



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2012 Rhif 1674 (Cy.215)

2012 No. 1674 (W.215)

**PLANT A PHOBL IFANC,
CYMRU**

**CHILDREN AND YOUNG
PERSONS, WALES**

Rheoliadau Seibiannau i Ofalwyr
Plant Anabl (Cymru) 2012

The Breaks for Carers of Disabled
Children (Wales) Regulations 2012

NODYN ESBONIADOL

EXPLANATORY NOTE

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

(This note is not part of the Regulations)

Y Rheoliadau hyn yw'r rheoliadau cyntaf i gael eu gwneud o ran Cymru o dan baragraff 6 o Atodlen 2 i Ddeddf Plant 1989, sy'n gosod dyletswyddau ar awdurdodau lleol, fel rhan o'r ystod o wasanaethau y maent yn eu darparu i deuluoedd, i ddarparu seibiannau oddi wrth ofalu i gynorthwyo rhieni ac eraill sy'n darparu gofal ar gyfer plant anabl.

These Regulations are the first regulations to be made in relation to Wales under paragraph 6 of Schedule 2 to the Children Act 1989, which imposes duties on local authorities, as part of the range of services they provide to families, to provide breaks from caring to assist parents and others who provide care for disabled children.

Mewnosodwyd is-baragraffau (1)(c) a (2) o baragraff 6 o Atodlen 2 i Ddeddf Plant 1989 gan Ddeddf Plant a Phobl Ifanc 2008 (adran 25).

Sub-paragraphs (1)(c) and (2) of paragraph 6 of Schedule 2 to the Children Act 1989 were inserted by the Children and Young Persons Act 2008 (section 25).

Mae'r Rheoliadau, a ddaw i rym ar 28 Mehefin 2012, yn rhagnodi'r modd y mae'n rhaid i awdurdodau lleol wneud darpariaeth ar gyfer seibiannau byr i ofalwyr plant anabl yn eu hardal hwy. Rhaid i awdurdodau lleol roi sylw i—

The Regulations, which come into force on 28 June 2012, prescribe the manner in which local authorities must make provision for short breaks for the carers of disabled children in their area. Local authorities must have regard to—

- (a) anghenion y gofalwyr hynny a allai ddarparu gofal yn fwy effeithiol pe byddent yn cael seibiannau oddi wrth ofalu, a
- (b) anghenion y gofalwyr hynny na allent barhau i ddarparu gofal oni bai bod seibiant yn cael ei gynnig iddynt (rheoliad 3).

- (a) the needs of those carers who would be able to provide care more effectively if they had breaks from caring, and
- (b) the needs of those carers who would be unable to continue to provide care unless a break were offered to them (regulation 3).

Maent yn ei gwneud yn ofynnol i awdurdodau lleol ddarparu ystod o wasanaethau seibiannau byr (rheoliad 4), ac i awdurdodau lleol, mewn ymgynghoriad â gofalwyr yn eu hardal, baratoi, cyhoeddi ac adolygu'n gyson "ddatganiad gwasanaethau seibiannau byr" sy'n nodi pa wasanaethau sydd ar gael, y categorïau o ofalwr a allai fod yn gymwys i'w defnyddio, a sut y maent wedi eu cynllunio i ddiwallu anghenion gofalwyr yn yr ardal (rheoliad 5).

They require that local authorities provide a range of short breaks services (regulation 4), and that local authorities, in consultation with carers in their area, prepare, publish, and keep under review a "short breaks services statement" setting out what services are available, the categories of carer who may be eligible to gain access to them, and how they are designed to meet the needs of carers in the area (regulation 5).

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar wneud Aseidiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, paratowyd asesiad effaith rheoleiddiol o'r costau a'r buddiannau sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn. Gellir cael copi gan Lywodraeth Cymru yn: Parc Cathays, Caerdydd, CF10 3NQ.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result a regulatory impact assessment has been prepared as to the likely costs and benefits in complying with these Regulations. A copy can be obtained from the Welsh Government at: Cathays Park, Cardiff, CF10 3NQ.

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Children (Wales) Regulations 2012**

Gwnaed 26 Mehefin 2012
Yn dod i rym 28 Mehefin 2012

Made 26 June 2012
Coming into force 28 June 2012

Mae Gweinidogion Cymru yn gwneud y Rheoliadau canlynol drwy arfer y pwerau a roddwyd gan baragraff 6(2) o Atodlen 2 i Ddeddf Plant 1989(1).

The Welsh Ministers make the following Regulations in exercise of the powers conferred by paragraph 6(2) of Schedule 2 to the Children Act 1989(1).

Y rhain yw'r rheoliadau cyntaf i gael eu gwneud o dan baragraff 6(2) o Atodlen 2 i'r Ddeddf honno, sy'n rhagnodi, at ddibenion paragraff 6(1)(c) o Atodlen 2, sut y mae'r ddyletswydd i'w harfer.

These are the first regulations to be made under paragraph 6(2) of Schedule 2 to that Act, prescribing for the purposes of paragraph 6(1)(c) of Schedule 2, how the duty is to be exercised.

