CYNULLIAD CENEDLAETHOL CYMRU

OFFERYNNAU STATUDOL

2007 Rhif 1049 (Cy.107)

COMISIYNYDD PLANT, CYMRU

Rheoliadau Comisiynydd Plant Cymru (Penodi) (Diwygio) 2007

NODYN ESBONIADOL

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

Mae'r Rheoliadau hyn yn gwneud darpariaeth ar gyfer penodi Comisiynydd Plant Cymru sef swydd a sefydlwyd o dan Ddeddf Safonau Gofal 2000.

Mae'r Rheoliadau'n diwygio Rheoliadau Comisiynydd Plant Cymru (Penodi) 2000 o ganlyniad i Ddeddf Llywodraeth Cymru 2006. Mae'r Rheoliadau yn gwneud darpariaeth amgen ar gyfer penodi Comisiynydd a'i ryddhau o'i swydd gan ddibynnu ar pryd y mae'r penodi neu'r rhyddhau o'r swydd yn digwydd. Mae'r Rheoliadau'n cymryd i ystyriaeth newidiadau sydd i gael eu gwneud yn effeithiol o dan Ddeddf Llywodraeth Cymru 2006 a'u bwriad yw sicrhau na fydd y newidiadau hyn yn peri bod oedi neu aflonyddwch wrth benodi'r Comisiynydd.

Mae'r Rheoliadau yn gwneud diwygiadau er mwyn darparu y gall y Comisiynydd gael ei benodi gan Brif Ysgrifennydd y Cynulliad, fel y'i diffinnir yn Neddf Llywodraeth Cymru 1998, os caiff y penodiad ei wneud cyn bod Prif Weinidog newydd yn cael ei benodi o dan Ddeddf Llywodraeth Cymru 2006. Dim ond wrth ddilyn cyngor gan unrhyw bwyllgor o'r Cynulliad a sefydlwyd er mwyn cynghori ynghylch y penodiad, ar ôl i ymgeiswyr gael eu cyfweld gan banel dewis, ynghylch eu priodoldeb i gael eu penodi, y gall penodiad gael ei wneud yn ystod y cyfnod yma. Mae'r Prif Ysgrifennydd o dan ddyletswydd hefyd i gymryd i ystyriaeth farn plant yng Nghymru ynghylch y penodiad arfaethedig.

NATIONAL ASSEMBLY FOR WALES

STATUTORY INSTRUMENTS

2007 No. 1049 (W.107)

CHILDREN'S COMMISSIONER, WALES

The Children's Commissioner for Wales (Appointment) (Amendment) Regulations 2007

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the appointment of the Children's Commissioner for Wales whose office is established under the Care Standards Act 2000.

The Regulations amend the Children's Commissioner for Wales (Appointment) Regulations 2000, as a result of the Government of Wales Act 2006. The Regulations make alternative provision for the appointment and removal of the Commissioner depending on when the appointment or removal occurs. The Regulations take account of changes to be brought into effect under the Government of Wales Act 2006 and is intended to ensure that these changes will not unduly delay or disrupt any appointment of the Commissioner.

The Regulations make amendments so as to provide that the Commissioner may be appointed by the Assembly First Secretary, as defined in the Government of Wales Act 1998, if the appointment is made before a new First Minister is appointed under the Government of Wales Act 2006. An appointment during this period may only be made following advice from any committee of the Assembly which has been established for the purpose of advising as to the appointment, after candidates are interviewed by a selection panel, as to their suitability for appointment. The First Secretary is also under a duty to take account of the views of children in Wales as to the proposed appointment.

Yn dilyn penodi Prif Weinidog newydd o dan Ddeddf Llywodraeth Cymru 2006 penodir y Comisiynydd gan y Prif Weinidog, heb gyngor gan y pwyllgor perthnasol, ond ar ôl i'r Prif Weinidog gymryd i ystyriaeth farn plant yng Nghymru, a chyngor unrhyw banel dewis.

Mae'r Rheoliadau hefyd yn gwneud darpariaeth ynghylch cyfnod y swydd, a'r amgylchiadau pan ellir rhyddhau'r Comisiynydd o'i swydd. Hyd nes y penodir Prif Weinidog newydd o dan Ddeddf Llywodraeth Cymru 2006, gellir rhyddhau'r Comisiynydd o'i swydd gan y Prif Ysgrifennydd. Ar ôl penodi Prif Weinidog newydd gellir rhyddhau'r Comisiynydd o'i swydd gan y Prif Weinidog.

