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OFFERYNNAU STATUDOL  
CYMRU

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WELSH STATUTORY  
INSTRUMENTS

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**2009 Rhif 2544 (Cy.206)**

**2009 No. 2544 (W.206)**

**ADDYSG, CYMRU**

**EDUCATION, WALES**

Rheoliadau Addysg (Diwygiadau  
Amrywiol ynghylch  
Diogelu Plant) (Cymru)  
2009

The Education (Miscellaneous  
Amendments relating to  
Safeguarding Children) (Wales)  
Regulations 2009

**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 diwygiadau i wahanol setiau o reoliadau a wnaed o dan Ddeddf Addysg 1996 (p.56), Deddf Safonau a Fframwaith Ysgolion 1998 (p.38), a Deddf Addysg 2002 (p.32) i adlewyrchu newidiadau a fydd yn digwydd o ganlyniad i gychwyn (ar 12 Hydref 2009) y darpariaethau gwahardd yn Neddf Diogelu Grwpiau Hyglwyf 2006 (p.47) ("y DDGH") a chychwyn darpariaethau newydd (a fewnosodwyd gan y DDGH) yn Neddf yr Heddlu 1997 (p.50).

These Regulations make amendments to various sets of regulations made under the Education Act 1996 (c.56), the School Standards and Framework Act 1998 (c.38), and the Education Act 2002 (c.32) to reflect changes that will arise as a result of the commencement (on 12 October 2009) of the barring provisions in the Safeguarding Vulnerable Groups Act 2006 (c.47) ("the SVGA") and the commencement of new provisions (inserted by the SVGA) in the Police Act 1997 (c.50).

Hyd at 12 Hydref 2009, bydd gwybodaeth pa un a waharddwyd person ai peidio rhag gweithio gyda phlant ar gael gyda thystysgrif cofnod troseddol, safonol neu fanylach. Nid yw'r wybodaeth wahardd a gynhwysir mewn tystysgrif cofnod troseddol ar hyn o bryd yn nodi a yw person wedi ei gynnwys ai peidio ar y rhestr wahardd ar gyfer plant a sefydlwyd o dan adran 2 o'r DDGH. Sefydli'r a chynhelir y rhestr wahardd ar gyfer plant gan yr Awdurdod Diogelu Annibynnol ("ADA") (*Independent Safeguarding Authority* ("ISA")); cyfeirir at yr ADA yn y DDGH fel yr "Independent Barring Board" (neu "IBB") ond mae'n debygol y diwygir hynny mewn deddfwriaeth sylfaenol yn y dyfodol agos, ac y gosodir cyfeiriad at yr ADA yn ei le.

Until 12 October 2009, information as to whether a person is barred from working with children is available with a standard or an enhanced criminal record certificate. The barred information included in a criminal record certificate currently does not include information as to whether a person is on the children's barred list established under section 2 of the SVGA. The children's barred list is established and maintained by the Independent Safeguarding Authority ("ISA"); the ISA is referred to in the SVGA as the Independent Barring Board (or IBB) but this is likely to be amended in the near future by primary legislation and substituted by a reference to the ISA.

Mewn rhai o'r rheoliadau a ddiwygir, mae'r diwygiadau a wneir gan y Rheoliadau hyn yn ychwanegu cyfeiriad pa un a waharddwyd person rhag gweithio gyda phlant o dan y DDGH, at y cyfeiriadau gwahardd a oedd yn rhagflaenu'r DDGH. Yn ychwanegol, mae'r diwygiadau yn rheoliadau 2(2) a

In some of the regulations being amended, the amendments made by these Regulations add a reference to whether a person is barred from working with children under the SVGA to the references to the barring provisions pre-dating the SVGA. In addition, the amendments to regulations 2(2) and 3(2) add a

3(2) yn ychwanegu cyfeiriad pa un a yw person yn destun cyfarwyddyd o dan adran 142 o Ddeddf Addysg 2002, at y cyfeiriadau gwahardd a oedd yn rhagflaenu'r DDGH, oherwydd gall personau fod yn destun cyfarwyddyd o'r fath pan nad oes penderfyniad wedi ei wneud i'w hychwanegu at y rhestr o bobl a waharddir rhag gweithio gyda phlant o dan y DDGH.

Mae'r Rheoliadau hyn hefyd yn cysoni darpariaethau yn y rheoliadau a ddiwygir (ynghlŷn â gwiriadau gwahardd) â darpariaethau newydd yn Neddf yr Heddlu 1997 (a fewnosodwyd gan y DDGH) a fydd yn gymwys o 12 Hydref 2009 ymlaen. Er enghraifft, gwneir diwygiadau i ddileu cyfeiriadau at "ddatganiad o addasrwydd plant" ("*children's suitability statement*") ac i ddiweddarau'r rheoliadau a ddiwygir pan fo angen gyda chyfeiriadau at "wybodaeth addasrwydd mewn perthynas â phlant" ("*suitability information relating to children*") o fewn ystyr adran 113BA(2) o Ddeddf yr Heddlu 1997.

