

OFFERYNNAU STATUDOL CYMRU

2022 Rhif 89 (Cy. 30)

Y GWASANAETH IECHYD GWLADOL, CYMRU

**Rheoliadau'r Gwasanaeth Iechyd Gwladol (Ffioedd
Ymwelwyr Tramor) (Diwygio) (Cymru) 2022**

<i>Gwnaed</i>	- - - -	30 Ionawr 2022
<i>Gosodwyd gerbron Senedd</i>		
<i>Cymru</i>	- - - -	2 Chwefror 2022
<i>Yn dod i rym</i>	- -	24 Chwefror 2022

Mae Gweinidogion Cymru yn gwneud y Rheoliadau hyn drwy arfer y pwerau a roddir gan adrannau 124 a 203(9) a (10) o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006(1).

Enwi, cychwyn a dehongli

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau'r Gwasanaeth Iechyd Gwladol (Ffioedd Ymwelwyr Tramor) (Diwygio) (Cymru) 2022.

(2) Daw'r Rheoliadau hyn i rym ar 24 Chwefror 2022.

(3) Yn y Rheoliadau hyn, ystyr “y prif Reoliadau” yw Rheoliadau'r Gwasanaeth Iechyd Gwladol (Ffioedd Ymwelwyr Tramor) 1989(2).

Diwygio'r prif Reoliadau

2. Mae'r prif Reoliadau wedi eu diwygio fel a ganlyn.

Diwygio rheoliad 1

3. Mae rheoliad 1(2) (enwi, cychwyn a dehongli) wedi ei ddiwygio fel a ganlyn—

(a) yn y lleoedd priodol mewnosoder—

““the 1971 Act” means the Immigration Act 1971(3);”;

(1) 2006 p. 42. *Gweler* adran 206(1) am y diffiniadau o “prescribed” a “regulations”.

(2) O.S. 1989/306, a ddiwygiwyd gan O.S. 1991/438; O.S. 1994/1535; O.S. 2004/614; O.S. 2004/696; O.S. 2004/1433 (Cy. 146); O.S. 2008/2364 (Cy. 203); O.S. 2009/1175 (Cy. 102); O.S. 2009/1512 (Cy. 148); O.S. 2009/1824 (Cy. 165); O.S. 2009/3005 (Cy. 264); O.S. 2010/730 (Cy. 71); O.S. 2010/927 (Cy. 94); O.S. 2011/1043; O.S. 2011/2906 (Cy. 310), O.S. 2012/1809; O.S. 2014/1622 (Cy. 166); O.S. 2020/113 (Cy. 20); O.S. 2020/1607 (Cy. 334); O.S. 2021/221 (Cy. 55); mae offerynnau diwygio eraill ond nid yw'r un ohonynt yn berthnasol i'r Rheoliadau hyn.

(3) 1971 p. 77.

“immigration health charge” means a charge payable under an order made under section 38 (immigration health charge) of the 2014 Act;”;

- (b) yn y diffiniad o “relevant services”, yn lle “primary ophthalmic services” rhodder “general ophthalmic services”.

Diwygio rheoliad 4

4. Yn rheoliad 4(1) (ymwelwyr tramor sy'n esempt rhag ffioedd), hepgorer is-baragraff (s).

Mewnosod rheoliadau 4F, 4G a 4H

5. Ar ôl rheoliad 4E (ymwelwyr tramor â Hawliau Cytundeb Masnach a Chydweithredu) mewnosoder—

“Immigration health charge

4F.—(1) In this regulation, “relevant period” means—

(a) where—

- (i) an immigration health charge is payable;
- (ii) an exemption from paying an immigration health charge applies as a consequence of any exemption provided for in an order made under section 38 (immigration health charge) of the 2014 Act;
- (iii) the Secretary of State has exercised discretion to reduce or waive all or part of an immigration health charge in accordance with such an order;
- (iv) the Secretary of State has exercised discretion to refund part of an immigration health charge paid under such an order; or
- (v) in a case to which paragraph (5) applies, the Secretary of State has exercised discretion to refund all of an immigration health charge paid under such an order,

the period of leave to enter or remain in the United Kingdom which is granted to the overseas visitor, or has effect on their arrival in the United Kingdom, in respect of the application for entry clearance or leave to remain to which the immigration health charge, exemption, reduction, refund or waiver relates; and