O ran eglurder ynghylch cyfrifoldeb cyfreithiol ar gyfer arfer swyddogaethau gan y Prif Ysgrifennydd, mae'r Rheoliadau'n cynnwys darpariaeth atodol i ymdrin â swyddogaethau sy'n cael eu harfer felly fel petaent yn swyddogaethau sy'n cael eu harfer gan y Cynulliad o dan Ddeddf Llywodraeth Cymru 1998. Mae'r Rheoliadau'n darparu hefyd y bydd unrhyw beth a wneir gan y Prif Ysgrifennydd yn union cyn penodi Prif Weinidog newydd o dan Ddeddf Llywodraeth Cymru 2006 yn cael ei drin ar ôl penodi'r Prif Weinidog fel pe bai wedi cael ei wneud gan y Prif Weinidog.

Following the appointment of a new First Minister under the Government of Wales Act 2006 the Commissioner is to be appointed by the First Minister, without the advice of a relevant committee, but after the First Minister has taken into account the views of children in Wales, and the advice of any selection panel.

The Regulations also make provision as to the term of office, and the circumstances in which the Commissioner may be relieved of office. Until the appointment of a new First Minister under the Government of Wales Act 2006 the Commissioner may be relieved of office by the First Secretary. Following the appointment of the new First Minister for Wales the Commissioner may be relieved of office by the First Minister.

By way of clarification as to legal responsibility for the exercise of functions by the First Secretary, the regulations contain incidental provision to treat functions so exercised as the exercise of functions by the Assembly constituted by the Government of Wales Act 1998. The Regulations also provide that any anything done by the First Secretary immediately before the appointment of a new First Minister for Wales under the Government of Wales Act 2006 will be treated following the appointment of the First Minister for Wales as if done by the First Minister.

OFFERYNNAU STATUDOL

2007 Rhif 1049 (Cy.107)

COMISIYNYDD PLANT,CYMRU

Rheoliadau Comisiynydd Plant Cymru (Penodi) (Diwygio) 2007

Wedi'u gwneud	*27 Mawrth 2007*
Yn dod i rym	*1 Ebrill 2007*

Mae Cynulliad Cenedlaethol Cymru yn gwneud y Rheoliadau canlynol drwy arfer y pwerau a roddwyd iddo gan adrannau 118(7) o Ddeddf Safonau Gofal 2000 a pharagraff 2 o Atodlen 2 iddi(**1**).

Enwi, cychwyn, cymhwyso a dehongli

1.-(1) Enw'r Rheoliadau hyn yw Rheoliadau Comisiynydd Plant Cymru (Penodi) (Diwygio) 2007 a deuant i rym ar 1 Ebrill 2007.

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

(3) Yn y Rheoliadau hyn-

ystyr "y Comisiynydd" ("*the Commissioner*") yw Comisiynydd Plant Cymru(**2**)

ystyr "y cyfnod cychwynnol" yw ("*the initial period*") fel y'i diffinnir yn adran 161(5) o Ddeddf Llywodraeth Cymru 2006(**3**);

ystyr "y Prif Ysgrifennydd" ("*the First Secretary*") yw'r person a etholir o dro i dro yn Brif Ysgrifennydd y Cynulliad yn unol ag adran 53(1) o Ddeddf Llywodraeth Cymru 1998(**4**);

ystyr "y Prif Weinidog" ("*the First Minister*") yw'r person a benodi'r o dro i dro yn Brif Weinidog Cymru yn unol ag adran 46 o Ddeddf Llywodraeth Cymru 2006;

(**1**) 2000 p.14

(**2**) Sefydliwyd Swyddfa Comisiynydd Plant Cymru gan adran 72(1) o Ddeddf Safonau Gofal 2000

(**3**) 2006 p.32

(**4**) 1998 p.38

STATUTORY INSTRUMENTS

2007 No. 1049 (W.107)

CHILDREN'S COMMISSIONER,WALES

The Children's Commissioner for Wales (Appointment) (Amendment) Regulations 2007

Made	*27 March 2007*
Coming into force	*1 April 2007*

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred on it by section 118(7) and paragraph 2 of Schedule 2 to the Care Standards Act 2000(**1**).

Title, commencement, application and interpretation

1.-(1) The title of these Regulations is the Children's Commissioner for Wales (Appointment) (Amendment) Regulations 2007 and they come into force on 1 April 2007.

(2) These Regulations apply in relation to Wales.

