



CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

2006 Rhif 3100 (Cy.284)

2006 No. 3100 (W.284)

**GOFAL CYMDEITHASOL,
CYMRU**

**SOCIAL CARE,
WALES**

PLANT A PHOBL IFANC, CYMRU

**CHILDREN AND YOUNG PERSONS,
WALES**

**Rheoliadau Adolygu
Penderfyniadau'n Annibynnol
(Mabwysiadu) (Cymru) 2006**

**The Independent Review of
Determinations (Adoption) (Wales)
Regulations 2006**

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 Mabwysiadu a Phlant 2002 ("y Deddf"). Maent yn gymwys i Gymru yn unig. Maent yn gwneud darpariaeth i banel annibynnol adolygu mewn dau fath o achos. Yn gyntaf, penderfyniad a wnaed gan asiantaeth fabwysiadu o dan Rheoliadau Asiantaethau Mabwysiadu (Cymru) 2005 nad yw'n bwriadu cymeradwyo darpar fabwysiadydd fel un sy'n addas i fabwysiadu plentyn neu benderfyniad ar ôl adolygiad nad yw darpar fabwysiadydd yn addas mwyach i fabwysiadu plentyn. Mae penderfyniad o'r fath wedi'i bennu yn rheoliad 3 o'r Rheoliadau hyn fel penderfyniad cymhwysol at ddibenion adran 12(2) o'r Ddeddf. Yn ail, penderfyniadau a wnaed gan asiantaeth fabwysiadu o dan Rheoliadau Mynediad i Wybodaeth (Mabwysiadu Ôl-gychwyn) (Cymru) 2005. Mae'r penderfyniadau hyn wedi'u pennu mewn rheoliad 13A newydd o'r Rheoliadau hynny fel penderfyniadau cymhwysol at ddibenion adran 12(2) o'r Ddeddf.

Mae Rhan 2 yn gwneud darpariaeth ar gyfer cyfansoddiad ac aelodaeth panelau, eu swyddogaethau a thalu ffioedd, cyfarfodydd a gwaith cadw cofnodion y panelau sy'n cael eu penodi gan Gynulliad Cenedlaethol Cymru i adolygu penderfyniadau cymhwysol.

Mae Rhan 3 yn gwneud darpariaeth ar gyfer y weithdrefn sydd i'w dilyn pan geisir penderfyniad cymhwysol gan banel a gyfansoddwyd o dan Ran 2.

These Regulations are made under the Adoption and Children Act 2002 ("the Act"). They apply to Wales only. They make provision for the review by an independent panel in two types of case. First, a determination made by an adoption agency under the Adoption Agencies (Wales) Regulations 2005 that it does not propose to approve a prospective adopter as suitable to adopt a child or decides on review that a prospective adopter is no longer suitable to adopt a child. Such a determination is specified in regulation 3 of these Regulations as a qualifying determination for the purposes of section 12(2) of the Act. Secondly, determinations made by an adoption agency under the Access to Information (Post-Commencement Adoptions) (Wales) Regulations 2005. These determinations are specified in a new regulation 13A of those Regulations as qualifying determinations for the purposes of section 12(2) of the Act.

Part 2 makes provision for the constitution and membership of panels, their functions and the payment of fees, meetings and record keeping of the panels which are appointed by the National Assembly for Wales to review qualifying determinations.

Part 3 makes provision for the procedure to be followed when a review of a qualifying determination by a panel constituted under Part 2 is sought.

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Rheoliadau Adolygu
Penderfyniadau'n Annibynnol
(Mabwysiadu) (Cymru) 2006

The Independent Review of
Determinations (Adoption) (Wales)
Regulations 2006

Wedi'u gwneud 21 Tachwedd 2006

Made 21 November 2006

Yn dod i rym 31 Rhagfyr 2006

Coming into force 31 December 2006

TREFN Y RHEOLIADAU

ARRANGEMENT OF REGULATIONS

**RHAN 1
CYFFREDINOL**

**PART 1
GENERAL**

1. Enwi, cychwyn a chymhwyso
2. Dehongli
3. Penderfyniad cymhwysol at ddibenion adran 12(2) o'r Ddeddf

1. Title, commencement and application
2. Interpretation
3. Qualifying determination for the purposes of section 12(2) of the Act

**RHAN 2
PANELAU**

**PART 2
PANELS**

4. Cyfansoddi panelau
5. Aelodaeth o'r panelau
6. Cyfarfodydd y panelau
7. Swyddogaethau panel a gyfansoddwyd i adolygu penderfyniad ar addasrwydd
8. Swyddogaethau panel a gyfansoddwyd i adolygu penderfyniad ar ddatgelu
9. Gweinyddu'r Panelau
10. Ffioedd aelodau panel
11. Cofnodion

4. Constitution of panels
5. Membership of panels
6. Meetings of panels
7. Functions of panel constituted to review a suitability determination
8. Functions of panel constituted to review a disclosure determination
9. Administration of Panels
10. Fees of panel members
11. Records

RHAN 3
Y WEITHDREFN

12. Cais am adolygu penderfyniad cymhwysol
13. Penodi panel a chynnal adolygiad
14. Argymhelliad y panel
15. Gorchymyn i dalu costau
16. Diwygio Rheoliadau Mynediad i Wybodaeth (Mabwysiadu Ôl-gychwyn) (Cymru) 2005
17. Achosion ar y gweill o dan Reoliadau Adolygu Annibynnol 2005 ar y diwrnod penodedig.
18. Dirymu

Mae Cynulliad Cenedlaethol Cymru, drwy arfer y pwerau a roddwyd iddo gan adrannau 9 a 12 o Ddeddf Mabwysiadu a Phlant 2002(1) yn gwneud y Rheoliadau canlynol-

PART 3
PROCEDURE

12. Application for review of qualifying determination
13. Appointment of panel and conduct of review
14. Recommendation of panel
15. Order for payment of costs
16. Amendment of the Access to Information (Post-Commencement Adoptions) (Wales) Regulations 2005
17. Cases in progress under the Independent Review Regulations 2005 on the appointed day.
18. Revocation

The National Assembly for Wales in exercise of the powers conferred by sections 9 and 12 of the Adoption and Children Act 2002(1) makes the following Regulations-

RHAN 1
CYFFREDINOL

Enwi, cychwyn a chymhwyso

1.-(1) Enw'r Rheoliadau hyn yw Rheoliadau Adolygu Penderfyniadau'n Annibynnol (Mabwysiadu) (Cymru) 2006.

