



CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

2007 Rhif 396 (Cy.42)

2007 No. 396 (W.42)

**COMISIYNYDD POBL HŶN
CYMRU, CYMRU**

**COMMISSIONER FOR OLDER
PEOPLE IN WALES, WALES**

Rheoliadau Comisiynydd Pobl Hŷn
Cymru (Penodi)
2007

The Commissioner for Older
People in Wales (Appointment)
Regulations 2007

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 gwneud darpariaeth ar gyfer penodi Comisiynydd Pobl Hŷn Cymru sef swydd a sefydlwyd o dan Ddeddf Comisiynydd Pobl Hŷn (Cymru) 2006.

These Regulations make provision for the appointment of the Commissioner for Older People in Wales whose office is established under the Commissioner for Older People (Wales) Act 2006.

Mae'r Rheoliadau'n gwneud darpariaeth amgen ar gyfer penodi Comisiynydd a'i ryddhau o'i swydd gan ddibynnu ar bryd y mae'r penodi neu'r rhyddhau o swydd yn digwydd. Mae'r Rheoliadau'n cymryd i ystyriaeth y newidiadau a fydd yn effeithiol o dan ddeddfiad diweddar Deddf Llywodraeth Cymru 2006 a cheisio sicrhau na fydd y newidiadau hynny'n peri oedi neu'n aflonyddu'n ormodol ar benodiad y Comisiynydd.

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 recently enacted Government of Wales Act 2006 and seek to ensure that these changes will not unduly delay or disrupt the appointment of the Commissioner.

Yn benodol mae'r Rheoliadau'n gwneud darpariaeth y caiff y Comisiynydd ei benodi gan Brif Ysgrifennydd y Cynulliad fel y'i diffinnir gan Ddeddf Llywodraeth Cymru 1998, os gwneir y penodiad cyn penodir Prif Weinidog Cymru newydd o dan Ddeddf Llywodraeth Cymru 2006.

In particular the Regulations 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 for Wales is appointed under the Government of Wales Act 2006.

Dim ond ar ôl dilyn cyngor gan unrhyw bwyllgor o'r Cynulliad a sefydlwyd er mwyn rhoi cyngor a phenderfynu ar faterion y mae a wnelont â'r penodiad ac ar ôl i ymgeiswyr gael eu cyfweld ynghylch eu priodoldeb i gael eu penodi gan banel dewis, y gellir penodi yn ystod y cyfnod hwn. Mae'r Prif Ysgrifennydd o dan ddyletswydd hefyd i gymryd i ystyriaeth farn pobl hŷn sy'n preswyllo yng Nghymru ynghylch y penodiad arfaethedig.

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 providing advice and determining matters relating to the appointment and after candidates are interviewed as to their suitability for appointment by a selection panel. The First Secretary is also under a duty to take account of the views of older people resident in Wales as to the proposed appointment.

Yn dilyn penodi Prif Weinidog Cymru newydd o dan Ddeddf Llywodraeth Cymru 2006 gellir penodi'r Comisiynydd gan Brif Weinidog Cymru. Wrth benodi'r Comisiynydd rhaid i Brif Weinidog Cymru gymryd i ystyriaeth gyngor unrhyw banel dewis a sefydlwyd er mwyn y penodiad a barn pobl hŷn ddethol sy'n preswyllo yng Nghymru o ran y penodiad arfaethedig.

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 Cymru newydd o dan Ddeddf Llywodraeth Cymru 2006, gellir rhyddhau'r Comisiynydd o'i swydd gan y Prif Ysgrifennydd. Yn dilyn penodi Prif Weinidog Cymru newydd gellir rhyddhau'r Comisiynydd o'i swydd gan Brif Weinidog Cymru. 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 fel y mae wedi'i gyfansoddi gan 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 Cymru newydd o dan Ddeddf Llywodraeth Cymru 2006 yn cael ei drin ar ôl penodi Prif Weinidog Cymru fel pe bai wedi cael ei wneud gan Brif Weinidog Cymru.

Following the appointment of a new First Minister for Wales under the Government of Wales Act 2006 the Commissioner may be appointed by the First Minister for Wales. In appointing the Commissioner the First Minister for Wales must take into account the advice of any selection panel established for the purposes of the appointment and the views of selected older people resident in Wales as to the proposed appointment. 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 for Wales 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 for Wales. 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 as constituted by the Government of Wales Act 1998. The Regulations also provide that 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 for Wales.