O 12 Hydref 2009 ymlaen, bydd gwybodaeth pa un a waharddwyd person rhag gweithio gyda phlant yn cael ei darparu gyda thystysgrif cofnod troseddol fanylach yn yr achosion hynny, yn unig, a ragnodir o dan adran 113BA o Ddeddf yr Heddlu 1997. Mae diwygiadau i rai o'r rheoliadau wedi eu cynnwys i adlewyrchu hynny, er mwyn sicrhau bod gwybodaeth a gafwyd eisoes, i'r perwyl bod person wedi ei wahardd, yn parhau ar gael o 12 Hydref 2009 ymlaen.

O 12 Hydref 2009 ymlaen, bydd tystysgrif sy'n datgan bod rhywun wedi ei wahardd rhag gweithio gyda phlant yn golygu bod y person hwnnw naill ai ar un o'r rhestrau gwahardd cyfredol neu wedi ei wahardd rhag gweithio gyda phlant o dan y cynllun DDGH newydd. Bydd yn dal yn ofynnol gwirio gyferbyn â'r rhestrau cyfredol yn ogystal â'r rhestr wahardd newydd ar gyfer plant o dan y DDGH am gyfnod ar ôl 12 Hydref 2009, hyd nes bo'r ADA wedi penderfynu, ym mhob achos perthnasol, ynghlŷn â throsglwyddo unigolyn i'r rhestr wahardd ar gyfer plant. Achosion perthnasol yw achosion lle mae unigolyn yn parhau ar un o'r rhestrau presennol, neu achosion y parheir i'w penderfynu (at ddibenion cyfyngedig) o dan yr hen drefn ar ôl 12 Hydref 2009.

reference to whether a person is subject to a direction under section 142 of the Education Act 2002 to the references to the barring provisions pre-dating the SVGA, as there may be persons subject to such a direction in respect of whom it has not been determined to add them to the list of people barred from working with children under the SVGA.

These Regulations also align provisions in the regulations being amended (which relate to barred checks) with new provisions in the Police Act 1997 (inserted by the SVGA) which will apply from 12 October 2009. For example, amendments have been made to remove references to "children's suitability statement" and to update the amended regulations, where necessary, with references to "suitability information relating to children" within the meaning of section 113BA(2) of the Police Act 1997.

From 12 October 2009, information as to whether a person is barred from working with children will only be provided with an enhanced criminal record certificate in cases prescribed under section 113BA of the Police Act 1997. Amendments to some of the regulations have been included to reflect this to ensure that where information as to whether a person is barred is currently obtained, it will continue to be available from 12 October 2009.

From 12 October 2009, a certificate which states that someone is barred from working with children will mean that the person is either on one of the current barred lists or is barred from working with children under the new SVGA scheme. A check in relation to both the current lists and the new children's barred list under the SVGA will continue to be required for a period of time from 12 October 2009 until the ISA has made a decision whether to transfer an individual to the children's barred list in relation to all relevant cases. Relevant cases are where an individual is still on one of the existing lists or where a case is still being determined after 12 October 2009 (for limited purposes) under the old regime.

**2009 Rhif 2544 (Cy.206)**

**ADDYSG, CYMRU**

**Rheoliadau Addysg (Diwygiadau  
Amrywiol ynghylch  
Diogelu Plant) (Cymru)  
2009**

<i>Gwnaed</i>	<i>17 Medi 2009</i>
<i>Gosodwyd gerbron Cynulliad Cenedlaethol Cymru</i>	<i>21 Medi 2009</i>
<i>Yn dod i rym</i>	<i>12 Hydref 2009</i>

Mae Gweinidogion Cymru drwy arfer y pwerau a roddwyd i'r Ysgrifennydd Gwladol gan adran 342(2), (4) a (5) ac adran 569 o Ddeddf Addysg 1996(1), a chan adran 21(5) a (6), adran 138(7) ac (8), adran 72 ac adran 138(7) o Ddeddf Safonau a Fframwaith Ysgolion 1998(2), a thrwy arfer y pwerau a roddwyd i Gynulliad Cenedlaethol Cymru gan adran 12(3), adran 19(3), adran 34(5), adran 35(4) a (5), adran 36(4) a (5), adran 136(c), adran 157(1), adran 168(1) a (2), adran 210(7) ac adran 214(1) a (2) o Ddeddf Addysg 2002(3), ac a freiniwyd bellach ynddynt hwy, yn gwneud y Rheoliadau canlynol:

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- (1) 1996 p.56. Amnewidiwyd adran 342 gan Ddeddf Safonau a Fframwaith Ysgolion 1998 (p.31), adran 140(1), Atodlen 30, paragraff 82.
- (2) 1998 p.31. Diwygiwyd adran 72 gan Ddeddf Addysg 2002 (p.32) ond nid yw'r diwygiad yn berthnasol. Diwygiwyd adran 138 gan Ddeddf Addysg ac Arolygiadau 2006 (p.40), adran 175, Atodlen 17, paragraff 3(1) a (4); gwnaed diwygiadau eraill i adran 138 gan y Ddeddf honno, ond nid oes yr un ohonynt yn berthnasol. Gwnaed diwygiadau hefyd i adran 138 gan Ddeddf Addysg 2002 (p.32) a chan Ddeddf Addysg 2005 (p.18) ond nid yw'r diwygiadau yn berthnasol i'r Rheoliadau hyn. Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol i Gynulliad Cenedlaethol Cymru gan Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672) ac yna i Weinidogion Cymru gan baragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p.32).
- (3) 2002 p.32. Diwygiwyd adran 157 gan adran 47(1) a (2) o Ddeddf Gofal Plant 2006 (p.21) a Deddf Addysg a Sgiliau 2008 (p.25), adran 169, Atodlen 1, Rhan 1, paragraffau 13 ac 16 ac Atodlen 2. Diwygir adran 210 gan adran 21(1), (3)(a) ac (c)(i) a (ii) o Fesur Teithio gan Ddysgwyr (Cymru) 2008 (mccc 2). Gwneir diwygiadau pellach i adran 210, gan y Mesur hwnnw a chan Ddeddf Gofal Plant 2006 (p.21) ond nid oes yr un o'r diwygiadau hynny yn berthnasol i'r Rheoliadau hyn. Trosglwyddwyd swyddogaethau Cynulliad Cenedlaethol Cymru i Weinidogion Cymru gan baragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p.32).

**2009 No. 2544 (W.206)**

**EDUCATION, WALES**

**The Education (Miscellaneous  
Amendments relating to  
Safeguarding Children) (Wales)  
Regulations 2009**

<i>Made</i>	<i>17 September 2009</i>
<i>Laid before the National Assembly for Wales</i>	<i>21 September 2009</i>
<i>Coming into force</i>	<i>12 October 2009</i>

The Welsh Ministers in exercise of the powers conferred on the Secretary of State by section 342(2), (4) and (5), section 569 of the Education Act 1996(1) and by section 21(5) and (6), section 138(7) and (8) and section 72 of the School Standards and Framework Act 1998(2), and in exercise of the powers conferred on the National Assembly for Wales by section 19(3), section 34(5), section 35(4) and (5), section 36(4) and (5), section 136(c), section 157(1), section 168(1) and (2), section 210(7) and section 214(1) and (2) of the Education Act 2002(3), and now vested in them make the following Regulations:

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- (1) 1996 c.56. Section 342 was substituted by the School Standards and Framework Act 1998 (c.31), section 140(1), Schedule 30, paragraph 82.
- (2) 1998 c.31. Section 72 has been amended by the Education Act 2002 (c.32) but the amendment is not relevant. Section 138 has been amended by the Education and Inspections Act 2006 (c.40), section 175, Schedule 17, paragraph 3(1) and (4); other amendments have been made by that Act to section 138 but none are relevant. Amendments have also been made to section 138 by the Education Act 2002 (c.32) and the Education Act 2005 (c.18) but the amendments are not relevant to these Regulations. The functions of the Secretary of State were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and then to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32).
- (3) 2002 c.32. Section 157 has been amended by section 47(1) and (2) of the Childcare Act 2006 (c.21) and the Education and Skills Act 2008 (c.25), section 169, Schedule 1, Part 1, paragraphs 13 and 16 and Schedule 2. Section 210 is amended by section 21(1), (3)(a) and (c)(i) and (ii) of the Learner Travel (Wales) Measure 2008 (nawm 2). Further amendments are made by that Measure and by the Childcare Act 2006 (c.21) to section 210 but none are relevant to these Regulations. The functions of the National Assembly for Wales were transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32).

## Enwi a chychwyn

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Addysg (Diwygiadau Amrywiol ynghylch Diogelu Plant) (Cymru) 2009 a deuant i rym ar 12 Hydref 2009.

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

## Diwygio Rheoliadau Addysg (Ysgolion Arbennig) 1994

2.—(1) Diwygir Rheoliadau Addysg (Ysgolion Arbennig) 1994(1) fel a ganlyn.

(2) Yn rheoliad 7—

(a) ym mharagraff (1), ar ôl is-baragraff (b), mewnosoder—

"(ba) a direction under section 142(8) of the Education Act 2002(2);"; a

(b) ar ôl paragraff (1), mewnosoder—

"(1A) The Welsh Ministers may withdraw their approval for a school on the ground that, in the case of that school, it has employed a person who is barred from regulated activity relating to children in accordance with section 3(2) of the Safeguarding Vulnerable Groups Act 2006(3)."

## Diwygio Rheoliadau Addysg (Cyrff Sefydledig) (Cymru) 2001

3.—(1) Diwygir Rheoliadau Addysg (Cyrff Sefydledig) (Cymru) 2001(4) fel a ganlyn.

(2) Ym mharagraff 5 o Atodlen 2—

(a) yn is-baragraff (1), ar ôl "cyfyngir ar eu cyflogi", mewnosoder ", neu pan yw'n destun cyfarwyddyd o dan adran 142 o Ddeddf Addysg 2002(5), neu wedi ei wahardd o weithgarwch rheoledig mewn perthynas â phlant yn unol ag adran 3(2) o Ddeddf Diogelu Grwpiau Hyglwyf 2006(6)."

