



Deddf Addysg Bellach ac Uwch (Llywodraethu a Gwybodaeth) (Cymru) 2014

2014 dccc 1

Deddf gan Gynulliad Cenedlaethol Cymru i wneud darpariaeth ynghylch llywodraethu sefydliadau o fewn y sector addysg bellach ac ynghylch cyflenwi gwybodaeth mewn cysylltiad â darparu cymorth i fyfyrwyr mewn addysg bellach neu uwch. [27 Ionawr 2014]

Gan ei fod wedi ei basio gan Gynulliad Cenedlaethol Cymru a chael cydsyniad Ei Mawrhydi, deddfir fel a ganlyn:

Sefydliadau addysg bellach: llywodraethu

1 Benthycu a buddsoddi gan gorfforaethau addysg bellach

Yn adran 19 o Ddeddf Addysg Bellach ac Uwch 1992 (pwerau atodol corfforaeth addysg bellach), hepgorer—

- (a) is-adran (4A) (y pŵer yn is-adran (4)(bb) i ffurfio cwmni, i gyfranogi mewn ffurfio cwmni neu i fuddsoddi mewn cwmni i beidio â chael ei arfer gan gorfforaeth addysg bellach yng Nghymru ar gyfer cynnal sefydliad addysgol neu ar gyfer buddsoddi mewn cwmni sy'n cynnal sefydliad addysgol),
- (b) is-adran (4AA) (y pŵer yn is-adran (4)(bc) i ffurfio sefydliad elusennol corfforedig, i gyfranogi mewn ffurfio sefydliad elusennol corfforedig neu fel arall i ddod yn aelod o sefydliad elusennol corfforedig i beidio â chael ei arfer gan gorfforaeth addysg bellach yng Nghymru ar gyfer cynnal sefydliad addysgol neu ar gyfer dod yn aelod o sefydliad elusennol corfforedig sy'n cynnal sefydliad addysgol),
- (c) is-adran (4AB) (pŵer Gweinidogion Cymru i gydsynio i arfer pŵer nad yw'n cydymffurfio â'r cyfyngiad yn is-adran (4A) neu (4AA)),

- (d) is-adran (4B) (y pwerau yn is-adran (4)(bb) a (bc) i beidio â chael eu harfer gan gorfforaeth addysg bellach yng Nghymru ar gyfer darparu addysg a gyllidir gan Weinidogion Cymru o dan Ddeddf Dysgu a Sgiliau 2000),
- (e) is-adran (4C) (nid yw is-adran (4B) i fod yn gymwys os yw Gweinidogion Cymru yn cydsynio i'r pwerau gael eu harfer), ac
- (f) is-adran (5) (y pŵer yn is-adran (4)(c) i fenthyca i beidio â chael ei arfer gan gorfforaeth addysg bellach yng Nghymru heb gydsyniad Gweinidogion Cymru).

2 Offeryn ac erthyglau llywodraethu corfforaethau addysg bellach

- (1) Yn adran 20 o Ddeddf Addysg Bellach ac Uwch 1992 (cyfansoddiad y gorfforaeth a chynnal y sefydliad), yn lle is-adrannau (2) a (2A) rhodder—

“(2) Instruments of government and articles of government of further education corporations—

- (a) must comply with the requirements of Schedule 4, and
- (b) subject to that, may make such other provision as may be necessary or desirable.”

- (2) Mae Atodlen 1 (sy'n disodli Atodlen 4 i Ddeddf Addysg Bellach ac Uwch 1992) yn cael effaith.

- (3) Yn lle adrannau 22 a 22ZA o Ddeddf Addysg Bellach ac Uwch 1992 rhodder—

“22 Subsequent instruments and articles

A further education corporation may modify or replace their instrument of government or articles of government.”

3 Diddymu corfforaethau addysg bellach

Yn lle adrannau 27 i 27C o Ddeddf Addysg Bellach ac Uwch 1992 rhodder—

“27 Proposals for dissolution of further education corporations

- (1) This section applies if a further education corporation propose that the corporation should be dissolved.
- (2) The corporation must publish—
 - (a) details of the proposal, and
 - (b) such other information as may be prescribed by regulations made by the appropriate authority.
- (3) The publication is to be in accordance with regulations made by the appropriate authority.
- (4) The corporation must consult on the proposal, and take account of the views of those consulted, in accordance with regulations made by the appropriate authority.
- (5) In this section, “the appropriate authority” means—

- (a) in relation to a further education corporation in England, the Secretary of State, and
- (b) in relation to a further education corporation in Wales, the Welsh Ministers.