- (2) Maent yn dod i rym ar 31 Rhagfyr 2006.
- (3) Mae'r Rheoliadau hyn yn gymwys i Gymru.

Dehongli

2. Yn y Rheoliadau hyn-

ystyr "ceisydd" ("*applicant*")-

- (a) yn achos penderfyniad ar addasrwydd, yw darpar fabwysiadydd;
- (b) yn achos penderfyniad i ddatgelu, yw person perthnasol o fewn ystyr "relevant person" yn rheoliad 13A(7) o'r Rheoliadau Datgelu;

ystyr "cyfarfod adolygu" ("*review meeting*") yw cyfarfod a gynullir yn unol â rheoliad 13 at ddibenion adolygu penderfyniad cymhwysol;

PART 1
GENERAL

Title, commencement and application

1.-(1) The title of these Regulations is the Independent Review of Determinations (Adoption)(Wales) Regulations 2006.

- (2) They come into force on 31 December 2006.
- (3) These Regulations apply to Wales.

Interpretation

2. In these Regulations-

"the Act" means the Adoption and Children Act 2002;

"the Agencies Regulations" means the Adoption Agencies (Wales) Regulations 2005(2);

"adoption panel" means a panel constituted in accordance with regulation 3 of the Agencies Regulations;

"applicant" means-

(1) 2002 p.38. Diwygiwyd adran 12 gan adran 57 o Ddeddf Plant 2004 (p.31).

(1) 2002 c.38. Section 12 was amended by section 57 of the Children Act 2004 (c.31).

(2) S.I. 2005/1313.

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

ystyr "y Ddeddf" ("*the Act*") yw Deddf Mabwysiadu a Phlant 2002;

ystyr "gweithiwr cymdeithasol" ("*social worker*") yw person sydd wedi'i gofrestru'n weithiwr cymdeithasol ar gofrestr sy'n cael ei chadw gan y Cyngor Gofal Cymdeithasol Cyffredinol neu Gyngor Gofal Cymru o dan adran 56 o Ddeddf Safonau Gofal 2000(1) neu ar gofrestr gyfatebol sy'n cael ei chadw o dan gyfraith yr Alban neu Ogledd Iwerddon;

ystyr "panel" ("*panel*") yw panel a gyfansoddwyd yn unol â rheoliad 4(1);

ystyr "panel mabwysiadu" ("*adoption panel*") yw panel a gyfansoddwyd yn unol â rheoliad 3 o'r Rheoliadau Asiantaethau;

ystyr "penderfyniad ar addasrwydd" ("*suitability determination*") yw penderfyniad cymhwysol a ddisgrifir yn rheoliad 3(a);

ystyr "penderfyniad cymhwysol" ("*qualifying determination*") yw penderfyniad a ddisgrifir yn rheoliad 3(a);

ystyr "penderfyniad i ddatgelu" ("*disclosure determination*") yw penderfyniad cymhwysol a ddisgrifir yn rheoliad 13A(1) o'r Rheoliadau Datgelu(2);

ystyr "y Rheoliadau Adolygu Annibynnol 2005" ("*the Independent Review Regulations 2005*") yw Rheoliadau Adolygu Penderfyniadau'n Annibynnol (Mabwysiadu) (Cymru) 2005(3);

ystyr "y Rheoliadau Asiantaethau" ("*the Agencies Regulations*") yw Rheoliadau Asiantaethau Mabwysiadu (Cymru) 2005(4);

ystyr "y Rheoliadau Datgelu" ("*the Disclosure Regulations*") yw Rheoliadau Mynediad i Wybodaeth (Mabwysiadu Ôl-gychwyn) (Cymru) 2005(5); ac

mae "y rhestr ganolog" ("*the central list*") i'w dehongli yn unol â rheoliad 4.

(a) in the case of a suitability determination, a prospective adopter;

(b) in the case of a disclosure determination, a relevant person within the meaning of regulation 13A(7) of the Disclosure Regulations;

"the central list" is to be construed in accordance with regulation 4;

"disclosure determination" means a qualifying determination described in regulation 13A(1) of the Disclosure Regulations(1);

"the Disclosure Regulations" means the Access to Information (Post-Commencement Adoptions) (Wales) Regulations 2005(2);

"the Independent Review Regulations 2005" means the Independent Review of Determinations (Adoption) (Wales) Regulations 2006(3);

"the National Assembly" means the National Assembly for Wales;

"panel" means a panel constituted in accordance with regulation 4(1);

"qualifying determination" means a determination described in regulation 3;

"review meeting" means a meeting convened in accordance with regulation 13 for the purposes of reviewing a qualifying determination;

"social worker" means a person who is registered as a social worker in a register maintained by the General Social Care Council or the Care Council for Wales under section 56 of the Care Standards Act 2000(4) or in a corresponding register maintained under the law of Scotland or Northern Ireland; and

"suitability determination" means a qualifying determination described in regulation 3(a).

(1) Deddf Safonau Gofal 2000, p.14.