## Title and commencement

1.—(1) The title of these Regulations is the Education (Miscellaneous Amendments relating to Safeguarding Children) (Wales) Regulations 2009 and they come into force on 12 October 2009.

(2) These Regulations apply in relation to Wales.

## Amendments to the Education (Special Schools) Regulations 1994

2.—(1) The Education (Special Schools) Regulations 1994(1) are amended as follows.

(2) In regulation 7—

(a) in paragraph (1), after sub-paragraph (b), insert—

"(ba) a direction under section 142(8) of the Education Act 2002(2);"; and

(b) after paragraph (1), insert—

"(1A) The Welsh Ministers may withdraw their approval for a school on the ground that, in the case of that school, it has employed a person who is barred from regulated activity relating to children in accordance with section 3(2) of the Safeguarding Vulnerable Groups Act 2006(3)."

## Amendments to the Education (Foundation Body) (Wales) Regulations 2001

3.—(1) The Education (Foundation Body) (Wales) Regulations 2001(4) are amended as follows.

(2) In paragraph 5 of Schedule 2—

(a) in sub-paragraph (1), after "restricted", insert ", or is subject to a direction under section 142 of the Education Act 2002(5), or is barred from regulated activity relating to children in accordance with section 3(2) of the Safeguarding Vulnerable Groups Act 2006(6)."

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(1) O.S. 1994/652. Mae'r Rheoliadau hyn wedi eu dirymu i'r graddau y maent yn gymwys i Loegr ond yn parhau mewn grym i'r graddau y maent yn gymwys i Gymru.

(2) 2002 p.32; diddymir adran 142 gan adran 63(2) o Ddeddf Diogelu Grwpiau Hyglwyf 2006 (p.47) ac Atodlen 10 i'r Ddeddf honno a bwriedir i'r diddymiad ddod i rym ar 12 Hydref 2009.

(3) 2006 p.47.

(4) O.S. 2001/2709 (Cy.228).

(5) 2002 p.32; diddymir adran 142 gan adran 63(2) o Ddeddf Diogelu Grwpiau Hyglwyf 2006 (p.47) ac Atodlen 10 i'r Ddeddf honno a bwriedir i'r diddymiad ddod i rym ar 12 Hydref 2009.

(6) 2006 p.47.

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(1) S.I. 1994/652. These Regulations have been revoked so far as they apply to England but continue in force so far as they apply to Wales.

(2) 2002 c.32; section 142 is repealed by section 63(2) and Schedule 10 of the Safeguarding Vulnerable Groups Act 2006 (c.47) and it is intended the repeal will come into force on 12 October 2009.

(3) 2006 c.47.

(4) S.I. 2001/2709 (W.228).

(5) 2002 c.32; section 142 is repealed by section 63(2) and Schedule 10 of the Safeguarding Vulnerable Groups Act 2006 (c.47) and it is intended the repeal will come into force on 12 October 2009.

(6) 2006 c.47.

### **Diwygio Rheoliadau Safonau Ysgol Annibynnol (Cymru) 2003**

4.—(1) Diwygir Rheoliadau Safonau Ysgol Annibynnol (Cymru) 2003(1) fel a ganlyn.

(2) Yn rheoliad 2 yn y diffiniad o "tystysgrif cofnod troseddol briodol"—

- (a) ar ôl "adran 113B o Ddeddf yr Heddlu 1997" mewnosoder "sy'n cynnwys gwybodaeth addasrwydd mewn perthynas â phlant o fewn yr ystyr a roddir i "*suitability information relating to children*" yn adran 113BA(2) o'r Ddeddf honno";
- (b) ar ôl "adran 113A o Ddeddf yr Heddlu 1997" mewnosoder "sy'n cynnwys gwybodaeth addasrwydd mewn perthynas â phlant o fewn yr ystyr a roddir i "*suitability information relating to children*" yn adran 113BA(2) o'r Ddeddf honno"; ac
- (c) hepgorer y geiriau "ar yr amod, yn y ddau achos, pan fo'r person yn dal swydd a grybwyllir yn adran 113C(5) o Ddeddf yr Heddlu 1997, fod y dystysgrif hefyd yn cynnwys yr wybodaeth a bennir yn adran 113C(1) o'r Ddeddf honno";.

(3) Yn yr Atodlen, yn is-baragraff (d) o baragraff 4, yn lle'r geiriau "yn gwneud gwaith" rhodder "wedi ei wahardd o weithgarwch rheoledig mewn perthynas â phlant yn unol ag adran 3(2) o Ddeddf Diogelu Grwpiau Hyglwyf 2006(2) neu'n gwneud gwaith,".

### **Diwygio Rheoliadau Ysgolion Annibynnol (Darparu Gwybodaeth) (Cymru) 2003**

5.—(1) Diwygir Rheoliadau Ysgolion Annibynnol (Darparu Gwybodaeth) (Cymru) 2003(3) fel a ganlyn.