(b) in a case where the overseas visitor's leave to enter or remain in the United Kingdom is extended by virtue of—

- (i) section 3C (continuation of leave pending variation decision)(4); or
- (ii) section 3D (continuation of leave following revocation)(5),

of the 1971 Act, the period in respect of which leave is extended under those sections.

(2) No charge may be made or recovered under these Regulations in respect of any relevant services provided during the relevant period to an overseas visitor in respect of whom—

- (a) an immigration health charge has been paid;

(4) Diwygiwyd adran 3C gan adran 118 o Ddeddf Cenedligrwydd, Mewnfudo a Lloches 2002 (p. 41); adran 11(1) i (4) o Ddeddf Mewnfudo, Lloches a Chenedligrwydd 2006 (p. 13); paragraffau 20 ac 21 o Atodlen 9 i Ddeddf Mewnfudo 2014 (p. 22); adran 62(1) o Ddeddf Mewnfudo 2016 (p. 19); a pharagraff 1 o Atodlen 4 i O.S. 2020/61.

(5) Diddymwyd adran 3D gan adran 64(1) o Ran 4 o Ddeddf Mewnfudo 2016 yn ddarostyngedig i arbedion a darpariaethau trosiannol fel y'u pennir yn adran 64(5).

- (b) an exemption from paying such an immigration health charge applies, unless paragraph (3) applies;
- (c) subject to paragraph (6), a reduction or waiver from paying such an immigration health charge applies; or
- (d) a refund for part, or in a case to which paragraph (5) applies (but only in that case) all, of an immigration health charge has been made,

in accordance with an order made under section 38 of the 2014 Act.

(3) Subject to paragraph (4), this paragraph applies where a person is exempt from payment of an immigration health charge under an order made under section 38 of the 2014 Act by virtue of having made an application—

- (a) for entry clearance where, if granted in accordance with the immigration rules, the entry clearance would have effect on arrival in the United Kingdom as leave to enter for 6 months or less, or where the leave to enter which may be granted pursuant to that entry clearance would be for 6 months or less if granted in accordance with the immigration rules; or
- (b) for entry clearance—
 - (i) before 6 April 2016, under Part 2 of the immigration rules (visitors to the UK); or
 - (ii) on or after 6 April 2016, under Appendix V to the immigration rules (immigration rules for visitors).

(4) Paragraph (3) does not apply where a person is exempt from the payment of an immigration health charge by virtue of paragraph 1(o) of Schedule 2 to the Immigration (Health Charge) Order 2015(6).

(5) No charge may be made to or recovered from a person under these Regulations—

- (a) in respect of any relevant services provided to that person on or after 27 October 2020 and during the relevant period; and
- (b) where a full refund of an immigration health charge has been made to, or in respect of that person on the ground that they are a—
 - (i) person who is working in the field of health or social care; or
 - (ii) dependant of a person who is working in the field of health or social care.

(6) Paragraph (2) does not apply in respect of relevant services that are provided to an overseas visitor—

- (a) who is granted leave to remain in the United Kingdom under Appendix S2 Healthcare Visitor to the immigration rules; and
- (b) in respect of whom a waiver to the immigration health charge applies,

where those relevant services are not part of the planned healthcare treatment authorised by that person's S2 healthcare certificate.