(2) Mae Rheoliad 13A(1) o'r Rheoliadau Datgelu yn pennu'r penderfyniadau canlynol gan yr asiantaeth fabwysiadu briodol, mewn perthynas â chais o dan adran 61 o'r Ddeddf: (a) peidio â bwrw ymlaen â chais gan unrhyw berson am ddatgelu gwybodaeth a ddiogelir; (b) datgelu gwybodaeth i geisydd pan fo'r person hwnnw wedi dal yn ôl gydsyniad i ddatgelu'r wybodaeth; ac (c) peidio â datgelu gwybodaeth am berson i'r ceisydd pan fo'r person hwnnw wedi rhoi cydsyniad i ddatgelu'r wybodaeth.

(3) 2005/1891 (Cy.147).

(4) O.S. 2005/1313.

(5) O.S. 2005/2689.

(1) Regulation 13A (1) of the Disclosure Regulations specifies the following determinations by the appropriate adoption agency in relation to an application under section 61 of the Act (a) not to proceed with an application from any person for the disclosure of protected information; (b) to disclose information to an applicant when that person has withheld consent to the disclosure of the information; and (c) not to disclose information about a person to the applicant where that person has given consent to the disclosure of information.

(2) S.I. 2005/2689.

(3) 2005/1891 (W.147).

(4) Care Standards Act 2000 Ch 14

Penderfyniad cymhwysol at ddibenion adran 12(2) o'r Ddeddf.

3. At ddibenion adran 12(2) o'r Ddeddf, mae penderfyniad cymhwysol-

- (a) yn benderfyniad sydd wedi'i wneud gan asiantaeth fabwysiadu yn unol â Rheoliadau 2005 fel a ganlyn:
 - (i) pan na fydd yr asiantaeth, o dan reoliad 28(4) o'r Rheoliadau Asiantaethau, yn bwriadu cymeradwyo darpar fabwysiadu fel un sy'n addas i fod yn rhiant mabwysiadol.
 - (ii) pan fo'r asiantaeth o'r farn nad yw darpar fabwysiadu yn addas mwyach i fod yn rhiant mabwysiadol yn dilyn adolygiad o dan reoliad 30 o'r Rheoliadau Asiantaethau.
- (b) yn benderfyniad a ddisgrifir yn rheoliad 13A(1) o'r Rheoliadau Datgelu(1).

RHAN 2 PANELAU

Cyfansoddi panelau

4.-(1) Rhaid i'r Cynulliad Cenedlaethol, ar ôl cael cais a wnaed gan geisydd yn unol â rheoliad 11, gyfansoddi panel i adolygu'r penderfyniad cymhwysol.

(2) Rhaid dewis aelodau'r panel oddi ar restr o bersonau sydd wedi'u penodi ac sy'n gwasanaethu fel aelodau panelau asiantaethau mabwysiadu yng Nghymru (y cyfeirir ati yn y Rheoliadau hyn fel "y rhestr ganolog") a gedwir gan y Cynulliad Cenedlaethol o bersonau y mae'r Cynulliad Cenedlaethol yn eu hystyried yn addas, yn rhinwedd eu sgiliau, eu cymwysterau neu eu profiad i fod yn aelodau panel.

- (3) Rhaid i aelodau o'r rhestr ganolog gynnwys-
 - (a) gweithiwr cymdeithasol o fewn ystyr "social worker" yn Rhan IV o Ddeddf Safonau Gofal 2000, a hwnnw'n weithiwr cymdeithasol a chanddo o leiaf 5 mlynedd o brofiad ôl-gymhwyso mewn gwaith mabwysiadu a lleoli mewn teuluoedd; a
 - (b) personau eraill y mae'r Cynulliad Cenedlaethol yn eu hystyried yn addas i fod yn aelodau gan gynnwys, pan fo'n rhesymol ymarferol, personau â phrofiad personol o fabwysiadu.

(1) *Gweler* rheoliad 16 o'r Rheoliadau hyn.

Qualifying determination for the purposes of section 12(2) of the Act

3. For the purposes of section 12(2) of the Act, a qualifying determination is-

- (a) a determination that has been made by an adoption agency in accordance with the 2005 Regulations as follows:
 - (i) Where under regulation 28(4) of the Agency Regulations the agency do not propose to approve a prospective adopter as suitable to be an adoptive parent.
 - (ii) Where the agency consider that a prospective adopter is no longer suitable to be an adoptive parent following a review under regulation 30 of the Agency Regulations.
- (b) A determination described in regulation 13A(1) of the Disclosure Regulations(1)

PART 2 PANELS

Constitution of panels

4.-(1) The National Assembly must, on receipt of an application made by an applicant in accordance with regulation 12, constitute a panel for the purpose of reviewing the qualifying determination.

(2) The members of the panel must be drawn from a list of persons appointed and serving as members of adoption agency panels in Wales (in these Regulations referred to as "the central list"), kept by the National Assembly who are considered by the National Assembly to be suitable, by virtue of their skills, qualifications or experience to be members of a panel.

- (3) The members of the central list must include-
 - (a) Social workers within the meaning of Part IV Care Standards Act 2000 who have at least five years post-qualifying experience in adoption and family placement work; and
 - (b) other persons who are considered by the National Assembly to be suitable as members including, where reasonably practicable, persons with personal experience of adoption.

(1) *See* regulation 16 of these Regulations.

Aelodaeth o'r Panelau

5.-(1) Mwyafswm nifer y personau y caniateir eu penodi i banel yw pump.

(2) Rhaid i banel gael ei gynghori:

- (a) gan weithiwr cymdeithasol o fewn ystyr "social worker" yn Rhan IV o'r Ddeddf Safonau Gofal gyda chymwysterau, sgiliau a phrofiad priodol;
- (b) gan ymarferydd meddygol cofrestredig ag arbenigedd perthnasol mewn gwaith mabwysiadu.