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CYMRU, CYMRUCOMMISSIONER FOR OLDER
PEOPLE IN WALES, WALESRheoliadau Comisiynydd Pobl HÛn
Cymru (Penodi)
2007The Commissioner for Older
People in Wales (Appointment)
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Wedi'u gwneud 14 Chwefror 2007
Yn dod i rym 16 Chwefror 2007

Made 14 February 2007
Coming into force 16 February 2007

Mae Cynulliad Cenedlaethol Cymru yn gwneud y Rheoliadau canlynol drwy arfer y pwerau a roddwyd iddo gan adran 28(2) o Deddf Comisiynydd Pobl HÛn (Cymru) 2006 a pharagraff 2 o Atodlen 1 iddi.

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred on it by section 28(2) of and paragraph 2 of Schedule 1 to, the Commissioner for Older People (Wales) Act 2006.

Enwi, cychwyn a dehongli

1.-(1) Enw'r Rheoliadau hyn yw Rheoliadau Comisiynydd Pobl HÛn Cymru (Penodi) 2007 a deuant i rym ar 16 Chwefror 2007.

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

2.-(1) Yn y Rheoliadau hyn-

ystyr "y Comisiynydd" (*"the Commissioner"*) yw Comisiynydd Pobl HÛn Cymru;

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

ystyr "y Cynulliad Cenedlaethol" (*"the National Assembly"*) yw Cynulliad Cenedlaethol Cymru fel y mae wedi'i chyfansoddi gan Ddeddf Llywodraeth Cymru 1998(1);

ystyr "pobl hÛn berthnasol" (*"relevant older persons"*) yw unrhyw bobl hÛn sy'n preswyllo yng Nghymru sy'n cael eu dethol at ddibenion penodiad penodol-

- (a) yn y fath fodd a chan 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;

Title, commencement and interpretation

1.-(1) The title of these Regulations is the Commissioner for Older People in Wales (Appointment) Regulations 2007 and they come into force on 16 February 2007.

(2) These Regulations apply in relation to Wales.

2.-(1) In these Regulations-

"the National Assembly" (*"y Cynulliad Cenedlaethol"*) means the National Assembly for Wales as constituted by the Government of Wales Act 1998(1);

"the Commissioner" (*"y Comisiynydd"*) means the Commissioner for Older People in Wales;

"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;

"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;

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

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

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;

ystyr "pwyllgor perthnasol" ("*relevant committee*") yw unrhyw bwyllgor y gellid ei sefydlu o dro i dro gan y Cynulliad Cenedlaethol 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.

(2) 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.

Penodi'r Comisiynydd

3.-(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 Comisiynydd ei benodi o dan baragraff (1) -

- (a) cyngor pwyllgor perthnasol,
- (b) barn pobl hŷn berthnasol 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 cychwynnol 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 bobl hŷn hynny sy'n preswyllo yng Nghymru ac a ddewiswyd gan y Prif Weinidog am unrhyw ymgeiswyr a gyfwelir 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 4, pedair blynedd fydd cyfnod swydd y Comisiynydd a benodir o dan y Rheoliadau hyn.

"relevant older persons" ("*pobl hŷn berthnasol*") means such older people resident in Wales as are selected for the purposes of a particular appointment by and in such 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;

"a relevant committee" ("*pwyllgor perthnasol*") means such a committee as may be established from time to time by the National Assembly 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.

(2) 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.

Appointment of the Commissioner

3.-(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 account of-

- (a) the advice of a relevant committee,
- (b) the views of relevant older persons 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 account of -

- (a) the views of such older people resident in Wales as selected by the First Minister 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 4, the term of office of the Commissioner appointed under these Regulations must be four years.

(6) Caniateir i berson a gafodd ei benodi am un cyfnod yn Gomisiynydd gael ei benodi am ail gyfnod (boed yn olynol neu beidio) ond ddim am unrhyw gyfnod ychwanegol.

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

5.-(1) Os bydd y Prif Ysgrifennydd yn arfer swyddogaethau a roddir gan y Rheoliadau hyn, bydd arfer y swyddogaethau hynny'n cael ei drin fel pe bai'n arfer gan y Cynulliad Cenedlaethol.

(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.

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

14 Chwefror 2007

Llywydd y Cynulliad Cenedlaethol

(6) A person who has been appointed for one term as the Commissioner may be appointed for a second term (whether or not consecutive) but not for any additional term.

4.-(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, or
- (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.

5.-(1) Where the First Secretary exercises functions conferred by these Regulations, the exercise of such functions is to be treated as that of the National Assembly.

(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.

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

14 February 2007

D. Elis-Thomas

The Presiding Officer of the National Assembly

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