27A Dissolution of further education corporations

- (1) This section and section 27B apply if, after complying with section 27, a further education corporation resolve that the corporation should be dissolved on a specified date.
- (2) “The dissolution date” means the date specified in a resolution under subsection (1).
- (3) The corporation must notify the appropriate authority of the resolution and the dissolution date as soon as reasonably practicable.
- (4) The corporation are dissolved on the dissolution date.
- (5) In this section, “the appropriate authority” has the meaning given in section 27.

27B Dissolution of further education corporations: transfer of property, rights and liabilities

- (1) At any time before the dissolution date, the corporation may transfer any of their property, rights or liabilities to such person or body, or a person or body of such description, as may be prescribed by regulations made by the appropriate authority.
- (2) The corporation may do so only with the consent of the person or body concerned.
- (3) A transfer under subsection (1) has effect on the dissolution date.
- (4) Subsection (5) applies if a person or body prescribed, or of a description prescribed, under subsection (1) is not a charity established for charitable purposes which are exclusively educational purposes.
- (5) Any property transferred to the person or body must be transferred on trust to be used for charitable purposes which are exclusively educational purposes.
- (6) In this section, “the appropriate authority” has the meaning given in section 27.”

4 Sefydliadau dynodedig: offeryn ac erthyglau llywodraethu

- (1) Yn adran 29A o Ddeddf Addysg Bellach ac Uwch 1992 (yr offerynnau ac erthyglau ôl-ddynodi cyntaf), hepgorer—
 - (a) yn is-adran (1) y geiriau “and (if the institution is in Wales) subsection (6)”,
 - (b) is-adran (6), ac
 - (c) yn y pennawd “: England and Wales”.
- (2) Yn lle adrannau 29B a 29C o’r Ddeddf honno rhodder—

“29B Changes to instruments and articles

- (1) This section applies to a designated institution to which section 29 applies.
- (2) The governing body of the institution may modify or replace its instrument of government and articles of government.
- (3) If the institution is in Wales and is an institution to which section 30 applies, the governing body may do any of the things mentioned in subsection (2) only with the consent of the trustees of the institution.
- (4) The instrument of government and articles of government (as modified or replaced)—
 - (a) must comply with the requirements of Schedule 4, and
 - (b) subject to that, may make such other provision as may be necessary or desirable.”
- (3) Yn adran 31 o'r Ddeddf honno (sefydliadau dynodedig a gynhelir gan gwmnïau), hepgorer is-adran (2A) (erthyglau sy'n ymwneud â phenodi aelodau i gymryd i ystyriaeth aelodau y caniateir i Weinidogion Cymru eu penodi).

5 Ymyrraeth gan Weinidogion Cymru mewn cysylltiad â sefydliadau o fewn y sector addysg bellach

- (1) Mae adran 57 o Ddeddf Addysg Bellach ac Uwch 1992 (ymyrraeth: Cymru) wedi ei diwygio fel a ganlyn.
- (2) Yn is-adran (5A)—
 - (a) ar ôl “include” mewnosoder “—
(a)”;
 - (b) ar y diwedd mewnosoder “, and
(b) a direction requiring a governing body to make a resolution under section 27A(1) for the body to be dissolved on a date specified in the direction.”
- (3) Ar ôl yr is-adran honno mewnosoder—

“(5B) A governing body to which a direction such as is mentioned in subsection (5A) (b) is given is to be taken for the purposes of section 27A(1) to have complied with section 27 before making the resolution required by the direction.”
- (4) Hefgorer adran 57A o Ddeddf Addysg Bellach ac Uwch 1992 (polisi ymyrryd: Cymru).

6 Diddymu dyletswyddau sefydliadau addysg bellach i gydymffurfio â chyfarwyddiadau

- (1) Yn adran 33J o Ddeddf Dysgu a Sgiliau 2000 (cynllunio'r cwricwlwm lleol), yn lle is-adran (3) rhodder—

“(3) The persons mentioned in paragraphs (a) to (c) of subsection (1) must have regard to any guidance given from time to time by the Welsh Ministers as to the exercise of their functions under that subsection.

- (4) The persons mentioned in paragraphs (a) and (b) of subsection (1) must comply with any direction given by the Welsh Ministers as to the exercise of their functions under that subsection.”
- (2) Yn adran 33L(3) o’r Ddeddf honno (cydweithio: canllawiau a chyfarwyddiadau), yn lle “The persons mentioned in subsection (1)” rhodder “A local authority and a governing body of a maintained school”.
- (3) Yn adran 116I o Ddeddf Addysg 2002 (cynllunio’r cwricwlwm lleol), yn lle is-adran (3) rhodder—
- “(3) The persons mentioned in paragraphs (a) and (b) of subsection (1) must have regard to any guidance given from time to time by the Welsh Ministers as to the exercise of their functions under that subsection.
- (4) The persons mentioned in paragraph (a) of subsection (1) must comply with any direction given by the Welsh Ministers as to the exercise of their functions under that subsection.”
- (4) Yn adran 116K(3) o’r Ddeddf honno (cydweithio: canllawiau a chyfarwyddiadau), yn lle “The persons mentioned in subsection (1)” rhodder “A local authority and a governing body of a maintained secondary school”.

