 brings subsections (2) to (10) of section 50 into force in Wales. Subsection (1) which is commenced by the Secretary of State with effect from 8th April 2002 has effect to cause section 26A of the National Assistance Act 1948 to cease to have effect from that date. Section 26A prevents county and county borough council in Wales (and relevant councils in England) from providing residential accommodation for persons who were in such accommodation on 31st March 1993. The corresponding provision for Scotland also ceases to have effect from 8th April 2002.

Subsection (2) of section 50 provides that a "qualifying person" for the purposes of the section is a person to whom section 26A of the 1948 Act (or the corresponding Scottish provision) applies immediately before the day on which subsection (1) comes into force ("the appointed day"). Subsection (3) requires local authorities to secure community care services to qualifying persons from the appointed day or as soon thereafter as is reasonably practicable. Subsection (4) requires local authorities to identify and assess qualifying persons in their area. Subsection (5) provides that where community care services are provided under subsection (3) a person's private arrangements with the residential home concerned shall terminate. Subsection (6) provides for liability of the relevant local authority to make payments where an assessment has not been carried out by the appointed day. Subsection (7) permits recovery of payments made under subsection (6) as may be prescribed by regulations. Subsection (8) enables regulations to be made so that section 50 does not apply to persons of descriptions prescribed in such regulations. Subsection (9) enables regulations to be made as to the meaning of "ordinary residence" for the purposes of the section and as to the prescribing of amounts payable under regulations under subsection (7). Subsection (10) provides definitions for the purposes of the section.

**NODYN AR ORCHMYNION CYCHWYN
BLAENOROL**

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

Y Gorchymyn hwn yw'r Gorchymyn Cychwyn cyntaf i'w wneud mewn perthynas â Chymru o dan Ddeddf 2001. Mae amryw byd o ddarpariaethau yn Neddf 2001 wedi'u dwyn i rym mewn perthynas â Lloegr gan yr Offerynnau Statudol canlynol: O.S. 2001/2804 (C.95); O.S. 2001/3167 (C.101); O.S. 2001/3294 (C.107); O.S. 2001/3619 (C.117) ac O.S. 2001/3752(C.122).

**NOTE AS TO EARLIER COMMENCEMENT
ORDERS**

(This note is not part of the Order)

This Order is the first Commencement Order made in relation to Wales under the 2001 Act. Various provisions of the 2001 Act have been brought into force in relation to England by the following Statutory Instruments: S.I. 2001/2804 (C.95); S.I. 2001/3167 (C.101); S.I. 2001/3294 (C.107); and S.I. 2001/3619 (C.117) and S.I. 2001/3752 (C.122).

2001 Rhif 3807 (Cy.315) (C.124)

**GOFAL CYMDEITHASOL,
CYMRU**

**GWASANAETHAU CYMORTH
GWLADOL, CYMRU**

Gorchymyn Deddf Iechyd a Gofal
Cymdeithasol 2001 (Cychwyn
Rhif 1) (Cymru) 2001

Wedi'i wneud

28 Tachwedd 2001

Mae Cynulliad Cenedlaethol Cymru, drwy arfer y pwerau a roddwyd iddo gan adrannau 64(6) a 70(2) o Ddeddf Iechyd a Gofal Cymdeithasol 2001(a) drwy hyn yn gwneud y Gorchymyn canlynol:

Enwi, dehongli a chymhwyso

1.-(1) Enw'r Gorchymyn hwn yw Gorchymyn Deddf Iechyd a Gofal Cymdeithasol 2001 (Cychwyn Rhif 1) (Cymru) 2001.

(2) Yn y Gorchymyn hwn -

ystyr "Deddf 1948" ("*the 1948 Act*") yw Deddf Cymorth Gwladol 1948(b);

ystyr "Deddf 2001" ("*the 2001 Act*") yw Deddf Iechyd a Gofal Cymdeithasol 2001; ac

mae i "y gyfradd safonol" yr un ystyr â "the standard rate" yn adran 22(2) o Ddeddf 1948 (c).

(3) Mae'r Gorchymyn hwn yn gymwys i Gymru yn unig.

Diwrnod penodedig mewn perthynas ag adran 49 o Ddeddf 2001

2.-(1) 3 Rhagfyr 2001 yw'r diwrnod sydd wedi'i benodi i adran 49 o Ddeddf 2001 ddod i rym i'r graddau y mae'n ymwneud ag unrhyw berson -

(a) 2001 p.15.

(b) 1948 p.29.

(c) Diwygiwyd adran 22(2) gan Ddeddf y Gwasanaeth Iechyd Gwladol a Gofal Cymunedol 1990 (p.19) ("Deddf 1990"), adran 44(3).