(3) Pan fo'r panel yn credu fod hynny'n briodol, caiff ei gynghori gan

- (a) Cynghorydd Cyfreithiol â gwybodaeth ac arbenigedd mewn deddfwriaeth fabwysiadu;
- (b) Unrhyw berson arall y mae'r panel yn ystyried fod ganddo arbenigedd perthnasol o ran y penderfyniad sy'n cael ei ystyried.

(4) Pan fo'r penderfyniad cymhwysol sy'n cael ei adolygu'n benderfyniad i ddatgelu, mae'n rhaid i'r panel gynnwys o leiaf ddau berson sy'n dod o fewn rheoliad 4(3)(a).

(5) Rhaid i'r Cynulliad Cenedlaethol -

- (a) penodi i gadeirio panel berson a chanddo'r sgiliau a'r profiad angenrheidiol i gadeirio panel; a
- (b) yn achos panel a gyfansoddwyd i adolygu penderfyniad ar addasrwydd, penodi un o aelodau'r panel yn is-gadeirydd i weithredu fel cadeirydd os yw'r person a benodwyd i gadeirio'r panel yn absennol neu os yw swydd y cadeirydd yn wag.

(6) Rhaid peidio â phenodi person i banel-

- (a) os yw'r person hwnnw'n aelod o banel mabwysiadu'r asiantaeth fabwysiadu a wnaeth y penderfyniad cymhwysol;
- (b) os yw'r person, pan fo'r asiantaeth fabwysiadu a wnaeth y penderfyniad cymhwysol yn awdurdod lleol, yn gyflogedig neu wedi bod yn gyflogedig gan yr awdurdod hwnnw yn ystod y cyfnod o ddwy flynedd cyn y dyddiad y cafodd y penderfyniad cymhwysol ei wneud, yn eu gwasanaethau cymdeithasol plant a theuluoedd neu os yw neu os yw wedi bod yn aelod o'r awdurdod hwnnw;
- (c) os yw'r person, pan fo'r asiantaeth fabwysiadu a wnaeth y penderfyniad cymhwysol yn gymdeithas fabwysiadu gofrestrdedig, yn un o gyflogeion neu ymddiriedolwyr yr asiantaeth honno, neu os yw wedi bod yn un ohonynt yn ystod y cyfnod o ddwy flynedd cyn y dyddiad y cafodd y penderfyniad cymhwysol ei wneud;
- (ch) os yw'r person hwnnw yn berthynas i berson sy'n dod o dan is-baragraff (a), (b) neu (c);

Membership of Panels

5.-(1) The maximum number of people who may be appointed to a panel is five.

(2) A panel must be advised by:

- (a) A social worker within the meaning of Part IV of the Care Standards Act with appropriate qualifications, skills and experience;
- (b) A registered medical practitioner with relevant expertise in adoption work;

(3) A panel may, where the panel considers it appropriate, be advised by:

- (a) A legal advisor with knowledge and expertise in adoption legislation;
- (b) Any other person who the panel considers has relevant expertise in relation to the determination being considered.

(4) Where the qualifying determination being reviewed is a disclosure determination, the panel must include at least two persons falling within regulation 4(3)(a).

(5) The National Assembly must-

- (a) appoint to chair a panel a person who has the skills and experience necessary for chairing a panel; and
- (b) in the case of a panel constituted to review a suitability determination, appoint one of the members of the panel as vice chair to act as chair if the person appointed to chair the panel is absent or if the office of chair is vacant.

(6) A person must not be appointed to a panel if-

- (a) that person is a member of the adoption panel of the adoption agency that made the qualifying determination;
- (b) where the adoption agency which made the qualifying determination is a local authority the person is, or has been within the period of two years prior to the date on which the qualifying determination was made, employed by that authority in their children and family social services or a member of that authority;
- (c) where the adoption agency which made the qualifying determination is a registered adoption society the person is, or has been within the period of two years prior to the date on which the qualifying determination was made, an employee or a trustee of that agency;
- (d) that person is related to a person falling within sub-paragraph (a), (b) or (c);

- (d) os yw'r asiantaeth fabwysiadu a wnaeth y penderfyniad cymhwysol wedi lleoli plentyn i'w fabwysiadu gyda'r person hwnnw o fewn y ddwy flynedd diwethaf;
- (dd) os oedd y person hwnnw wedi'i gymeradwyo fel darpar fabwysiadydd o fewn y ddwy flynedd diwethaf gan yr asiantaeth fabwysiadu a wnaeth y penderfyniad cymhwysol; neu
- (e) os yw'r person hwnnw yn adnabod y ceisydd yn bersonol neu yn rhinwedd ei broffesiwn.

(7) Yn y rheoliad hwn-

- (a) mae "cyflogedig" ("*employed*") yn cynnwys bod yn gyflogedig p'un ai am daliad neu beidio a ph'un ai o dan gontract gwasanaeth neu gontract am wasanaethau neu fel gwirfoddolwr; a
- (b) mae person ("*person A*") yn perthyn i berson arall ("*person B*") os yw person A-
 - (i) yn aelod o aelwyd person B, neu'n briod â pherson B neu'n bartner sifil i berson B;
 - (ii) yn fab, merch, mam, tad, chwaer neu frawd person B; neu
 - (iii) yn fab, merch, mam, tad, chwaer neu frawd person y person y mae person B yn briod ag ef neu hi neu y mae person B wedi ffurfio partneriaeth sifil ag ef neu hi;

Cyfarfodydd y panelau

6. Bydd trafodion y panel yn cael eu hannilysu oni bai bod o leiaf bedwar o'i aelodau yn bresennol.

Swyddogaethau panel a gyfansoddwyd i adolygu penderfyniad ar addasrwydd

7.-(1) Mae'r rheoliad hwn yn gymwys pan fo'r penderfyniad cymhwysol sy'n cael ei adolygu yn benderfyniad ar addasrwydd.