7 **Diddymu pŵer i reoleiddio cyrsiau addysg uwch yn y sector addysg bellach**

Yn Neddf Addysg 2002, hepgorer adran 139 (pŵer i wneud rheoliadau sy’n gwahardd darparu cyrsiau addysg uwch gan sefydliadau o fewn y sector addysg bellach heb gymeradwyaeth Gweinidogion Cymru a phenderfynu ar nifer y personau a gaiff ymgymryd â’r cyrsiau hynny yn y sefydliadau hynny).

8 **Mân ddiwygiadau a diwygiadau canlyniadol**

Mae Atodlen 2 (sy’n gwneud mân ddiwygiadau a diwygiadau canlyniadol) yn cael effaith.

Cymorth i fyfyrwyr: cyflenwi gwybodaeth

9 **Cyflenwi gwybodaeth mewn cysylltiad â benthyciadau a grantiau i fyfyrwyr**

Yn adran 24 o Ddeddf Addysgu ac Addysg Uwch 1998 (cyflenwi gwybodaeth mewn cysylltiad â benthyciadau i fyfyrwyr)—

- (a) yn is-adran (2)—
- (i) ym mharagraff (a), ar ôl “State” mewnosoder “, the Welsh Ministers”;
 - (ii) ym mharagraff (b), ar ôl “State” mewnosoder “, the Welsh Ministers”;
 - (iii) ym mharagraff (c), ar ôl “State” mewnosoder “, the Welsh Ministers”;
- (b) ar ôl is-adran (2) mewnosoder—
- “(2A) Information to which this section applies may also be supplied to—
- (a) the Welsh Ministers,
 - (b) any person or body acting on behalf of the Welsh Ministers under section 23(4), or

- (c) any authority or governing body by whom any function of the Welsh Ministers is for the time being exercisable to any extent by virtue of section 23(1),
for the purpose of enabling or assisting the recipient to exercise any function in connection with regulations under section 22 so far as having effect in relation to grants under that section.”;
- (c) yn is-adran (3)—
- (i) yn y geiriau agoriadol, ar ôl “(2)” mewnosoder “or (2A)”;
- (ii) ym mharagraff (b), yn lle “of the student loans scheme.” rhodder “of —
- (i) the student loans scheme, or
- (ii) regulations under section 22 so far as having effect in relation to grants made in pursuance of the Welsh Ministers’ functions under that section.”;
- (d) yn is-adran (4), ar ôl “(2)” mewnosoder “; (2A)”;
- (e) yn is-adran (10), ar ôl “student” mewnosoder “grants or”;
- (f) yn y pennawd, yn lle “loans” rhodder “support”.

*Cyffredinol***10 Adolygu gweithrediad y Ddeddf**

Rhaid i Weinidogion Cymru, heb fod yn hwyrach na 31 Gorffennaf 2016, adolygu gweithrediad y Ddeddf hon gyda’r bwriad yn benodol o asesu ei heffaith ar—

- (a) ariannu addysg a ddarperir mewn sefydliadau addysg bellach yng Nghymru ar gyfer myfyrwyr sydd dros yr oedran ysgol gorfodol ond sydd heb gyrraedd 19 oed,
- (b) y ddarpariaeth Gymraeg mewn sefydliadau o’r fath, ac
- (c) y ddarpariaeth anghenion dysgu ychwanegol mewn sefydliadau o’r fath.

11 Cychwyn

- (1) Daw adran 9, yr adran hon ac adran 12 i rym ar y diwrnod y mae’r Ddeddf hon yn cael y Cydsyniad Brenhinol.
- (2) Daw darpariaethau eraill y Ddeddf hon i rym ar y diwrnod y caiff Gweinidogion Cymru ei bennu drwy orchymyn a wneir drwy offeryn statudol.
- (3) Caiff gorchymyn o dan yr adran hon—
- (a) pennu gwahanol ddiwrnodau at wahanol ddibenion;
- (b) cynnwys darpariaeth drosiannol, darpariaeth ddarfodol neu ddarpariaeth arbed mewn cysylltiad â dyfodiad y Ddeddf hon i rym.