2001 No. 3807 (W.315)(C.124)

SOCIAL CARE, WALES

**NATIONAL ASSISTANCE
SERVICES, WALES**

The Health and Social Care Act
2001 (Commencement No. 1)
(Wales) Order 2001

Made

28th November 2001

The National Assembly for Wales, in exercise of the powers conferred on it by sections 64(6) and 70(2) of the Health and Social Care Act 2001(a) hereby makes the following Order:

Citation, interpretation and application

1.-(1) This Order may be cited as the Health and Social Care Act 2001 (Commencement No. 1) (Wales) Order 2001.

(2) In this Order -

"the 1948 Act" means the National Assistance Act 1948(b);

"the 2001 Act" means the Health and Social Care Act 2001; and

"the standard rate" has the same meaning as in section 22(2) of the 1948 Act(c).

(3) This Order applies to Wales only.

Appointed day in respect of section 49 of the 2001 Act

2.-(1) 3rd December 2001 is the day appointed for the coming into force of section 49 of the 2001 Act in so far as it relates to any person -

(a) 2001 c.15.

(b) 1948 c.29.

(c) Section 22(2) was amended by the National Health Service and Community Care 1990 (c.19) ("the 1990 Act"), section 44(3).

- (a) sy'n cael llety gan awdurdod lleol o dan adran 21(1)(a) o Ddeddf 1948 (dyletswyddau awdurdodau lleol i ddarparu llety), a
- (b) a fyddai, pe bai'r awdurdod hefyd yn darparu'r gofal nyrsio mewn cysylltiad â'r llety hwnnw, yn gorfod gwneud taliadau o dan adran 22(b) (taliadau sydd i'w talu am lety) neu adran 26(c) o Ddeddf 1948 naill ai ar y gyfradd safonol neu ar gyfradd is nad yw'n llai na'r gyfradd safonol llai £100.

(2) Er y gall person beidio â bod yn bodloni is-baragraff (b) o baragraff (1) uchod, bydd adran 49 o Ddeddf 2001 yn dal yn gymwys i'r person hwnnw.

Diwrnod penodedig mewn perthynas ag adran 50 o Ddeddf 2001

3. 19 Rhagfyr 2001 yw'r diwrnod penodedig i is-adrannau (2) i (10) o adran 50 o Ddeddf 2001 ddod i rym.

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

28 Tachwedd 2001

Dirprwy Lywydd y Cynulliad Cenedlaethol

- (a) who is provided with accommodation by a local authority under section 21(1)(a) of the 1948 Act (duties of local authorities to provide accommodation), and
- (b) who, if the authority were also to provide the nursing care in connection with that accommodation, would be liable to make a payment under section 22(b) (charges to be made for accommodation) or section 26(c) of the 1948 Act either at the standard rate or at a lower rate which is not less than the standard rate minus £100.

(2) Notwithstanding that a person ceases to satisfy sub-paragraph (b) of paragraph (1) above, section 49 of the 2001 Act shall continue to apply to the person.

Appointed day in respect of section 50 of the 2001 Act

3. 19th December 2001 is the appointed day for the coming into force of subsections (2) to (10) of section 50 of the 2001 Act.

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

28th November 2001

John Marek

The Deputy Presiding Officer of the National Assembly

(a) Diwygiwyd adran 21(1) gan Ddeddf Llywodraeth Leol 1972 (p.70) adran 195(6), Atodlen 23, paragraff 2(1); Deddf Tai (Personau Digartref) 1977 (p.48), adran 20(4); Deddf Plant 1989 (p.41), adran 108(5), Atodlen 13, paragraff 11, a Deddf 1990, adran 42(1).

(b) Diwygiwyd adran 22(3) gan Ddeddf 1990, adran 44(4).

(c) Diwygiwyd adran 26(3) gan Ddeddf 1990, adran 42(4).

(ch) 1998 p.38.

(a) Section 21(1) was amended by the Local Government Act 1972 (c.70) section 195(6), Schedule 23, paragraph 2(1); the Housing (Homeless Persons) Act 1977 (c.48), section 20(4); the Children Act 1989 (c.41), section 108(5), Schedule 13, paragraph 11, and the 1990 Act, section 42(1).

(b) Section 22(3) was amended by the 1990 Act, section 44(4).

(c) Section 26(3) was amended by the 1990 Act, section 42(4).

(d) 1998 c.38.

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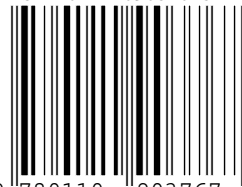
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