(3) In these Regulations-

the Commissioner ("*y Comisiynydd*") means the Children's Commissioner for Wales (**2**);

the First Secretary" ("*y Prif Ysgrifennydd*") means the person elected from time to time as the Assembly First Secretary pursuant to section 53(1) of the Government of Wales Act 1998(**3**);

"the First Minister ("*y Prif Weinidog*") means the person appointed from time to time as the First Minister for Wales under section 46 of the Government of Wales Act 2006(**4**);

"the initial period" ("*y cyfnod cychwynnol*") means the initial period as defined in section 161(5) of the Government of Wales Act 2006;

(**1**) 2000 c.14

(**2**) The Office of the Children's Commissioner for Wales is established by section 72(1) of the Care Standards Act 2000

(**3**) 1998 c.38

(**4**) 2006 c.32

ystyr "plant perthnasol" ("*relevant children*") yw unrhyw blant sy'n preswylio yng Nghymru sy'n cael eu dethol at ddibenion penodiad penodol-

(a) yn y fath fodd ag y gellid ei benderfynu gan y pwyllgor perthnasol yn unol â chylch gwaith y pwyllgor, neu

(b) yn absenoldeb penderfyniad o'r fath, yn y fath fodd ag y caiff y Prif Ysgrifennydd ei benderfynu;

ystyr "pwyllgor perthnasol" ("*relevant committee*") yw unrhyw bwyllgor y gellid ei sefydlu gan Gynulliad Cenedlaethol Cymru o dro i dro o dan adran 54(1)(b) o Ddeddf Llywodraeth Cymru 1998 er mwyn darparu cyngor a phenderfynu materion sy'n berthnasol i benodi'r Comisiynydd.

(4) Yn y Rheoliadau hyn mae cyfeiriad -

(a) at reoliad â rhif yn gyfeiriad at y rheoliad yn y Rheoliadau hyn sy'n dwyn y rhif hwnnw;

(b) mewn rheoliad at baragraff â rhif, yn gyfeiriad at y paragraff yn y rheoliad hwnnw sy'n dwyn y rhif hwnnw.

Diwygio Rheoliadau Comisiynydd Plant Cymru (Penodi) 2000

2. Diwygier Rheoliadau Comisiynydd Plant Cymru (Penodi) 2000(**1**) yn unol â rheoliadau 3 i 6 o'r Rheoliadau hyn.

3. Yn rheoliad 1(2), yn yr adran ddehongli, ychwaneger y diffiniadau canlynol yn y lle priodol yn ôl trefn yr wyddor:-

"ystyr "y Prif Weinidog" ("*the First Minister*") yw'r person a benodi’r o dro i dro yn Brif Weinidog Cymru yn unol ag adran 46(1) o Ddeddf Llywodraeth Cymru 2006(**2**);"

ystyr "y cyfnod cychwynnol" yw "*the initial period*" fel y'i diffinnir yn adran 161(5) o Ddeddf Llywodraeth Cymru 2006.

4. Rhodder y rheoliad canlynol yn lle rheoliad 2:-

"Penodi'r Comisiynydd

2.-(1) Hyd at ddiwedd y cyfnod cychwynnol caiff y Comisiynydd ei benodi gan y Prif Ysgrifennydd.

(2) Dim ond ar ôl cymryd y canlynol i ystyriaeth y caiff y Comiiynydd ei benodi o dan baragraff (1)-

(**1**) 2000/3121 (Cy.199)

(**2**) 2006 p.32

"relevant children" ("*plant perthnasol*") means such children resident in Wales as are selected for the purposes of a particular appointment in such a manner-

(a) as the relevant committee may determine in accordance with the terms of reference of the committee, or

(b) in the absence of such a determination, as the First Secretary may determine;

"relevant committee" ("*pwyllgor perthnasol*") means such a committee as may be established from time to time by the National Assembly for Wales under section 54(1)(b) of the Government of Wales Act 1998 for the purpose of providing advice and determining matters relating to the appointment of the Commissioner.

(4) In these Regulations, a reference -

(a) to a numbered regulation is to the regulation in these Regulations bearing that number;

(b) in a regulation to a numbered paragraph, is to the paragraph in that regulation bearing that number.

Amendment of the Children's Commissioner for Wales (Appointment) Regulations 2000

2. The Children's Commissioner for Wales (Appointment) Regulations 2000(**1**) is amended in accordance with regulations 3 to 6 of these Regulations.

3. In regulation 1 (2), in the interpretation section, add the following definitions in the appropriate place in accordance with the alphabet:-

"the First Minister" ("*y Prif Weinidog*") means the person appointed from time to time as the First Minister for Wales under section 46(1) of the Government of Wales Act 2006(**2**);

"the initial period" ("*y cyfnod cychwynnol*") means the initial period as defined in section 161(5) of the Government of Wales Act 2006.

4. The following regulation is substituted for regulation 2:-

"Appointment of the Commissioner

2.-(1) Until the end of the initial period, the Commissioner may be appointed by the First Secretary.

(2) The appointment of the Commissioner under paragraph (1) may be made only after taking into account of-

(**1**) 2000/3121 (W.199)

(**2**) 2006 c.32.

(a) cyngor pwyllgor perthansol,

(b) barn plant perthnasol ynghylch unrhyw ymgeiswyr a gaiff eu cyfweld ar gyfer y penodiad, ac

(c) cyngor unrhyw banel dewis, a sefydlwyd er mwyn cyfweld ymgeiswyr, ynghylch eu priodoldeb ar gyfer y penodiad.

