CYNULLIAD CENEDLAETHOL CYMRU

OFFERYNNAU STATUDOL

2003 Rhif 503 (Cy.71)

ADDYSG, CYMRU

Rheoliadau Cyngor Addysgu Cyffredinol Cymru (Swyddogaethau Disgyblu) (Diwygio) 2003

NODYN ESBONIADOL

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

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Cyngor Addysgu Cyffredinol Cymru (Swyddogaethau Disgyblu) 2001 ('Rheoliadau 2001'). Mae Rheoliadau 2001 yn gwneud darpariaeth mewn perthynas â swyddogaethau disgyblu Cyngor Addysgu Cyffredinol Cymru, sef corff corfforaethol a sefydlwyd o dan Ddeddf Addysgu ac Addysg Uwch 1998 gyda'r nodau o gyfrannu tuag at wella safonau addysgu ac ansawdd dysgu a chynnal a gwella safonau ymddygiad proffesiynol ymysg athrawon er budd y cyhoedd.

Mae rheoliad 8 o Reoliadau 2001 yn cael ei ddiwygio er mwyn darparu bod rhaid i'r Pwyllgor a fydd yn delio ag achos yn erbyn aelod o'r Cyngor beidio â chynnwys aelod arall o'r Cyngor ac i ddarparu ar gyfer y cworwm ar gyfer cyfarfod Pwyllgor o'r fath.

Mae rheoliad 9 o Reoliadau 2001 yn cael ei ddiwygio er mwyn cyfeirio at y pwerau newydd i roi cyfarwyddyd yn Neddf Addysg 2002 ac er mwyn cyfeirio at Reoliadau Addysg (Cyflenwi Gwybodaeth) (Cymru) 2003.

Mae Deddf Addysg 2002 yn cyflwyno pwer i Gyngor Addysgu Cyffredinol Cymru osod amodau ar unrhyw orchmynion atal y mae'n eu gwneud yn dilyn achos disgyblu yn erbyn athro neu athrawes gofrestredig. Mae'r Rheoliadau hyn yn diwygio Rheoliadau 2001 er mwyn ei gwneud hi'n ofynnol i orchymyn atal gofnodi unrhyw amodau y mae angen i athro neu athrawes gydymffurfio â hwy, ac i'w gwneud

NATIONAL ASSEMBLY FOR WALES

STATUTORY INSTRUMENTS

2003 No. 503 (W.71)

EDUCATION, WALES

The General Teaching Council for Wales (Disciplinary Functions) (Amendment) Regulations 2003

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the General Teaching Council for Wales (Disciplinary Functions) Regulations 2001 ('the 2001 Regulations'). The 2001 Regulations make provision with respect to the disciplinary functions of the General Teaching Council for Wales, a body corporate established under the Teaching and Higher Education Act 1998 with the aims of contributing to improving the standards of teaching and the quality of learning and maintaining and improving the standards of professional conduct amongst teachers in the public interest.

Regulation 8 of the 2001 Regulations is amended so as to provide that the Committee dealing with a case against a Council Member must not include another Council Member and to provide for the quorum for a meeting of such a Committee.

Regulation 9 of the 2001 Regulations is amended so as to refer to the new powers of direction in the Education Act 2002 and so as to refer to the Education (Supply of Information) (Wales) Regulations 2003.

The Education Act 2002 introduces a power for the General Teaching Council for Wales to attach conditions to any suspension orders it makes following disciplinary proceedings against a registered teacher. These Regulations amend the 2001 Regulations so as to require a suspension order to record any conditions to be complied with by a teacher, and to require a Committee to include in the notice of the disciplinary

hi'n ofynnol i Bwyllgor gynnwys yn yr hysbysiad o'r gorchymyn disgyblu a gyflwynwyd i athro neu athrawes esboniad o'r hawl i wneud cais i amrywio neu ddiddymu amod, a sut i wneud hynny. Gwneir darpariaeth hefyd mewn perthynas â'r dull o wneud cais i amrywio neu ddiddymu amod, a sut yr eir ati i ddelio â cheisiadau o'r fath.

Mae'r Rheoliadau hyn hefyd yn ychwanegu asiantaeth gyflenwi lle bo hynny'n berthnasol at y rhai y mae'n ofynnol cyflwyno hysbysiad o orchymyn disgyblu iddynt.

order served on a teacher an explanation of the right to apply to vary or revoke a condition, and how to do so. Provision is also made in relation to the method of application to vary or revoke conditions, and how such applications will be dealt with.

These Regulations also add a supply agency where relevant, to those who are required to be served with a notice of a disciplinary order.