(2) Yn rheoliad 2(1) yn y diffiniad o "tystysgrif cofnod troseddol briodol"—

- (a) ar ôl "adran 113B o Ddeddf yr Heddlu 1997" mewnosoder "sy'n cynnwys gwybodaeth addasrwydd mewn perthynas â phlant o fewn yr ystyr a roddir i "*suitability information relating to children*" yn adran 113BA(2) o'r Ddeddf honno";

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(1) O.S. 2003/3234 (Cy.314), fel y'i diwygiwyd gan O.S. 2007/947 (Cy.81), O.S. 2005/2929 (Cy.214).

(2) 2006 p.47. Mae O.S. 2009/1797 yn pennu, at ddibenion adran 3(2)(b), bod y rhestr a gynhelir o dan Erthygl 6(1)(a) o Orchymyn Deddf Diogelu Grwpiau Hyglwyf 2007 (O.S. 2007/1351 (G.I. 11)) (h.y. y rhestr wahardd ar gyfer plant yng Ngogledd Iwerddon) yn rhestr sy'n cyfateb i'r rhestr wahardd ar gyfer plant a sefydlwyd ac a gynhelir o dan adran 2(1)(a) o Ddeddf Diogelu Grwpiau Hyglwyf 2006.

(3) O.S. 2003/3230 (Cy.310), fel y'i diwygiwyd gan O.S. 2007/947 (Cy.81).

### **Amendments to the Independent School Standards (Wales) Regulations 2003**

4.—(1) The Independent School Standards (Wales) Regulations 2003(1) are amended as follows.

(2) In regulation 2 in the definition of "appropriate criminal record certificate"—

- (a) after "section 113B of the Police Act 1997" insert "which includes suitability information relating to children within the meaning of section 113BA(2) of that Act";
- (b) after "section 113A of the Police Act 1997" insert "which includes suitability information relating to children within the meaning of section 113BA(2) of that Act"; and
- (c) omit the words "provided that, in both cases, where the person holds a position mentioned in section 113C(5) of the Police Act 1997, the certificate also contains the information specified in section 113C(1) of that Act";.

(3) In the Schedule in sub-paragraph (e) of paragraph 4, after "any member of staff" insert "is barred from regulated activity relating to children in accordance with section 3(2) of the Safeguarding Vulnerable Groups Act 2006(2) or".

### **Amendments to the Independent Schools (Provision of Information) (Wales) Regulations 2003**

5.—(1) The Independent Schools (Provision of Information) (Wales) Regulations 2003(3) are amended as follows.

(2) In regulation 2(1) in the definition of "appropriate criminal record certificate"—

- (a) after "section 113B of the Police Act 1997" insert "which includes suitability information relating to children within the meaning of section 113BA(2) of that Act";

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(1) S.I. 2003/3234 (W.314), as amended by S.I. 2007/947 (W.81), S.I. 2005/2929 (W.214).

(2) 2006 c.47. S.I. 2009/1797 specifies that, for the purposes of section 3(2)(b), the list maintained under Article 6(1)(a) of the Safeguarding Vulnerable Groups Act Order 2007 (S.I. 2007/1351 (N.I. 11)) (i.e. the children's barred list for Northern Ireland) is a list that corresponds to the children's barred list established and maintained under section 2(1)(a) of the Safeguarding Vulnerable Groups Act 2006.

(3) S.I. 2003/3230 (W.310), as amended by S.I. 2007/947 (W.81).

- (b) ar ôl "adran 113A o Ddeddf yr Heddlu 1997" mewnosoder "sy'n cynnwys gwybodaeth addasrwydd mewn perthynas â phlant o fewn yr ystyr a roddir i "*suitability information relating to children*" yn adran 113BA(2) o'r Ddeddf honno"; ac
- (c) hepgorer y geiriau "ar yr amod, yn y ddau achos, pan fo'r person yn dal swydd a grybwyllir yn adran 113C(5) o Ddeddf yr Heddlu 1997, fod y dystysgrif hefyd yn cynnwys yr wybodaeth a bennir yn adran 113C(1) o'r Ddeddf honno;".

(3) Yn lle paragraff (2) o reoliad 2, rhodder—

"(2) Mae unrhyw gyfeiriad yn y Rheoliadau at berson a gyflogir mewn ysgol yn gyfeiriad at berson—

- (a) sy'n darparu addysg—
  - (i) mewn ysgol;
  - (ii) mewn sefydliad addysg bellach;
  - (iii) o dan gontract cyflogaeth neu gontract ar gyfer gwasanaethau pan fo'r parti arall yn y contract yn awdurdod addysg lleol neu'n berson sy'n arfer swyddogaeth ynglŷn â darparu addysg ar ran awdurdod addysg lleol;
- (b) sy'n cymryd rhan mewn rheoli ysgol annibynnol; neu
- (c) sy'n ymgymryd â gwaith—
  - (i) sy'n dod â'r person hwnnw i gysylltiad yn rheolaidd â phlant, a
  - (ii) a gyflawnir ar gais neu gyda chydysniad cyflogwr perthnasol (pa un ai dan gontract ai peidio).