Overseas visitors who have made applications for entry clearance or leave to remain prior to the commencement of the immigration health charge

4G.—(1) In this regulation, “relevant period” means—

- (a) the period of leave to enter or remain in the United Kingdom granted to the overseas visitor in respect of the application for entry clearance or leave to remain to which paragraph (3)(a) refers; and

- (b) in a case where the overseas visitor's leave to enter or remain in the United Kingdom is extended by virtue of—
 - (i) section 3C (continuation of leave pending variation decision); or
 - (ii) section 3D (continuation of leave following revocation),
 of the 1971 Act, the period in respect of which leave is extended under those sections.
- (2) In this regulation, "relevant date" means 6 April 2015.
- (3) No charge may be made or recovered under these Regulations in respect of any relevant services provided to an overseas visitor during the relevant period who—
 - (a) made an application for entry clearance or leave to remain in the United Kingdom before the relevant date and was granted leave to enter or remain in the United Kingdom or entry clearance which has effect on the overseas visitor's arrival in the United Kingdom as leave to enter or remain in the United Kingdom in respect of that application;
 - (b) has entered, or remained in, the United Kingdom by virtue of that leave to enter or remain; and
 - (c) had that application for entry clearance or leave to remain been made on or after the relevant date, would be—
 - (i) liable to pay an immigration health charge; or
 - (ii) exempt from paying an immigration health charge as a consequence of an exemption provision under an order made under section 38 of the 2014 Act, unless paragraph (4) applies.
- (4) This paragraph applies where an overseas visitor—
 - (a) would be exempt from an immigration health charge under an order made under section 38 of the 2014 Act by virtue of having made an application of a kind described in regulation 4F(3)(a) or (b) (immigration health charge); or
 - (b) has been granted leave to enter or remain in the United Kingdom outside the immigration rules for 6 months or less.

Children of overseas visitors exempt from charges by virtue of regulations 4F and 4G

- 4H.** No charge may be made or recovered in respect of any relevant services provided to an overseas visitor who is a child who—
- (a) is born in the United Kingdom to a parent who is exempt from charges by virtue of—
 - (i) regulation 4F (immigration health charge); or
 - (ii) regulation 4G (overseas visitors who have made applications for entry clearance or leave to remain prior to the commencement of the immigration health charge);
 - (b) is aged 3 months or less; and
 - (c) has not left the United Kingdom since birth."

Diwygio Atodlen 1

6. Yn Rhan 4 (clefydau eraill) o Atodlen 1 (clefydau na chodir ffi am eu trin), yn lle “Wuhan novel coronavirus (2019-nCoV)” rhodder “Severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2)”.

Diwygio Atodlen 2

7. Mae Atodlen 2 (gwledydd neu diriogaethau y mae Llywodraeth y Deyrnas Unedig wedi ymrwymo i gytundeb cilyddol mewn cysylltiad â hwy) wedi ei diwygio fel a ganlyn—

(a) yn y lle priodol mewnosoder—

“Switzerland”;

(b) hepgorer—

“Liechtenstein”, a

“Sweden”.

30 Ionawr 2022

Eluned Morgan
Y Gweinidog Iechyd a Gwasanaethau
Cymdeithasol, un o Weinidogion Cymru

NODYN ESBONIADOL

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

Mae'r Rheoliadau hyn yn diwygio Rheoliadau'r Gwasanaeth Iechyd Gwladol (Ffioedd Ymwelwyr Tramor) 1989 (O.S. 1989/306) ("y prif Reoliadau"), sy'n darparu ar gyfer codi ac adennill ffioedd am wasanaethau perthnasol a ddarperir o dan Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006 (p. 42) i bersonau penodol nad ydynt yn preswyllo fel arfer yn y Deyrnas Unedig.

Mae rheoliad 3 yn diwygio rheoliad 1 o'r prif Reoliadau i fewnosod diffiniadau o "the 1971 Act" ac "immigration health charge". Mae hefyd yn diwygio'r diffiniad presennol o wasanaethau perthnasol ("relevant services") i gyfeirio at wasanaethau offthalmig cyffredinol ("general"), yn hytrach na gwasanaethau offthalmig sylfaenol ("primary").