12 Enw byr

Enw byr y Ddeddf hon yw Deddf Addysg Bellach ac Uwch (Llywodraethu a Gwybodaeth) (Cymru) 2014.

ATODLEN 1

(a gyflwynwyd gan adran 2)

OFFERYN AC ERTHYGLAU LLYWODRAETHU

Yn Neddf Addysg Bellach ac Uwch 1992, yn lle Atodlen 4 rhodder—

“SCHEDULE 4

INSTRUMENTS AND ARTICLES OF GOVERNMENT

- 1 This Schedule applies in relation to—
 - (a) a further education corporation,
 - (b) the governing body of a designated institution, and
 - (c) a sixth form college corporation.
- 2 In this Schedule—
 - “the body” means—
 - (a) in the case of a further education corporation or a sixth form college corporation, the corporation, and
 - (b) in the case of the governing body of a designated institution, the governing body;
 - “the institution” means—
 - (a) in the case of a further education corporation, the institution which the corporation are established to conduct;
 - (b) in the case of the governing body of a designated institution, the institution;
 - (c) in the case of a sixth form college corporation, the relevant sixth form college;
 - “instrument” means an instrument of government or articles of government.
- 3 (1) An instrument must provide for—
 - (a) the number of members of the body,
 - (b) the eligibility of persons for membership,
 - (c) the members to include—
 - (i) staff and students at the institution, and
 - (ii) in the case of a sixth form college corporation, parents of students at the institution aged under 19, and
 - (d) the appointment of members, if the institution is in England, or the appointment or election of members, if the institution is in Wales.

(2) In the case of an institution in Wales the provision made by an instrument must include provision—

 - (a) for the members of the body to include—
 - (i) the chief executive,
 - (ii) at least two other members of staff at the institution,
 - (iii) at least two students at the institution, and
 - (iv) one or more representatives of local employers or businesses,
 - (b) for at least one of the members who are members of staff to be a member of the teaching staff, and at least one to be a member of the non-teaching staff,

- elected at an election open to all members of staff from those nominated by any member of staff, and
- (c) for the members who are students to be elected at an election open to all the students at the institution from those nominated by any student or (if the body so determines) to be elected at an election open to all the members of an association which represents students at the institution, and is recognised by the body, from those nominated by any member of the association.
- 4 (1) An instrument must make provision about the procedures of the body and the institution.
- (2) In particular, an instrument must specify how the body may resolve for its dissolution and the transfer of its property, rights and liabilities.
- 5 (1) An instrument must make provision for there to be—
- (a) a chief executive of the institution, and
- (b) a clerk to the body.
- (2) An instrument must make provision about the respective responsibilities of the body, the chief executive and the clerk.
- (3) The responsibilities of the body must include—
- (a) in the case of a sixth form college corporation to which section 33J applies, the preservation and development of the educational character and mission of the institution and the oversight of its activities;
- (b) in the case of any other sixth form college corporation, a further education corporation or a governing body, the determination and periodic review of the educational character and mission of the institution and the oversight of its activities;
- (c) in any case, the effective and efficient use of resources, the solvency of the institution and the body and the safeguarding of their assets.
- 6 An instrument must require the body to publish arrangements for obtaining the views of staff and students on the matters for which the body are responsible under paragraph 5(3)(a) or (b).
- 7 In the case of an institution in Wales, an instrument must require the body to consult persons in the locality of the institution receiving education or training, employers in that locality and bodies representing persons living in that locality as to the education provided at the institution and the planning of its curriculum.
- 8 An instrument must permit the body to change their name with the approval of—
- (a) in the case of an institution in England, the Secretary of State;
- (b) in the case of an institution in Wales, the Welsh Ministers.
- 9 An instrument must specify how the body may modify or replace the instrument of government and articles of government.
- 10 An instrument must prohibit the body from making changes to the instrument of government or articles of government that would result in the body ceasing to be a charity.
- 11 An instrument must provide for—
- (a) a copy of the instrument to be given free of charge to every member of the body,

- (b) a copy of the instrument to be given free of charge, or at a charge not exceeding the cost of copying, to anyone else who requests it, and
 - (c) a copy of it to be available for inspection at the institution on request, during normal office hours, to every member of staff of, and student at, the institution.
- 12 An instrument must provide for the authentication of the application of the seal of the body.”