OFFERYNNAU STATUDOL

2003 Rhif 503 (Cy.71)

ADDYSG, CYMRU

Rheoliadau Cyngor Addysgu Cyffredinol Cymru (Swyddogaethau Disgyblu) (Diwygio) 2003

Wedi'u gwneud	*4 Mawrth 2003*
Yn dod i rym	*31 Mawrth 2003*

Drwy arfer y pwerau a roddwyd i Ysgrifennydd Gwladol Cymru gan adran 42(6) o Ddeddf Addysgu ac Addysg Uwch 1998(**a**), a pharagraff 9 o Atodlen 1 a pharagraffau 1(4) a 4 o Atodlen 2 iddi, ac sydd bellach wedi'u breinio yng Nghynulliad Cenedlaethol Cymru(**b**), ac ar ôl ymgynghori â Chyngor Addysgu Cyffredinol Cymru yn unol ag adran 42(9) o'r Ddeddf honno, mae Cynulliad Cenedlaethol Cymru yn gwneud y Rheoliadau canlynol:

Enwi a chychwyn

1. Enw'r Rheoliadau hyn yw Rheoliadau Cyngor Addysgu Cyffredinol Cymru (Swyddogaethau Disgyblu) (Diwygio) 2003 a deuant i rym ar 31 Mawrth 2003.

2. Caiff Rheoliadau Cyngor Addysgu Cyffredinol Cymru (Swyddogaethau Disgyblu) 2001(**c**) eu diwygio fel a ganlyn.

3. Caiff rheoliad 2 ei ddiwygio drwy -

(a) 1998 p.30. Mae Adran 6 ac Atodlenni 1 a 2 yn gymwys mewn perthynas â Chyngor Addysgu Cyffredinol Cymru trwy rinwedd adrannau 8 a 9 o Ddeddf Addysgu ac Addysg Uwch 1998 a Gorchymyn Cyngor Addysgu Cyffredinol Cymru 1998 (O.S. 1998/2911) o 30 Rhagfyr 1998 ymlaen yn achos Atodlen 1, a 1 Medi 2000 yn achos gweddill y darpariaethau. Diwygir paragraff 1(4) o Atodlen 2, ac amnewidir paragraff 4 o Atodlen 2, gan baragraff 86(2) o Atodlen 21, a pharagraff 12 o Atodlen 12, i Ddeddf Addysg 2002 (p.32), yn eu trefn. Am ystyr "prescribed" a "regulations" *gweler* adran 43(1).

(b) *Gweler* Gorchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672) ac adran 211 o Ddeddf Addysg 2002.

(c) O.S. 2001/1424 (Cy. 99).

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2003 No. 503 (W.71)

EDUCATION, WALES

The General Teaching Council for Wales (Disciplinary Functions) (Amendment) Regulations 2003

Made	*4th March 2003*
Coming into force	*31st March 2003*

In exercise of the powers conferred on the Secretary of State by section 42(6) of, and paragraph 9 of Schedule 1 and paragraphs 1(4) and 4 of Schedule 2 to, the Teaching and Higher Education Act 1998(**a**) and now vested in the National Assembly for Wales(**b**), and after consulting the General Teaching Council for Wales in accordance with section 42(9) of that Act, the National Assembly for Wales makes the following Regulations:

Name and commencement

1. These Regulations are called the General Teaching Council for Wales (Disciplinary Functions) (Amendment) Regulations 2003 and shall come into force on 31st March 2003.

2. The General Teaching Council for Wales (Disciplinary Functions) Regulations 2001(**c**) are amended as follows.

3. Regulation 2 is amended by -

(a) 1998 c.30. Section 6 and Schedules 1 and 2 apply in relation to the General Teaching Council for Wales by virtue of sections 8 and 9 of the Teaching and Higher Education Act 1998 and the General Teaching Council for Wales Order 1998 (S.I. 1998/2911) with effect from 30th December 1998 in the case of Schedule 1, and 1st September 2000 in the case of the remaining provisions. Paragraph 1(4) of Schedule 2 is amended, and paragraph 4 of Schedule 2 is substituted, by paragraph 86(2) of Schedule 21, and paragraph 12 of Schedule 12, to the Education Act 2002 (c.32) respectively. For the meaning of "prescribed" and "regulations" *see* section 43(1).

(b) *See* the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and section 211 of the Education Act 2002.

(c) S.I. 2001/1424 (W. 99).

(a) fewnosod y diffiniad canlynol ar ôl y diffiniad o "achos disgyblu" ym mharagraff (1) -

"mae i "asiant" ("*agent*") yr ystyr a roddir gan adran 15A o Ddeddf 1998(**a**);" a

(b) amnewid y geiriau "rheoliad 8" yn lle'r geiriau "rheoliadau 8 a 28" ym mharagraff (5).