(2) Rhaid i banel-

- (a) adolygu'r penderfyniad ar addasrwydd; a
- (b) cyflwyno argymhelliad i'r asiantaeth fabwysiadu a wnaeth y penderfyniad cymhwysol ynghylch a yw darpar fabwysiadydd yn addas i fod yn rhiant mabwysiadol.

(3) Wrth ystyried pa argymhelliad i'w gyflwyno-

- (a) rhaid i'r panel bwysu a mesur ac ystyried yr holl wybodaeth sy'n cael ei throsglwyddo iddo yn unol â rheoliad 29 o'r Rheoliadau Asiantaethau;
- (b) caiff y panel ofyn i'r asiantaeth fabwysiadu i sicrhau unrhyw wybodaeth berthnasol y mae'r panel yn credu ei bod yn angenrheidiol neu i ddarparu unrhyw gymorth arall y bydd y panel yn gofyn amdano; ac
- (c) caiff y panel sicrhau'r cyngor cyfreithiol y mae'n credu ei fod yn angenrheidiol mewn perthynas â'r achos.

- (e) that person has within the last two years had a child placed for adoption with him or her by the adoption agency which made the qualifying determination;
- (f) that person was within the last two years approved as a prospective adopter by the adoption agency that made the qualifying determination; or
- (g) that person knows the applicant in a personal or professional capacity.

(7) In this regulation-

- (a) "employed" includes employed whether or not for payment and whether under a contract of service or a contract for services or as a volunteer; and
- (b) a person ("*person A*") is related to another person ("*person B*") if person A is-
 - (i) a member of the household of, or married to or the civil partner of, person B;
 - (ii) the son, daughter, mother, father, sister or brother of person B; or
 - (iii) the son, daughter, mother, father, sister or brother of the person to whom person B is married or with whom person B has formed a civil partnership.

Meetings of panels

6.-The proceedings of a panel will be invalidated unless at least four of its members are present.

Functions of panel constituted to review a suitability determination

7.-(1) This regulation applies where the qualifying determination being reviewed is a suitability determination.

(2) A panel must -

- (a) review the suitability determination; and
- (b) make a recommendation to the adoption agency which made the qualifying determination as to whether or not a prospective adopter is suitable to be an adoptive parent.

(3) In considering what recommendation to make, the panel-

- (a) must consider and take into account all of the information passed to it in accordance with regulation 29 of the Agencies Regulations;
- (b) may request the adoption agency to obtain any other relevant information which the panel considers necessary or to provide such other assistance as the panel may request; and
- (c) may obtain such legal advice as it considers necessary in relation to the case.

Swyddogaethau panel a gyfansoddwyd i adolygu penderfyniad i ddatgelu

8.-(1) Mae'r rheoliad hwn yn gymwys pan fo'r penderfyniad cymhwysol sy'n cael ei adolygu yn benderfyniad i ddatgelu.

(2) Rhaid i banel adolygu'r penderfyniad i ddatgelu a chyflwyno i'r asiantaeth fabwysiadu a wnaeth y penderfyniad i ddatgelu argymhelliad ynghylch a ddylai'r asiantaeth fwrw ymlaen â'i phenderfyniad gwreiddiol.

(3) Wrth ystyried pa argymhelliad i'w gyflwyno-

- (a) rhaid i'r panel bwysu a mesur ac ystyried yr holl wybodaeth sy'n cael ei throsglwyddo iddo yn unol â rheoliad 13A o'r Rheoliadau Datgelu;
- (b) caiff y panel ofyn i'r asiantaeth fabwysiadu i sicrhau unrhyw wybodaeth berthnasol arall y mae'r panel yn credu ei bod yn angenrheidiol neu i roi unrhyw gymorth arall y bydd y panel yn gofyn amdano; ac
- (c) caiff y panel sicrhau cyngor cyfreithiol o'r fath neu gyngor gan ymarferydd meddygol cofrestredig sydd wedi'i gynnwys ar y rhestr ganolog y mae'n credu ei bod yn angenrheidiol mewn perthynas â'r achos; ac
- (ch) rhaid i'r panel ystyried lles unrhyw berson mabwysiedig ac os yw'r person yn blentyn mabwysiedig, rhaid i les y plentyn hwnnw fod yn bwysicach na dim. Yn achos unrhyw blentyn arall, rhaid i'r panel roi sylw penodol i'w les.

Gweinyddu'r Panelau

9. Rhaid i'r panel gael ei weinyddu gan y Cynulliad Cenedlaethol, a bydd rhaid iddo wneud darpariaeth addas ar gyfer trefniadau clericio i'r panel.

Ffioedd aelodau panel

10. Caiff y Cynulliad Cenedlaethol dalu i unrhyw aelod o banel unrhyw ffioedd y bydd y Cynulliad Cenedlaethol yn eu hystyried yn rhesymol.

Cofnodion

11. Rhaid i Gynulliad Cenedlaethol Cymru sicrhau bod cofnod ysgrifenedig o adolygiad panel o benderfyniad cymhwysol, gan gynnwys y rhesymau dros ei argymhelliad ac a oedd yr argymhelliad yn argymhelliad unfrydol neu'n argymhelliad y mwyafrif, yn cael ei gadw-

- (a) am gyfnod o 5 mlynedd o'r dyddiad y cafodd yr argymhelliad ei gyflwyno; a
- (b) o dan amodau diogelwch priodol .

Functions of panel constituted to review a disclosure determination

8.-(1) This regulation applies where the qualifying determination being reviewed is a disclosure determination.