Yn unol ag adran 104A(3)(2) o'r Ddeddf honno, gosodwyd drafft o'r Rheoliadau hyn gerbron Cynulliad Cenedlaethol Cymru, a'i gymeradwyo ganddo drwy benderfyniad.

In accordance with section 104A(3)(2) of that Act, a draft of these Regulations was laid before, and approved by resolution of, the National Assembly for Wales.

Enwi, cychwyn a chymhwys

Title, commencement and application

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Seibiannau i Ofalwyr Plant Anabl (Cymru) 2012.

1.—(1) The title of these Regulations is the Breaks for Carers of Disabled Children (Wales) Regulations 2012.

(2) Daw'r Rheoliadau hyn i rym ar 28 Mehefin 2012.

(2) These Regulations come into force on 28 June 2012.

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

(3) These Regulations apply in relation to Wales.

(1) 1989 p.41. Mewnosodwyd paragraff 6(2) gan adran 25 o Ddeddf Plant a Phobl Ifanc 2008 (p.23) ("Deddf 2008"). Mynegir bod y pŵer ym mharagraff 6(2) yn arferadwy gan yr "appropriate national authority". Diffinnir "appropriate national authority" gan adran 30A o Ddeddf Plant 1989 i olygu, o ran Cymru, Weiniogion Cymru. Mewnosodwyd adran 30A gan adran 39 o Ddeddf 2008 a pharagraffau 1 a 22 o Atodlen 3 iddi.

(2) Mewnosodwyd adran 104A(3) gan adran 39 o Ddeddf 2008 a pharagraffau 1 a 26 o Atodlen 3 iddi.

(1) 1989 c.41. Paragraph 6(2) was inserted by section 25 of the Children and Young Persons Act 2008 (c.23) ("the 2008 Act"). The power in paragraph 6(2) is expressed to be exercisable by the "appropriate national authority". The "appropriate national authority" is defined by section 30A of the Children Act 1989 as meaning, in relation to Wales, the Welsh Ministers. Section 30A was inserted by section 39 of and paragraphs 1 and 22 of Schedule 3 to the 2008 Act.

(2) Section 104A(3) was inserted by section 39 of and paragraphs 1 and 26 of Schedule 3 to the 2008 Act.

Dehongli

2. Yn y Rheoliadau hyn—

mae i "anabl" yr ystyr a roddir i "*disabled*" yn adran 17(11) o Ddeddf 1989(1);

ystyr "Deddf 1989" ("*the 1989 Act*") yw Deddf Plant 1989; ac

ystyr "gofalwr" ("*carer*") yw person sy'n darparu gofal ar gyfer plentyn anabl ac sy'n—

- (a) rhiant i'r plentyn, neu
- (b) yn berson nad yw'n rhiant i'r plentyn ond sydd â chyfrifoldeb rhiant(2) am y plentyn hwnnw.

Dyletswydd i wneud darpariaeth

3. Wrth gyflawni ei ddyletswydd o dan baragraff 6(1)(c) o Atodlen 2 i Ddeddf 1989(3), rhaid i awdurdod lleol roi sylw i anghenion y gofalwyr hynny—

- (a) na allent barhau i ddarparu gofal ar gyfer y plentyn anabl oni bai bod seibiannau oddi wrth ofalu yn cael eu rhoi iddynt; a
- (b) a allai ddarparu gofal ar gyfer y plentyn anabl yn fwy effeithiol pe bai seibiannau oddi wrth ofalu yn cael eu rhoi iddynt er mwyn caniatáu iddynt—
 - (i) ymgymryd ag addysg, hyfforddiant neu unrhyw weithgaredd hamdden rheolaidd,
 - (ii) diwallu anghenion plant eraill yn y teulu yn fwy effeithiol, neu
 - (iii) cyflawni tasgau o ddydd i ddydd y mae'n rhaid iddynt eu cyflawni er mwyn rhedeg eu haelwyd.

Mathau o wasanaethau y mae'n rhaid eu darparu

4.—(1) Wrth gyflawni ei ddyletswydd o dan baragraff 6(1)(c) o Atodlen 2 i Ddeddf 1989, rhaid i awdurdod lleol ddarparu, i'r graddau y mae'n rhesymol ymarferol, ystod o wasanaethau sy'n ddigonol i gynorthwyo gofalwyr i barhau i ddarparu gofal neu i wneud hynny yn fwy effeithiol.

(2) Rhaid i'r ddarpariaeth y mae'n rhaid i awdurdod lleol ei darparu yn unol â pharagraff (1) gynnwys, fel y bo'n briodol, ystod o'r canlynol—

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- (1) Sef bod plentyn yn anabl "if he is blind, deaf or dumb or suffers from mental disorder of any kind or is substantially and permanently handicapped by illness, injury or congenital deformity or such other disability as may be prescribed".
 - (2) Diffinnir "parental responsibility" yn adran 3 o Ddeddf Plant 1989 (p.41).
 - (3) Mae paragraff 6(1)(c) (a fewnosodwyd gan adran 25 o Ddeddf 2008) yn ei gwneud yn ofynnol i awdurdodau lleol ddarparu gwasanaethau sydd wedi eu cynllunio i gynorthwyo unigolion sy'n darparu gofal ar gyfer plant anabl i barhau i wneud hynny, neu i wneud hynny yn fwy effeithiol, drwy roi seibiannau oddi wrth ofalu iddynt.

Interpretation

2. In these Regulations—

"the 1989 Act" ("*Deddf 1989*") means the Children Act 1989;

"carer" ("*gofalwr*") means a person who provides care for a disabled child and who is—

- (a) the child's parent, or
- (b) a person who is not the child's parent but who has parental responsibility(1) for that child; and

"disabled" ("*anabl*") has the meaning given in section 17(11) of the 1989 Act(2).

Duty to make provision

3. In performing its duty under paragraph 6(1)(c) of Schedule 2 to the 1989 Act(3), a local authority must have regard to the needs of those carers—

- (a) who would be unable to continue to provide care for the disabled child unless breaks from caring were given to them; and
- (b) who would be able to provide care for the disabled child more effectively if breaks from caring were given to them to allow them to—
 - (i) undertake education, training or any regular leisure activity,
 - (ii) meet the needs of other children in the family more effectively, or
 - (iii) carry out day to day tasks which they must perform in order to run their household.

Types of services which must be provided

4.—(1) In performing its duty under paragraph 6(1)(c) of Schedule 2 to the 1989 Act, a local authority must provide, so far as it is reasonably practicable, a range of services which is sufficient to assist carers to continue to provide care or to do so more effectively.

(2) The provision that a local authority must provide in accordance with paragraph (1) must include, as appropriate, a range of—

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- (1) "parental responsibility" is defined in section 3 of the Children Act 1989 (c.41).
 - (2) That is, that a child is disabled "if he is blind, deaf or dumb or suffers from mental disorder of any kind or is substantially and permanently handicapped by illness, injury or congenital deformity or such other disability as may be prescribed".
 - (3) Paragraph 6(1)(c) (inserted by section 25 of the 2008 Act) requires local authorities to provide services designed to assist individuals who provide care for disabled children to continue to do so, or to do so more effectively, by giving them breaks from caring.

- (a) gofal yn ystod y dydd yng nghartrefi plant anabl neu rywle arall,
- (b) gofal dros nos yng nghartrefi plant anabl neu rywle arall,
- (c) gweithgareddau addysgol neu weithgareddau hamdden ar gyfer plant anabl y tu allan i'w cartrefi, a
- (d) gwasanaethau sydd ar gael i gynorthwyo gofalwyr gyda'r nos, ar y penwythnos ac yn ystod gwyliau ysgol.

5.—(1) Rhaid i awdurdod lleol, erbyn 27 Medi 2012, baratoi datganiad ar gyfer gofalwyr yn ei ardal ("datganiad gwasanaethau seibiannau byr") sy'n nodi manylion ynghylch—

- (a) yr ystod o wasanaethau a ddarperir yn unol â rheoliad 4,
- (b) unrhyw feini prawf a ddefnyddir i asesu cymhwysedd ar gyfer y gwasanaethau hynny, a
- (c) sut y mae'r ystod o wasanaethau wedi ei chynllunio i ddiwallu anghenion gofalwyr yn ei ardal.

(2) Rhaid i'r awdurdod lleol gyhoeddi ei ddatganiad gwasanaethau seibiannau byr, gan roi copi ohono ar ei wefan.

(3) Rhaid i'r awdurdod lleol adolygu ei ddatganiad gwasanaethau seibiannau byr yn gyson, a'i ddiwygio pan fo'n briodol.

(4) Wrth baratoi a diwygio ei ddatganiad gwasanaethau seibiannau byr, rhaid i'r awdurdod lleol roi sylw i farn gofalwyr yn ei ardal.

- (a) day-time care in the homes of disabled children or elsewhere,
- (b) overnight care in the homes of disabled children or elsewhere,
- (c) educational or leisure activities for disabled children outside their homes, and
- (d) services available to assist carers in the evenings, at weekends and during the school holidays.

5.—(1) A local authority must by, 27 September 2012, prepare a statement for carers in its area (a "short breaks services statement") setting out details of—

- (a) the range of services provided in accordance with regulation 4,
- (b) any criteria by which eligibility for those services will be assessed, and
- (c) how the range of services is designed to meet the needs of carers in its area.

(2) The local authority must publish its short breaks services statement, including by placing a copy of the statement on its website.

(3) The local authority must keep its short breaks services statement under review and, where appropriate, revise the statement.

(4) In preparing and revising its short breaks services statement, the local authority must have regard to the views of carers in its area.

Gwenda Thomas

Y Dirprwy Weinidog Plant a Gwasanaethau Cymdeithasol, o dan awdurdod y Gweinidog Iechyd a Gwasanaethau Cymdeithasol, un o Weinidogion Cymru

Deputy Minister for Children and Social Services under authority of the Minister for Health and Social Services, one of the Welsh Ministers

26 Mehefin 2012

26 June 2012

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