4. Diwygir rheoliad 8 drwy -

(a) mewnosod y geiriau "Yn ddarostyngedig i baragraff (1A)" ar ddechrau paragraff (1);

(b) fewnosod y paragraff canlynol ar ôl paragraff (1):

"(1A) Rhaid i Bwyllgor sy'n delio ag achos yn erbyn person sy'n aelod o'r Cyngor gynnwys un neu fwy aelod lleyg ac un neu fwy aelod sy'n athro neu'n athrawes gofrestredig, ond ni ddylai gynnwys aelod o'r Cyngor.";

(c) mewnosod y geiriau "Yn ddarostyngedig i baragraff (3A)" ar ddechrau paragraff (3); a

(ch) mewnosod y paragraff canlynol ar ôl paragraff (3):

"(3A) Y cworwm ar gyfer cyfarfod o Bwyllgor sy'n delio ag achos yn erbyn person sy'n aelod o'r Cyngor fydd tri aelod, gan gynnwys un aelod lleyg ac un aelod sy'n athro neu'n athrawes gofrestredig.".

5. Diwygir rheoliad 9 drwy -

(a) amnewid y paragraff canlynol yn lle paragraff (1)(b) -

"(b)bod y Cynulliad Cenedlaethol neu'r Ysgrifennydd Gwladol yn dymuno ystyried yr achos gyda'r bwriad o arfer ei bwerau o dan adran 142 o Ddeddf Addysg 2002(**b**) -

(i) ar y seiliau bod person yn anaddas i weithio â phlant, neu

(ii) ar seiliau sy'n ymwneud â chamymddygiad neu iechyd person,

oherwydd bod y Cynulliad Cenedlaethol neu'r Ysgrifennydd Gwladol yn ystyried bod yr achos yn ymwneud â diogelwch a lles person dan 18 oed."; a

(b) amnewid y geiriau "rheoliad 5 neu 7 o Reoliadau Addysg (Cyflenwi Gwybodaeth) (Cymru) 2003(**c**)" yn lle'r geiriau "rheoliad 28" ym mharagraff (2) (b).

6. Diwygir Rheoliad 18 drwy -

(a) amnewid y paragraff canlynol yn lle paragraff (3) -

(a) inserting after the definition of "the 1998 Act" in paragraph (1) the following -

""agent" ("*asiant*") has the meaning given by section 15A of the 1998 Act(**a**);" and

(b) substituting for the words "regulations 8 and 28" in paragraph (5) the words "regulation 8".

4. Regulation 8 is amended by -

(a) inserting the words "Subject to paragraph (1A)" at the beginning of paragraph (1);

(b) inserting after paragraph (1) the following paragraph:

"(1A) A Committee dealing with a case against a person who is a member of the Council must include one or more lay members and one or more registered teacher members, but must not include a member of the Council.";

(c) inserting the words "Subject to paragraph (3A)" at the beginning of paragraph (3); and

(d) inserting after paragraph (3) the following paragraph:

"(3A) The quorum for a meeting of a Committee dealing with a case against a person who is a member of the Council shall be three members, including one lay member and one registered teacher member.".

5. Regulation 9 is amended by -

(a) substituting for paragraph (1)(b) the following paragraph -

"(b)the National Assembly or the Secretary of State wishes to consider the case with a view to exercising its or his powers under section 142 of the Education Act 2002(**b**) -

(i) on the grounds that a person is unsuitable to work with children, or

(ii) on grounds relating to a person's misconduct or health,

because the National Assembly or the Secretary of State considers that the case concerns the safety and welfare of persons aged under 18."; and

(b) substituting for the words "regulation 28" in paragraph (2) (b) the words "regulations 5 or 7 of the Education (Supply of Information) (Wales) Regulations 2003(**c**)".

6. Regulation 18 is amended by -

(a) substituting for paragraph (3) the following paragraph -

(a) Mewnosodwyd adran 15A gan baragraff 83 o Atodlen 21 i Ddeddf Addysg 2002 (p.32)

(b) 2002 p.32.

(c) O.S. 2003/542 (Cy76).

(a) Section 15A was inserted by paragraph 83 of Schedule 21 to the Education Act 2002 (c. 32).

(b) 2002 c.32.

(c) S.I. 2003/542 (W.76).