(2) A panel must review the disclosure determination and make to the adoption agency that made the disclosure determination a recommendation as to whether or not the agency should proceed with its original determination.

(3) In considering what recommendation to make, the panel-

- (a) must consider and take into account all of the information passed to it in accordance with regulation 13A of the Disclosure Regulations;
- (b) may request the adoption agency to obtain any other relevant information which the panel considers necessary or to provide such other assistance as the panel may request; and
- (c) may obtain such legal advice or advice from a registered medical practitioner included in the central list as it considers necessary in relation to the case; and
- (d) must consider the welfare of any adopted person and if the person is an adopted child, that child's welfare must be paramount. In the case of any other child the panel must have particular regard to their welfare.

Administration of Panels

9. The panel must be administered by the National Assembly, who must make suitable provision for clerking arrangements to the panel.

Fees of panel members

10. The National Assembly may pay to any member of a panel such fees as the National Assembly considers to be reasonable.

Records

11. The National Assembly must ensure that a written record of a panel's review of a qualifying determination, including the reasons for its recommendation and whether the recommendation was unanimous or that of a majority, is retained-

- (a) for a period of 5 years from the date on which the recommendation is made; and
- (b) in conditions of appropriate security.

RHAN 3
Y WEITHDREFN

Cais am adolygu penderfyniad cymhwysol

12.-(1) Rhaid i gais i'r Cynulliad Cenedlaethol am adolygiad o benderfyniad cymhwysol gael ei wneud gan y ceisydd mewn ysgrifen a rhaid iddo gynnwys y sail dros ei wneud.

(2) Yn achos penderfyniad ar addasrwydd darpar fabwysiad yd yn unig a gaiff wneud cais i'r Cynulliad Cenedlaethol o fewn 20 niwrnod gwaith gan ddechrau o'r dyddiad yr anfonwyd hysbysiad gan yr asiantaeth fabwysiadu o'r penderfyniad cymhwysol mewn perthynas â'r darpar fabwysiad yd, am i banel gael ei gyfansoddi i adolygu'r penderfyniad hwnnw.

Penodi panel a chynnal adolygiad

13. Ar ôl cael cais sydd wedi'i wneud yn unol â rheoliad 12, rhaid i'r Cynulliad Cenedlaethol-

- (a) hysbysu o fewn 5 niwrnod gwaith yr asiantaeth fabwysiadu a wnaeth y penderfyniad cymhwysol fod y cais wedi'i wneud drwy anfon at yr asiantaeth gopi o'r cais;
- (b) anfon o fewn 5 niwrnod gwaith gydnabyddiaeth ysgrifenedig o'r cais at y ceisydd a'i hysbysu o'r camau a gymerwyd o dan is-baragraff (a);
- (c) penodi panel o fewn 25 niwrnod gwaith yn unol â rheoliad 4 a phennu dyddiad, amser a lleoliad i'r panel gyfarfod at ddibenion cyfarfod adolygu;
- (ch) Ar ôl cymryd y camau a ragnodwyd yn is-baragraff (c), a heb fod yn llai na 5 niwrnod gwaith cyn y dyddiad a bennwyd ar gyfer adolygu, hysbysu'n ysgrifenedig y ceisydd a'r asiantaeth fabwysiadu a wnaeth y penderfyniad cymhwysol-
 - (i) o'r ffaith bod y panel wedi'i benodi; a
 - (ii) o ddyddiad, amser a lleoliad y cyfarfod adolygu;

(2) Ni fydd y dyddiad a bennir ar gyfer yr adolygiad yn hwyrach na 3 mis ar ôl i'r cais ddod i law'r Cynulliad Cenedlaethol.

(3) Rhaid i'r Cynulliad Cenedlaethol sicrhau bod y panel yn cael yr holl bapurau perthnasol sy'n ymwneud â'r adolygiad cyn gynted ag y bo modd ond dim llai na 5 niwrnod gwaith cyn y dyddiad a bennwyd ar gyfer yr adolygiad.

PART 3
PROCEDURE

Application for review of qualifying determination

12.-(1) An application to the National Assembly for a review of a qualifying determination must be made by the applicant in writing and include the grounds of the application.

(2) In the case of a suitability determination only a prospective adopter may within 20 working days beginning with the date on which a notification was sent by the adoption agency of the qualifying determination in relation to him or her, make a request to the National Assembly for a panel to be constituted to review that determination.

Appointment of panel and conduct of review

13. Upon receipt of an application which has been made in accordance with regulation 12, the National Assembly must-

- (a) Within 5 working days notify the adoption agency which made the qualifying determination that the application has been made by sending to the agency a copy of the application;
- (b) Within 5 working days send a written acknowledgment of the application to the applicant and notify the applicant of the steps taken under sub-paragraph (a);
- (c) Within 25 working days appoint a panel in accordance with regulation 4 and fix a date, time and venue for the panel to meet for the purpose of a review meeting;
- (d) After taking the steps prescribed in sub-paragraph (c), and no less than 5 working days before the date fixed for review, inform in writing the applicant and the adoption agency which made the qualifying determination of-
 - (i) the appointment of the panel; and
 - (ii) the date, time and venue of the review meeting;

(2) The date fixed for the review will be no later than 3 months of the receipt of the application by the Assembly.

(3) The National Assembly must ensure that the panel receives all relevant papers relating to the review as soon as possible but no less than 5 working days before the date fixed for the review.

Argymhelliad y panel

14.-(1) Pan na fydd argymhelliad y panel yn unfrydol, rhaid i'r argymhelliad fod yn argymhelliad y mwyafrif.

(2) Caniateir i'r argymhelliad gael ei wneud a'i gyhoeddi ar ddiwedd yr adolygiad neu ei gadw yn ôl.