(3) At ddibenion paragraff (2), ystyr "cyflogwr perthnasol" ("*relevant employer*") yw—

- (a) awdurdod addysg lleol;
- (b) person sy'n arfer swyddogaeth ynglŷn â darparu addysg ar ran awdurdod addysg lleol;
- (c) perchennog ysgol; neu
- (ch) corff llywodraethu sefydliad addysg bellach."

### **Diwygio Rheoliadau Llywodraethu Ysgolion a Gynhelir (Cymru) 2005**

6. Yn Atodlen 5 i Reoliadau Llywodraethu Ysgolion a Gynhelir (Cymru) 2005(1)—

- (a) ar ôl is-baragraff (b) o baragraff 9, mewnosoder—

- (b) after "section 113A of the Police Act 1997" insert "which includes suitability information relating to children within the meaning of section 113BA(2) of that Act"; and

- (c) omit the words "provided that, in both cases, where the person holds a position mentioned in section 113C(5) of the Police Act 1997, the certificate also contains the information specified in section 113C(1) of that Act;".

(3) For paragraph (2) of regulation 2, substitute—

"(2) Any reference in these Regulations to a person employed at a school is a reference to a person—

- (a) providing education—
  - (i) at a school;
  - (ii) at a further education institution;
  - (iii) under a contract of employment or for services where the other party to the contract is a local education authority or a person exercising a function relating to the provision of education on behalf of a local education authority;
- (b) taking part in the management of an independent school; or
- (c) carrying on work which—
  - (i) brings that person regularly into contact with children, and
  - (ii) is carried out at the request of or with the consent of a relevant employer (whether or not under a contract).

(3) For the purposes of paragraph (2) "relevant employer" ("*cyflogwr perthnasol*") means—

- (a) a local education authority;
- (b) a person exercising a function relating to the provision of education on behalf of a local education authority;
- (c) the proprietor of a school; or
- (d) the governing body of a further education institution."

### **Amendments to the Government of Maintained Schools (Wales) Regulations 2005**

6. In Schedule 5 to the Government of Maintained Schools (Wales) Regulations 2005(1)—

- (a) after sub-paragraph (b) of paragraph 9, insert—

(1) O.S. 2005/2914 (Cy.211), fel y'i diwygiwyd gan O.S. 2005/3200 (Cy.236), O.S. 2006/873 (Cy.81), ac O.S. 2007/944 (Cy.80).

(1) S.I. 2005/2914 (W.211), as amended by S.I. 2005/3200 (W.236), S.I. 2006/873 (W.81), and S.I. 2007/944 (W.80).

"(ba) wedi ei wahardd o weithgarwch rheoledig mewn perthynas â phlant yn unol ag adran 3(2) o Ddeddf Diogelu Grwpiau Hyglwyf 2006 (1);

(bb) yn destun cyfarwyddyd gan yr awdurdod priodol o dan adran 167A o Ddeddf Addysg 2002(2);"; a

(b) ym mharagraff 12, yn lle "113" rhodder "113B".

### **Diwygio Rheoliadau Staffio Ysgolion a Gynhelir (Cymru) 2006**

7.—(1) Diwygir Rheoliadau Staffio Ysgolion a Gynhelir (Cymru) 2006(3) fel a ganlyn.

(2) Yn rheoliad 3—

(a) ym mharagraff (1)—

(i) hepgorer y diffiniad o "datganiad o addasrwydd plant"; a

(ii) yn y man priodol, mewnosoder—

"mae i "tystysgrif cofnod troseddol fanwl" yr ystyr a roddir i "*enhanced criminal record certificate*" yn adran 113B o Ddeddf yr Heddlu 1997, sy'n cynnwys gwybodaeth addasrwydd mewn perthynas â phlant o fewn yr ystyr a roddir i "*suitability information relating to children*" yn adran 113BA(2) o'r Ddeddf honno"; a

(b) yn is-baragraff (c) o baragraff (3), yn lle "heb fod yn", rhodder "heb ei wahardd o weithgarwch rheoledig mewn perthynas â phlant yn unol ag adran 3(2) o Ddeddf Diogelu Grwpiau Hyglwyf 2006(4) neu os nad yw'n".

(3) Ym mharagraff (2) o reoliad 9A a pharagraff (2) o reoliad 20A, hepgorer ", a rhaid anfon datganiad o addasrwydd plant gyda chais am dystysgrif o'r fath".

(4) Yn rheoliad 15A—

(a) yn is-baragraff (a)(ii) o baragraff (1), hepgorer "ynghyd â datganiad o addasrwydd plant";

(b) ym mharagraff (2), yn lle "llai" rhodder "mwy"; ac

(c) ym mharagraff (6) ar ôl is-baragraff (b) mewnosoder—

"(ba) gwiriad i ganfod a yw person wedi ei wahardd o weithgarwch rheoledig mewn perthynas â phlant yn unol ag adran 3(2)

"(ba) barred from regulated activity relating to children in accordance with section 3(2) of the Safeguarding Vulnerable Groups Act 2006(1);

(bb) subject to a direction by the appropriate authority under section 167A of the Education Act 2002(2);"; and

(b) in paragraph 12, substitute "113B" for "113".