"(3) Rhaid i orchymyn atal, yn ychwanegol at yr eitemau y cyfeiriwyd atynt ym mharagraff (1), bennu -

(a) unrhyw amodau y dylai'r athro neu'r athrawes gydymffurfio â hwy cyn y gall fod yn gymwys unwaith eto ar gyfer cofrestru; a

(b) y cyfnod (nad yw'n fwy na dwy flynedd) pan ddaw'r athro neu'r athrawes unwaith eto yn gymwys ar gyfer cofrestru ar ei ddiwedd (yn ddarostyngedig i gydymffurfio ag unrhyw amodau)";

(b) ym mharagraff (6) hepgor yr "a" ar ddiwedd is-baragraff (a)(v) a mewnosod y canlynol ar ei ôl -

"(va) os gorchymyn atal sy'n pennu amodau yw'r gorchymyn, esboniad o hawl y person i wneud cais am amrywio neu ddiddymu amod a bennwyd yn y gorchymyn a'r dull ar gyfer gwneud cais o'r fath, a"; ac

(c) mewnosod ym mharagraff (6)(b) ar ôl y geiriau "gyflogwr presennol neu ddiwethaf" y geiriau "a, lle bo hynny'n berthnasol, asiant".

7. Ar ôl rheoliad 21 mewnosodir y rheoliad canlynol -

"Cais i amrywio neu neilltuo amod mewn gorchymyn atal

21A.-(1) Gall person y mae gorchymyn atal wedi'i wneud mewn perthynas ag ef wneud cais i'r Cyngor i amrywio neu ddiddymu unrhyw amod a bennir yn y gorchymyn.

(2) Rhaid i gais o dan baragraff (1) gael ei wneud yn ysgrifenedig a phennu ar ba sail y mae'r person yn gofyn amrywio neu ddiddymu unrhyw amod a bennir yn y gorchymyn, a chyda'r cais rhaid anfon pob dogfen y dibynnir arni i ategu'r cais.

(3) Os cafodd gorchymyn atal y gwneir cais mewn perthynas ag ef o dan baragraff (1) ei wneud gan Bwyllgor Ymddygiad Proffesiynol, rhaid i'r cais gael ei benderfynu gan Bwyllgor Ymddygiad Proffesiynol arall y mae'n rhaid iddo beidio â chynnwys fel aelod unrhyw berson a fu'n aelod o'r Pwyllgor a wnaeth y gorchymyn y cwynir yn ei erbyn.

(4) Os cafodd gorchymyn atal y gwneir cais mewn perthynas ag ef o dan baragraff (1) ei wneud gan Bwyllgor Cymhwysedd Proffesiynol, rhaid i'r cais gael ei benderfynu gan Bwyllgor Cymhwysedd Proffesiynol arall y mae'n rhaid iddo beidio â chynnwys fel aelod unrhyw berson a fu'n aelod o'r Pwyllgor a wnaeth y gorchymyn y cwynir yn ei erbyn.".

"(3) A suspension order shall, in addition to the items referred to in paragraph (1), specify -

(a) any conditions to be complied with by the teacher before he or she can become eligible again for registration; and

(b) the period (not exceeding two years) at the end of which the teacher becomes eligible again for registration (subject to any conditions being complied with).";

(b) in paragraph (6), omitting the "and" at the end of sub-paragraph (a)(v) and inserting the following after it -

"(va) where the order is a suspension order which specifies conditions, an explanation of the person's right to apply to vary or revoke a condition specified in the order and the method for making such an application, and"; and

(c) inserting in paragraph (6)(b) after the words "last employer" the words "and, where relevant, agent".

7. After regulation 21 there is inserted the following regulation -

"Application to vary or set aside a condition in a suspension order

21A.-(1) A person in relation to whom a suspension order has been made may apply to the Council for variation or revocation of any condition specified in the order.

(2) An application under paragraph (1) must be made in writing and must specify the grounds on which the person seeks to have any condition specified in the order varied or revoked, and it must be accompanied by every document relied upon in support of the application.

(3) Where a suspension order in respect of which an application is made under paragraph (1) was made by a Professional Conduct Committee, the application must be determined by another Professional Conduct Committee which must not include as a member any person who was a member of the Committee which made the order complained of.

(4) Where a suspension order in respect of which an application is made under paragraph (1) was made by a Professional Competence Committee, the application must be determined by another professional Competence Committee which must not include as a member any person who was a member of the Committee which made the order complained of.".

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

4 Mawrth 2003

Llywydd y Cynulliad Cenedlaethol

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

4th March 2003

D. Elis-Thomas

The Presiding Officer of the National Assembly

(a) 1998 p.38.

(a) 1998 c.38.

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ADDYSG, CYMRU

Rheoliadau Cyngor Addysgu Cyffredinol Cymru (Swyddogaethau Disgyblu) (Diwygio) 2003

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