(3) Rhaid i'r argymhelliad a'r rhesymau drosto ac a oedd yr argymhelliad yn argymhelliad unfrydol neu'n argymhelliad mwyafrif gael eu cofnodi'n ddi-oed mewn dogfen a gaiff ei llofnodi a'i dyddio gan y cadeirydd.

(4) Rhaid i'r Cynulliad Cenedlaethol anfon yn ddi-oed, a beth bynnag heb fod yn hwyrach na 10 niwrnod gwaith ar ôl y dyddiad y mae'r argymhelliad yn cael ei wneud, gopi o'r argymhelliad a'r rhesymau drosto at y ceisydd ac i'r asiantaeth fabwysiadu a wnaeth y penderfyniad cymhwysol.

Gorchymyn i dalu costau

15. Caiff y panel wneud gorchymyn i'r asiantaeth fabwysiadu y cafodd y penderfyniad cymhwysol a adolygwyd ei wneud ganddi dalu'r costau y mae'r panel yn eu hystyried yn rhesymol.

Diwygio Rheoliadau Mynediad i Wybodaeth (Mabwysiadu Ôl-gychwyn) (Cymru) 2005

16.-(1) Mae Rheoliadau Mynediad i Wybodaeth (Mabwysiadu Ôl-gychwyn) (Cymru) 2005(1) wedi'u diwygio yn unol â darpariaethau canlynol y rheoliad hwn.

(2) Yn rheoliad 2, yn y lleoedd priodol, mewnosoder-

"mae i "asiantaeth fabwysiadu briodol" yr un ystyr ag "*appropriate adoption agency*" yn adran 65(1) o'r Ddeddf; " ac

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

(3) Ar ôl rheoliad 13 (Cofnod o sylwadau) mewnosoder y rheoliad canlynol-

"Adolygu'n Annibynnol-

13A(1) Mae'r penderfyniadau canlynol gan yr asiantaeth fabwysiadu briodol mewn perthynas â chais o dan adran 61 o'r Ddeddf yn benderfyniadau cymhwysol at ddibenion adran 12 o'r Ddeddf (adolygu penderfyniadau'n annibynnol) -

(a) peidio â bwrw ymlaen â chais gan unrhyw berson i ddatgelu gwybodaeth a ddiogelir;

Recommendation of panel

14.-(1) Where the panel's recommendation is not unanimous the recommendation must be that of the majority.

(2) The recommendation may be made and announced at the end of the review or reserved.

(3) The recommendation and the reasons for it and whether it was unanimous or that of a majority must be recorded without delay in a document signed and dated by the chair.

(4) The National Assembly must without delay and in any event no later than 10 working days after the date on which the recommendation is made send a copy of the recommendation and the reasons for it to the applicant and to the adoption agency which made the qualifying determination.

Order for payment of costs

15. The panel may make an order for the payment by the adoption agency by which the qualifying determination reviewed was made of such costs as the panel considers reasonable.

Amendment of the Access to Information (Post-Commencement Adoptions) (Wales) Regulations 2005

16.-(1) The Access to Information (Post Commencement Adoptions) (Wales) Regulations 2005 are amended in accordance with the following provisions of this regulation.

(2) In regulation 2, at the appropriate place insert-

""appropriate adoption agency" has the same meaning as in section 65(1) of the Act.

"National Assembly" means the National Assembly for Wales"

(3) After regulation 13 (Record of Views) there is to be inserted the following regulation-

"Independent Review-

13A(1) The following determinations by the appropriate adoption agency in relation to an application under section 61 of the Act are qualifying determinations for the purposes of section 12 of the Act (independent review of determinations)-

(a) not to proceed with an application from any person for disclosure of protected information;

(1) O.S. 2005/2689 (Cy. 189).

- (b) datgelu gwybodaeth i geisydd am berson pan fo'r person wedi dal yn ôl gydsyniad i ddatgelu'r wybodaeth;
- (c) peidio â datgelu gwybodaeth am berson i'r geisydd os yw'r person hwnnw wedi rhoi cydsyniad i ddatgelu gwybodaeth.
- (2) Rhaid i'r asiantaeth fabwysiadu roi i'r person perthnasol hysbysiad ysgrifenedig o'r penderfyniad, a rhaid i'r hysbysiad hwnnw -
- (a) datgan y rhesymau dros y penderfyniad;
a
- (b) hysbysu'r person perthnasol y caiff wneud cais i'r Cynulliad Cenedlaethol o fewn 20 niwrnod gwaith, gan ddechrau o'r dyddiad yr anfonwyd yr hysbysiad, am adolygiad gan banel adolygu annibynnol o'r penderfyniad cymhwysol.
- (3) Os bydd yr asiantaeth fabwysiadu yn cael hysbysiad gan y Cynulliad Cenedlaethol fod y person perthnasol wedi gwneud cais am adolygiad gan banel adolygu annibynnol o'r penderfyniad cymhwysol, rhaid i'r asiantaeth, o fewn 10 niwrnod gwaith i'r dyddiad y cafodd yr asiantaeth yr hysbysiad hwnnw, anfon at y Cynulliad Cenedlaethol -
- (a) copi o'r cais am ddatgelu gwybodaeth;
- (b) copi o'r hysbysiad a roddwyd o dan baragraff (2);
- (c) cofnod o unrhyw sylwadau a gafwyd gan yr asiantaeth o dan adran 61(3) o'r Ddeddf; ac
- (ch) unrhyw wybodaeth ychwanegol y gofynnir amdani gan y panel.
- (4) Rhaid i'r asiantaeth fabwysiadu beidio â chymryd unrhyw gamau yn unol â'i benderfyniad gwreiddiol-
- (a) cyn bod y panel adolygu annibynnol wedi cyflwyno ei argymhelliad; neu
- (b) os na fydd y person wedi gwneud cais am adolygiad o fewn y cyfnod hwnnw o 20 niwrnod gwaith, cyn diwedd y cyfnod hwnnw.
- (5) Rhaid i'r asiantaeth fabwysiadu ystyried unrhyw argymhelliad gan y panel adolygu annibynnol wrth benderfynu a ddylid bwrw ymlaen â'i benderfyniad gwreiddiol.
- (6) Ym mharagraff (3)-
- (a) mae'r cyfeiriad at banel adolygu annibynnol yn gyfeiriad at banel a gyfansoddwyd at ddibenion adran 12 o'r Ddeddf; a
- (b) to disclose information to an applicant about a person when that person has withheld consent to the disclosure of the information;
- (c) not to disclose information about a person to the applicant where that person has given consent to the disclosure of information.
- (2) The adoption agency must give the relevant person written notification of the determination, which must-
- (a) state the reasons for it; and
- (b) advise the relevant person that he or she may apply to the National Assembly within 20 working days, beginning with the date on which the notification was sent, for a review by an independent review panel of the qualifying determination.
- (3) If the adoption agency receives notification from the National Assembly that the relevant person has applied for a review by an independent review panel of the qualifying determination, the agency must, within 10 working days of receipt of that notification, send to the National Assembly-
- (a) a copy of the application for disclosure of information;
- (b) a copy of the notification given under paragraph (2);
- (c) the record of any views obtained by the agency under section 61(3) of the Act; and
- (d) any additional information requested by the panel.
- (4) The adoption agency must not take any action in accordance with its original determination before-
- (a) the independent review panel has made its recommendation; or
- (b) if the person has not applied for a review within that 20 working day period, the end of that period.
- (5) The adoption agency must have regard to any recommendation of the independent review panel in deciding whether to proceed with its original determination.
- (6) In paragraph (3)-
- (a) the reference to an independent review panel is to a panel constituted for the purposes of section 12 of the Act; and