### **Amendments to the Staffing of Maintained Schools (Wales) Regulations 2006**

7.—(1) The Staffing of Maintained Schools (Wales) Regulations 2006(3) are amended as follows.

(2) In regulation 3—

(a) in paragraph (1)—

(i) omit the definition of "children's suitability statement"; and

(ii) where appropriate, insert—

"*enhanced criminal record certificate*" means an enhanced criminal record certificate within the meaning of section 113B of the Police Act 1997 which includes suitability information relating to children within the meaning of section 113BA(2) of that Act;"; and

(b) in sub-paragraph (c) of paragraph (3), after "is not", insert "barred from regulated activity relating to children in accordance with section 3(2) of the Safeguarding Vulnerable Groups Act 2006(4) or".

(3) In paragraph (2) of regulation 9A and paragraph (2) of regulation 20A, omit ", and the application for such a certificate must be accompanied by a children's suitability statement".

(4) In regulation 15A—

(a) in sub-paragraph (a)(ii) of paragraph (1), omit "accompanied by a children's suitability statement";

(b) in paragraph (2), substitute "more" for "less"; and

(c) in paragraph (6) after sub-paragraph (b) insert—

"(ba) a check to establish if he or she is barred from regulated activity relating to children in accordance with section 3(2)

(1) 2006 p.47.

(2) Mewnosodwyd adran 167A gan adran 169 o Ddeddf Addysg ac Arolygiadau 2006 (p.40), ond nid yw eto mewn grym. Bwriedir i adran 169 o Ddeddf Addysg ac Arolygiadau 2006 ddod i rym ar 12 Hydref 2009.

(3) O.S. 2006/873 (Cy.81), fel y'i diwygiwyd gan O.S. 2007/944 (Cy.80).

(4) 2006 p.47.

(1) 2006 c.47.

(2) Section 167A was inserted by section 169 of the Education and Inspections Act 2006 (c.40), but it is not yet in force. It is intended that section 169 of the Education and Inspections Act 2006 will come into force on 12 October 2009.

(3) S.I. 2006/873 (W.81), as amended by S.I. 2007/944 (W.80).

(4) 2006. c.47.

o Ddeddf Diogelu Grwpiau Hyglwyf 2006;".

(5) Yn rheoliadau 18A a 26A, hepgorer ", a rhaid anfon datganiad o addasrwydd plant gyda chais am dystysgrif o'r fath".

(6) Yn rheoliad 24A—

- (a) yn is-baragraff (a)(ii) o baragraff (1), hepgorer "ynghyd â datganiad o addasrwydd plant"; a
- (b) ym mharagraff (2), yn lle "llai" rhodder "mwy".

### **Diwygio Rheoliadau Personau sy'n Darparu Addysg mewn Sefydliadau Addysg Bellach yng Nghymru (Amodau) 2007**

8.—(1) Diwygir Rheoliadau Personau sy'n Darparu Addysg mewn Sefydliadau Addysg Bellach yng Nghymru (Amodau) 2007(1) fel a ganlyn.

(2) Yn rheoliad 3—

- (a) ym mharagraff (1)—
  - (i) hepgorer y diffiniad o "datganiad addasrwydd plant", a
  - (ii) yn y diffiniad o "tystysgrif cofnod troseddol fanwl", ar ôl "1997", mewnosoder "sy'n cynnwys gwybodaeth addasrwydd mewn perthynas â phlant o fewn yr ystyr a roddir i "*suitability information relating to children*" yn adran 113BA(2)(2) o'r Ddeddf honno", a

(iii) yn lle paragraff (4) rhodder—

"(4) Er mwyn gwneud gwiriad manwl o'r cofnodion troseddol, rhaid i berson wneud cais am, a chael, dystysgrif cofnod troseddol fanwl."

(3) Ym mharagraff (ch) o reoliad 5, ar ôl "gwirio a", mewnosoder "yw wedi ei wahardd o weithgarwch rheoledig mewn perthynas â phlant yn unol ag adran 3(2) o Ddeddf Diogelu Grwpiau Hyglwyf 2006(3) neu'n".

(4) Yn rheoliad 13, hepgorer "bod datganiad addasrwydd plant wedi cael ei gyflwyno a".

(5) Yn is-baragraff (ii) o baragraff (b) o reoliad 17, hepgorer "bod datganiad addasrwydd plant wedi cael ei gyflwyno a".

(6) Ym mharagraff (ch) o reoliad 18, ar ôl "gwiriad i gadarnhau a", mewnosoder "yw wedi ei wahardd o weithgarwch rheoledig mewn perthynas â phlant yn

of the Safeguarding Vulnerable Groups Act 2006;".