(3) Ar ôl diwedd y cyfnod cychwynnool, caiff y Comisiynydd ei benodi gan y Prif Weinidog.

(4) Ni ellir penodi'r Comisiynydd o dan baragraff (3) ond ar ôl cymryd y canlynol i ystyriaeth-

(a) barn y plant perthnasol am unryw ymgeiswyr y cyfwelir ar gyfer y penodiad, a

(b) cyngor unrhyw banel dewis, a sefydlwyd at ddiben cyfweld ag ymgeiswyr ynghylch eu priodoldeb ar gyfer y penodiad.

(5) Yn ddarostyngedig i reoliad 3, cyfnod swydd y Comisiynydd a benodir o dan y Rheoliadua hyn yw saith mlynedd.

(6) Ni fydd y Comisiynydd yn gymwys i gael ei ailbenodi pan ddaw cyfnod y swydd i ben neu os terfynir hi cyn hynny."

5. Rhodder y rheoliad canlynol yn lle rheoliad 3:-

"**3**.-(1) Hyd at ddiwedd y cyfnod cychwynnol caiff y Prif Ysgrifennydd ryddhau'r Comisiynydd o'i swydd cyn i gyfnod y swydd ddod i ben-

(a) ar gais y Comisiynydd,

(b) ar sail camymddwyn,

(c) os bydd wedi'i fodloni nad yw'r Comisiynydd yn alluog oherwydd gwendid meddyliol neu gorfforol i gyflawni swyddogasethau'r Comisiynydd.

(2) Ar ôl diwedd y cyfnod cychwynnol caiff unrhyw swyddogaethau a oedd yn arferadwy yn union cyn diwedd y cyfnod cychwynnol gan y Prif Ysgrifennydd o dan baragraff (1) eu harfer gan y Prif Weinidog."

6. Ychwaneger y rheoliad canlynol yn union ar ôl rheoliad 4.-(1)

"(2) Mae unrhyw beth a gaiff ei wneud gan y Prif Ysgrifennydd o dan y Rheoliadau hyn i'w drin ar ôl diwedd y cyfnod cychwynnol fel pe bai wedi cael ei wneud gan y Prif Weinidog."

(a) the advice of a relevant committee,

(b) the views of relevant children as to any candidates interviewed for the appointment, and

(c) the advice of any selection panel, established for the purpose of interviewing candidates, as to their suitability for appointment.

(3) Following the end of the initial period, the Commissioner may be appointed by the First Minister.

(4) The appointment of the Commissioner under paragraph (3) may be made only after taking into account .of-

(a) the views of relevant children as to any candidates interviewed for the appointment, and

(b) the advice of any selection panel, established for the purpose of interviewing candidates, as to their suitability for appointment.

(5) Subject to regulation 3, the term of office of the Commissioner appointed under these Regulations must be seven years.

(6) The Commissioner is not eligible for re-appointment upon the expiry or earlier termination of the term of office."

5. The following regulation is substituted for regulation 3:-

"**3**.-(1) Until the end of the initial period the First Secretary may relieve the Commissioner of office prior to the expiry of the term of office-

(a) at the request of the Commissioner,

(b) on the ground of misbehaviour,

(c) on being satisfied that the Commissioner is incapable by reason of mental or physical infirmity of performing the Commissioner's functions.

(2) Following the end of the initial period any functions that were exercisable immediately before the end of the initial period by the First Secretary under paragraph (1) may be exercised by the First Minister. "

6. Add the following regulation after regulation 4.-(1)

"(2) Anything which is done by the First Secretary under these Regulations is to be regarded after the end of the initial period as if done by the First Minister."

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

27 Mawrth 2007

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

27 March 2007

D. Elis-Thomas

Llywydd Cynulliad Cenedlaethol Cymru

The Presiding Officer of the National Assembly for Wales

(**1**) 1998 p.38.

(**1**) 1998 c.38.

OFFERYNNAU STATUDOL

2007 Rhif 1049 (Cy.107)

COMISIYNYDD PLANT, CYMRU

Rheoliadau Comisiynydd Plant Cymru (Penodi) (Diwygio) 2007

STATUTORY INSTRUMENTS

2007 No. 1049 (W.107)

CHILDREN'S COMMISSIONER, WALES

The Children's Commissioner for Wales (Appointment) (Amendment) Regulations 2007

© Hawlfraint y Goron 2007

Argraffwyd a chyhoeddwyd yn y Deyrnas Unedig gan The Stationery Office Limited o dan awdurdod ac arolygiaeth Carol Tullo, Rheolwr Gwasg Ei Mawrhydi ac Argraffydd Deddfau Seneddol y Frenhines.

© Crown copyright 2007

Printed and Published in the UK by the Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£3.00

W0058/04/07 ON