(b) ystyr "diwrnod gwaith" yw unrhyw ddiwrnod heblaw dydd Sadwrn neu ddydd Sul, dydd Nadolig, dydd Gwener y Groglith neu ddiwrnod sy'n wyl banc o fewn ystyr "bank holiday" yn Neddf Bancio a Thrafodion Ariannol 1971.

(7) Yn y rheoliad hwn "y person perthnasol"-

(a) yn achos penderfyniad cymhwysol a grybwyllwyd ym mharagraff (1)(a) neu (c), yw'r ceisydd;

(b) yn achos penderfyniad cymhwysol a grybwyllwyd ym mharagraff (1)(b) neu (c), yw'r person y mae'r wybodaeth a ddiogelir yn ymwneud ag ef."

Achosion ar y gweill o dan Reoliadau Adolygu Annibynnol 2005 ar y diwrnod Penodedig

17.-(1) O ran unrhyw gais gan ddarpar fabwysiad ydd ar gyfer adolygad o benderfyniad cynhwysol a waned cyn y diwrnod Penodedig rhaid i unrhyw weithred neu benderfyniad a gymerwyd cyn y diwrnod Penodedig o dan ddarpariaeth o Reoliadau Adolygu Annibynnol 2005, ar y diwrnod Penodedig neu ar ei ol, gael ei thrin neu'i drin fel pebai'n weithred neu'n benderfyniad o dan y ddarpariaeth gyfatebol o'r Rheoliadau hyn.

(2) Yn y rheoliad hun ystyr "diwrnod penodedig" yw 31 Rhagfyr 2006.

Dirymu

18. Mae Rheoliadau Adolygu Penderfyniadau'n Annibynnol (Mabwysiadu) (Cymru) 2005(1) drwy hyn wedi'u dirymu.

Llofnodwyd ar ran y Cynulliad Cenedlaethol Cymru o dan adran 66(1) o Ddeddf Llywodraeth Cymru 1998(2).

21 Tachwedd 2006

Llywydd y Cynulliad Cenedlaethol

(b) "working day" means any day other than a Saturday or Sunday, Christmas day, Good Friday or a day which is a bank holiday within the meaning of the Banking and Financial Dealings Act 1971.

(7) In this regulation "the relevant person" is-

(a) in the case of a qualifying determination mentioned in paragraph (1)(a) or (c), the applicant;

(b) in the case of a qualifying determination mentioned in paragraph (1)(b) or (c), the person the protected information is about."

Cases in progress under the Independent Review Regulations 2005 on the appointed day

17.-(1) In relation to any application by a prospective adapter for a review of a qualifying determination made before the appointed day, any action or decision taken before the appointed day under a provision of the Independent Review Regulations 2005 must on or after the appointed day, be treated as if it were an action or decision under the corresponding provision of these Regulations.

(2) In the regulation "appointed day" means 31 December 2006.

Revocation

18. The Independent Review of Determinations (Adoption) (Wales) Regulations 2005(1) is hereby revoked.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(2).

21 November 2006

The Presiding Officer of the National Assembly

D. Elis-Thomas

(1) 2005/1819 (Cy.147).

(2) 1998 p.38.

(1) 2005/1819 (w.147)

(2) 1998 c.38.

OFFERYNNAU STATUDOL

2006 Rhif 3100 (Cy.284)

**GOFAL CYMDEITHASOL,
CYMRU**

PLANT A PHOBL IFANC, CYMRU

Rheoliadau Adolygu
Penderfyniadau'n Annibynnol
(Mabwysiadu) (Cymru) 2006

STATUTORY INSTRUMENTS

2006 No. 3100 (W.284)

**SOCIAL CARE,
WALES**

**CHILDREN AND YOUNG PERSONS,
WALES**

The Independent Review of
Determinations (Adoption) (Wales)
Regulations 2006

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