(5) In regulations 18A and 26A, omit ", and the application for such a certificate must be accompanied by a children's suitability certificate".

(6) In regulation 24A—

- (a) in sub-paragraph (a)(ii) of paragraph (1), omit "accompanied by a children's suitability statement"; and
- (b) in paragraph (2), substitute "more" for "less".

### **Amendments to the Persons Providing Education at Further Education Institutions in Wales (Conditions) Regulations 2007**

8.—(1) The Persons Providing Education at Further Education Institutions in Wales (Conditions) Regulations 2007(1) are amended as follows.

(2) In regulation 3—

- (a) in paragraph (1)—
  - (i) omit the definition of "children's suitability statement", and
  - (ii) in the definition of "enhanced criminal record certificate", after "1997", insert "which includes suitability information relating to children within the meaning of section 113BA(2) of the Police Act 1997(2) of that Act"; and

(iii) for paragraph (4) substitute—

"(4) In order to carry out an enhanced criminal record check, a person must apply for and obtain an enhanced criminal record certificate."

(3) In paragraph (d) of regulation 5, after "whether the person is", insert "barred from regulated activity relating to children in accordance with section 3(2) of the Safeguarding Vulnerable Groups Act 2006(3) or is".

(4) In regulation 13, omit "a children's suitability statement has been submitted and".

(5) In sub-paragraph (ii) of paragraph (b) of regulation 17, omit "a children's suitability statement has been submitted and".

(6) In paragraph (d) of regulation 18, after "whether the person is", insert "barred from regulated activity relating to children in accordance with section 3(2) of

(1) O.S. 2007/2220 (Cy.175).

(2) Mewnosodwyd adran 113BA gan Ddeddf Diogelu Grwpiau Hyglwyf 2006 (p.47), adran 63(1), Atodlen 9, Rhan 2, paragraff 14(1) a (4) ac fe'i diwygiwyd gan adran 170(2) o Ddeddf Addysg ac Arolygiadau 2006 (p.40) a Deddf Addysg a Sgiliau 2008, adran 169, Atodlen 1, Rhan 1, paragraff 12(a) a (b).

(3) 2006 p.47.

(1) S.I. 2007/2220 (W.175).

(2) Section 113BA was inserted by the Safeguarding Vulnerable Groups Act 2006 (c.47), section 63(1), Schedule 9, Part 2, paragraph 14(1) and (4) and amended by section 170(2) of the Education and Inspections Act 2006 (c.40) and the Education and Skills Act 2008, section 169, Schedule 1, Part 1, paragraph 12(a) and (b).

(3) 2006 c.47.



unol ag adran 3(2) o Ddeddf Diogelu Grwpiau Hyglwyf 2006 neu'n".

(7) Yn Atodlen 1—

- (a) ym mharagraff 3 o Ran 1, yn lle "a yw'r person yn", rhodder "a yw'r person wedi ei wahardd o weithgarwch rheoledig mewn perthynas â phlant yn unol ag adran 3(2) o Ddeddf Diogelu Grwpiau Hyglwyf 2006 neu'n", a
- (b) ym mharagraff 2 o Ran 2—
  - (i) yn is-baragraff (b), yn lle "a yw'r person yn", rhodder "a yw'r person wedi ei wahardd o weithgarwch rheoledig mewn perthynas â phlant yn unol ag adran 3(2) o Ddeddf Diogelu Grwpiau Hyglwyf 2006 neu'n", a
  - (ii) yn is-baragraff (dd)(ii), yn lle "wedi'i gwneud a bod datganiad addasrwydd plant wedi cael ei gyflwyno" rhodder "wedi ei wneud".

the Safeguarding Vulnerable Groups Act 2006 or is".

(7) In Schedule 1—

- (a) in paragraph 3 of Part 1, after "whether the person", insert "is barred from regulated activity relating to children in accordance with section 3(2) of the Safeguarding Vulnerable Groups Act 2006 or"; and
- (b) in paragraph 2 of Part 2—
  - (i) in sub-paragraph (b), after "whether the person", insert "is barred from regulated activity relating to children in accordance with section 3(2) of the Safeguarding Vulnerable Groups Act 2006 or"; and
  - (ii) in sub-paragraph (f)(ii), omit "and a children's suitability statement submitted".

*Jane Hutt*

Gweinidog dros Blant, Addysg, Dysgu Gydol Oes a Sgiliau, un o Weinidogion Cymru

17 Medi 2009

Minister for Children, Education, Lifelong Learning and Skills, one of the Welsh Ministers

17 September 2009

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**2009 Rhif 2544 (Cy.206)**

**ADDYSG, CYMRU**

Rheoliadau Addysg (Diwygiadau  
Amrywiol ynghylch  
Diogelu Plant) (Cymru)  
2009

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WELSH STATUTORY  
INSTRUMENTS

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**2009 No. 2544 (W.206)**

**EDUCATION, WALES**

The Education (Miscellaneous  
Amendments relating to  
Safeguarding Children) (Wales)  
Regulations 2009