ATODLEN 2

(a gyflwynwyd gan adran 8)

MÂN DDIWYGIADAU A DIWYGIADAU CANLYNIADOL

Deddf Addysg Bellach ac Uwch 1992

- 1 Yn Neddf Addysg Bellach ac Uwch 1992—
- (a) yn adran 30 (darpariaeth arbennig ar gyfer sefydliadau penodol), yn is-adran (1), yn lle “29C” rhodder “29B”;
 - (b) yn adran 33I(2)(a) (offeryn ac erthyglau llywodraethu corfforaethau colegau chweched dosbarth), hepgorer “Part 2 of”;
 - (c) yn adran 61 (dehongli Rhan 1), yn is-adran (1), yn y diffiniad o “regulations” ar ôl “Secretary of State” mewnosoder “or the Welsh Ministers”;
 - (d) yn adran 89 (gorchmynion, rheoliadau a chyfarwyddiadau)—
 - (i) yn is-adran (1), hepgorer “of the Secretary of State”;
 - (ii) yn is-adran (2), hepgorer “22ZA(1) and (4),” a “29C(4),”;
 - (iii) yn is-adran (3), yn lle’r geiriau o “a resolution” hyd at y diwedd rhodder “—
 - (a) in the case of an order or regulations made by the Secretary of State, a resolution of either House of Parliament;
 - (b) in the case of an order or regulations made by the Welsh Ministers, a resolution of the National Assembly for Wales.”

Deddf Dysgu a Sgiliau 2000

- 2 Yn Neddf Dysgu a Sgiliau 2000, hepgorer—
- (a) adran 39 (pŵer Gweinidogion Cymru i benodi llywodraethwyr sefydliad sy’n dod o fewn y sector addysg bellach ac sy’n bennaf yn gwasanaethu poblogaeth Cymru), a
 - (b) yn Atodlen 9, paragraffau 22(4) a 25 (sy’n diwygio adrannau 19 ac 31 o Ddeddf Addysg Bellach ac Uwch 1992).

Gorchymyn Cyngor Cenedlaethol Cymru dros Addysg a Hyfforddiant (Trosglwyddo Swyddogaethau i Gynulliad Cenedlaethol Cymru a Diddymu’r Cyngor) 2005

- 3 Yng Ngorchymyn Cyngor Cenedlaethol Cymru dros Addysg a Hyfforddiant (Trosglwyddo Swyddogaethau i Gynulliad Cenedlaethol Cymru a Diddymu’r

Cyngor) 2005, yn Atodlen 1, hepgorer paragraffau 14 i 16, 18 a 59 (sy'n diwygio adrannau 19, 22, 27 ac 31 o Ddeddf Addysg Bellach ac Uwch 1992 ac adran 39 o Ddeddf Dysgu a Sgiliau 2000).

Deddf Addysg Bellach a Hyfforddiant 2007

- 4 Yn Neddf Addysg Bellach a Hyfforddiant 2007, hepgorer—
- (a) adran 18(5) (sy'n mewnosod adran 57A yn Neddf Addysg Bellach ac Uwch 1992),
 - (b) adran 21(3) i (5) (sy'n diwygio adran 19 o'r Ddeddf honno), ac
 - (c) adran 22 (a fyddai, pe bai mewn grym, yn mewnosod adran 49A yn Neddf Addysg Bellach ac Uwch 1992 er mwyn ei gwneud yn ofynnol i gorff llywodraethu sefydliad yn y sector addysg bellach yng Nghymru roi sylw i ganllawiau Gweinidogion Cymru ynghylch ymgynghori).

Deddf Prentisiaethau, Sgiliau, Plant a Dysgu 2009

- 5 Yn Neddf Prentisiaethau, Sgiliau, Plant a Dysgu 2009, yn Atodlen 6, hepgorer paragraffau 3(1), (3) a (4) a 5(b) (sy'n diwygio adrannau 19(4A) a (4B) ac 31(2A) o Ddeddf Addysg Bellach ac Uwch 1992).

Mesur Dysgu a Sgiliau (Cymru) 2009

- 6 Ym Mesur Dysgu a Sgiliau (Cymru) 2009, yn yr Atodlen, ym mharagraff 3 (sy'n diwygio adran 39 o Ddeddf Dysgu a Sgiliau 2000), hepgorer “39(1)”.

Deddf Addysg 2011

- 7 Yn Neddf Addysg 2011, yn Atodlen 12, hepgorer paragraffau 3(3) i (5) a (7)(a) a (9), 5, 6, 7, 16(a), 43 a 45 (sy'n diwygio adrannau 19 ac 20, yn mewnosod adrannau 22 a 22ZA, ac yn disodli adran 27 o Ddeddf Addysg Bellach ac Uwch 1992 ac Atodlen 4 iddi ac yn diwygio adran 22 o Ddeddf Addysg Bellach a Hyfforddiant 2007).