Mae rheoliad 4 yn diwygio rheoliad 4 o'r prif Reoliadau i hepgor yr esemptiad mewn cysylltiad â phersonau y rhoddir caniatâd iddynt i aros yn y Deyrnas Unedig o dan Atodiad S2 Ymwelydd Iechyd i'r rheolau mewnfudo, ac y mae hepgoriad i'r ffi iechyd mewnfudo yn gymwys mewn cysylltiad â hwy. Mae hyn o ganlyniad i gynnwys y ddarpariaeth gyfatebol yn y rheoliad newydd 4F. Mae'r gofyniad ar ymwelwyr tramor i dalu am wasanaethau perthnasol nad ydynt yn rhan o'r driniaeth gofal iechyd wedi ei chynllunio a awdurdodir gan dystysgrif gofal iechyd S2 y person hwnnw yn aros.

Mae rheoliad 5 yn mewnosod rheoliadau newydd 4F, 4G a 4H yn y prif Reoliadau. Mae rheoliad newydd 4F yn darparu esemptiad rhag ffioedd i ymwelydd tramor sydd wedi talu neu sy'n esempt rhag talu ffi iechyd mewnfudo, yn ddarostyngedig i esemptiadau penodedig. Mae'r esemptiad yn gymwys am y "relevant period" sef y cyfnod y rhoddir caniatâd i'r ymwelydd tramor ddod i mewn i'r Deyrnas Unedig neu i aros ynddi. Mae rheoliad newydd 4G yn darparu esemptiad rhag ffioedd i'r ymwelwyr tramor hynny a wnaeth gais am ganiatâd i ddod i mewn neu i aros yn y Deyrnas Unedig cyn 6 Ebrill 2015 pan ddaeth Gorchymyn Mewnfudo (Ffi Iechyd) 2015 (O.S. 2015/792) i rym, ac na fyddant, o ganlyniad, wedi cael cyfle i dalu'r ffi iechyd mewnfudo hyd nes eu bod yn gwneud y cais nesaf i ddod i mewn i'r Deyrnas Unedig neu i aros ynddi.

Mae rheoliad newydd 4H yn darparu esemptiad rhag ffioedd i blentyn a enir i riant sy'n esempt rhag talu ffioedd o dan reoliad 4F (ffi iechyd mewnfudo) neu reoliad 4G (ymwelwyr tramor sydd wedi gwneud ceisiadau am gliriad i ddod i mewn neu am ganiatâd i aros cyn cychwyn y ffi iechyd mewnfudo). Mae'r esemptiad yn gymwys tra bo'r plentyn yn iau na thri mis oed ar yr amod nad yw wedi ymadael â'r Deyrnas Unedig ers iddo gael ei eni. Mae'r esemptiad yn sicrhau nad yw plentyn a enir o dan yr amgylchiadau hyn yn denu ffioedd cyn i rieni'r plentyn gael cyfle i reoleiddio statws mewnfudo'r plentyn a gwneud cais am ganiatâd i'w plentyn aros yn y Deyrnas Unedig a thalu'r ffi iechyd mewnfudo, os yw'n gymwys.

Mae rheoliad 6 yn diwygio'r cyfeiriad at "Wuhan novel coronavirus (2019-nCoV)" yn Atodlen 1 i'r prif Reoliadau i'r enw presennol a gadarnhawyd am y Coronafeirws, sef "Severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2)".

Mae rheoliad 7 yn mewnosod y Swistir yn y rhestr o wledydd neu diriogaethau y mae Llywodraeth y Deyrnas Unedig wedi ymrwmo i gytundeb cilyddol â hwy yn Atodlen 2 i'r prif Reoliadau, ac mae'n dileu Sweden a Liechtenstein o'r rhestr honno. Mae Sweden yn dod o dan ddarpariaethau Protocol Cyd-drefnu Nawdd Cymdeithasol Cytundeb Masnach a Chydweithredu'r DU ac nid oes angen ei rhestru ar wahân.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, lluniwyd asesiad effaith rheoleiddiol o'r costau a'r

Document Generated: 2023-04-25

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manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn. Gellir cael copi oddi wrth: Yr Adran Iechyd a Gwasanaethau Cymdeithasol, Llywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ.