



OFFERYNNAU STATUDOL
CYMRU

2010 Rhif 2582 (Cy.216) (C.123)

**GOFAL CYMDEITHASOL,
CYMRU**

**PLANT A PHOBL IFANC,
CYMRU**

Gorchymyn Mesur Plant a
Theuluoedd (Cymru) 2010
(Cychwyn Rhif 2, Arbedion a
Darpariaethau Trosiannol) 2010

NODYN ESBONIADOL

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

Hwn yw'r ail orchymyn cychwyn a wnaed gan Weinidogion Cymru o dan Fesur Plant a Theuluoedd (Cymru) 2010 ("y Mesur").

Mae'r Gorchymyn hwn yn cychwyn y darpariaethau o fewn Rhan 2 o'r Mesur sy'n ymwneud â gwarchod plant a ddarpariaeth gofal dydd i blant o dan wyth mlwydd oed. Bwriedir i'r darpariaethau hyn gael eu defnyddio yn lle'r darpariaethau o fewn Rhan XA o Ddeddf Plant 1989 ac Atodlen 9A i'r Ddeddf Honno (*gwarchod plant a gofal dydd i blant ifanc yng Nghymru*) ("Deddf 1989"), sydd ar hyn o bryd yn llywodraethu ac yn rheoleiddio gofal o'r fath a ddarperir yng Nghymru, ac a ddirymir gan y Gorchymyn hwn.

Yn ddarostyngedig i'r darpariaethau a gynhwysir yn erthyglau 3 a 4, mae erthygl 2 ac Atodlen 1 yn dwyn i rym ar 1 Ebrill 2011 Ran 2 o'r Mesur sef, yn fwy penodol:

- adran 19 o'r Mesur, sy'n pennu'r diffiniad o "gwarchod plant" "gofal dydd i blant";
- adran 20 o'r Mesur, sy'n gwneud yn ofynnol bod Gweinidogion Cymru yn cynnal cofrestr o'r personau a gofrestrwyd fel gwarchodwyr plant;

WELSH STATUTORY
INSTRUMENTS

2010 No. 2582 (W.216) (C.123)

**SOCIAL CARE,
WALES**

**CHILDREN AND YOUNG PERSONS,
WALES**

The Children and Families (Wales)
Measure 2010 (Commencement
No. 2, Savings and Transitional
Provisions) Order 2010

EXPLANATORY NOTE

(This note is not part of the Order)

This is the second commencement order made by the Welsh Ministers under the Children and Families (Wales) Measure 2010 ("the Measure").

This Order commences the provisions within Part 2 of the Measure, which relate to child minding and the provision of day care for children under the age of eight. It is intended that these provisions will be used to replace the provisions within Part XA of and Schedule 9A to the Children Act 1989 (*child minding and day care for young children in Wales*) ("the 1989 Act"), which currently govern the arrangements for the provision and regulation of such care provided in Wales and which are repealed by this Order.

Subject to the savings provisions contained in articles 3 and 4, article 2 and Schedule 1 bring into force on 1 April 2011 Part 2 of the Measure, more particularly:

- section 19 of the Measure, which sets out the definition of "child minding" and "day care for children";
- section 20 of the Measure, which requires the Welsh Ministers to maintain a register of persons who are registered as child minders;

- adran 21 o'r Mesur, sy'n darparu na chaiff person weithredu fel gwarchodwr plant onid yw'r person hwnnw wedi ei gofrestru fel gwarchodwr plant o dan Ran 2 o'r Mesur;
- adran 22 o'r Mesur, sy'n gwneud yn ofynnol bod Gweinidogion Cymru yn cynnal cofrestr o'r personau a gofrestrwyd i ddarparu gofal dydd i blant;
- adran 23 o'r Mesur, sy'n darparu na chaiff person ddarparu gofal dydd i blant mewn unrhyw fangre yng Nghymru onid yw'r person hwnnw wedi ei gofrestru fel darparydd gofal dydd i blant, o dan Ran 2 o'r Mesur;
- adrannau 24 i 30 o'r Mesur, sy'n gwneud darpariaeth ar gyfer y gofyniad i gofrestru, ac ar gyfer y broses o gofrestru fel gwarchodwr plant neu ddarparydd gofal dydd i blant o dan Ran 2 o'r Mesur;
- adrannau 31 to 33 o'r Mesur, sy'n gwneud darpariaeth ar gyfer diddymu cofrestrriad (adran 31), atal cofrestrriad (adran 32) a thynnu oddi ar y gofrestr yn wirfoddol (adran 33) warchodwr plant neu ddarparydd gofal dydd i blant;
- adrannau 34 a 35 o'r Mesur, sy'n gwneud darpariaeth ar gyfer amddiffyn plant mewn argyfwng. Mae adran 34 yn darparu ar gyfer diddymu cofrestrriad person fel gwarchodwr plant neu ddarparydd gofal dydd i blant, ac adran 35 ar gyfer newidiadau mewn amodau sydd i'r gosod ar gofrestrriad gwarchodwr plant neu ddarparydd gofal dydd i blant;
- adran 36 o'r Mesur, sy'n pennu rhagofalon gweithdrefnol ar gyfer cymryd camau penodol o dan Ran 2 o'r Mesur;
- adran 37, sy'n darparu ar gyfer gwneud apelau i'r Tribiwnlys Haen Gyntaf yn erbyn cymryd camau penodedig ac mewn perthynas â phenderfyniadau penodedig;
- adrannau 38 a 39, sy'n darparu ar gyfer anghymhwyso person rhag cofrestru (adran 38) a chanlyniadau anghymhwysiad o'r fath (adran 39);
- adrannau 40 i 43, sy'n darparu ar gyfer pŵer arolygu a mynediad mewn perthynas â gwasanaethau a ddarperir yn unol â Rhan 2 o'r Mesur;
- adrannau 44 a 45, sy'n ymwneud â chyflenwi gwybodaeth i Weinidogion Cymru (adran 44) ac i awdurdodau lleol (adran 45);
- adrannau 46 i 51, sy'n darparu ar gyfer tramgwyddau, achosion troseddol a chosbau sefydlog;
- section 21 of the Measure, which provides that a person may not act as a child minder unless that person is registered as a child minder under Part 2 of the Measure;
- section 22 of the Measure, which requires the Welsh Ministers to maintain a register of persons who are registered to provide day care for children;
- section 23 of the Measure, which provides that a person may not provide day care for children on any premises in Wales unless that person is registered as a provider of day care for children under Part 2 of the Measure;
- sections 24 to 30 of the Measure, which make provision for the requirement to and process for registration as a child minder or provider of day care for children under Part 2 of the Measure;
- sections 31 to 33 of the Measure, which make provision for the cancellation of registration (section 31), suspension of registration (section 32) and for the voluntary removal from the register (section 33) of a child minder or a provider of day care for children;
- sections 34 and 35 of the Measure, which make provision for the protection of children in an emergency. Section 34 makes provision for the cancellation of a person's registration as a child minder or provider of day care for children and section 35 for changes to conditions to be imposed upon a person's registration as a child minder or a provider of day care for children;
- section 36 of the Measure which lays down procedural safeguards for the taking of certain steps under Part 2 of the Measure;
- section 37, which makes provision for appeals to be made to the First-tier Tribunal against the taking of specified steps and in respect of specified decisions;
- sections 38 and 39, which make provision for a person's disqualification from registration (section 38) and the consequences of such disqualification (section 39);
- sections 40 to 43, which make provision for a power of inspection and entry in respect of services provided in accordance with Part 2 of the Measure;
- sections 44 and 45, which relate to the supply of information to the Welsh Ministers (section 44) and to local authorities (section 45);
- sections 46 to 51, which make provision for offences, criminal proceedings and fixed penalties;

- adrannau 52 i 56 o'r Mesur, sy'n darparu ar gyfer swyddogaethau awdurdodau lleol (adran 52), ffioedd (adran 53), cydweithredu rhwng awdurdodau (adran 54), hysbysiadau (adran 55) a marwolaeth y person cofrestredig (adran 56).

Mae erthygl 3 o'r Gorchymyn yn arbed Rheoliadau Gwarchod Plant a Gofal Dydd (Anghymhwys) (Cymru) 2010 er gwaethaf diddymu'r darpariaethau o Ddeddf 1989 y gwnaed y Rheoliadau hynny odanynt.

Mae erthygl 4 o'r Gorchymyn ac Atodlenni 2 a 3 iddo yn gwneud arbediad a darpariaeth drosiannol o ganlyniad i gychwyn Rhan 2 o'r Mesur a diddymu Rhan XA o Ddeddf 1989 ac Atodlen 9A i'r Ddeddf honno. Yn benodol, yn Atodlen 2, gwneir darpariaeth i sicrhau nad effeithir ar achosion cyfreithiol o dan, neu mewn perthynas â Rhan XA o Ddeddf 1989 ac Atodlen 9A i'r Ddeddf honno.

Mae Atodlen 3 yn cynnwys arbedion a darpariaeth drosiannol. Yn benodol—

- Mae paragraff 2 yn darparu, yn ddarostyngedig i eithriadau, y bydd personau a gofrestrwyd fel gwarchodwyr plant neu ddarparwyr gofal dydd o dan Ran XA o Ddeddf 1989 ac Atodlen 9A i'r Ddeddf honno yn union cyn 1 Ebrill 2011, yn cael eu trin ar ac ar ôl y dyddiad hwnnw ("y dyddiad perthnasol") fel pe baent wedi eu cofrestru yn unol â darpariaethau'r drefn newydd o dan Ran 2 o'r Mesur. Mae'n gwneud darpariaeth hefyd ynglŷn ag amodau a gysylltir â'r cofrestriad trosglwyddedig.
- Mae paragraff 3 yn gwneud darpariaeth ynghylch tystysgrifau cofrestru pan ystyrir bod cofrestriad person wedi ei drosglwyddo o dan y drefn newydd a bennir yn Rhan 2 o'r Mesur. Darperir hefyd ar gyfer dyroddi tystysgrif gofrestru o dan Ran 2 o'r Mesur mewn amgylchiadau rhagnodedig.
- Mae paragraff 4 yn darparu ar gyfer personau nad oeddent yn gymwys i'w cofrestru fel gwarchodwyr plant neu ddarparwyr gofal dydd cyn y dyddiad. Yn benodol, mae'n datgymhwyso, mewn amgylchiadau penodol, darpariaethau yn Rhan 2 o'r Mesur sy'n gwneud gweithredu fel gwarchodwr plant neu ddarparydd gofal dydd heb gofrestru yn dramgwydd.
- Mae paragraff 5 yn darparu ar gyfer trin ceisiadau, a wnaed o dan Ran XA o Ddeddf 1989 ac Atodlen 9A i'r Ddeddf honno ac nad ydynt wedi eu penderfynu ar 1 Ebrill 2011, fel pe baent wedi eu gwneud o dan Ran 2 o'r Mesur, ac ar gyfer eu penderfynu gan Weinidogion Cymru o dan y darpariaethau hynny.

- sections 52 to 56 of the Measure, which make provision for the functions of local authorities (section 52), fees (section 53), co-operation between authorities (section 54), notices (section 55) and death of the registered person (section 56).

Article 3 of the Order saves the Child Minding and Day Care (Disqualification) (Wales) Regulations 2010 notwithstanding the repeal of the provisions of the 1989 Act under which they have been made.

Article 4 of and Schedules 2 and 3 to the Order make saving and transitional provision as a consequence of the coming into force of Part 2 of the Measure and the repeal of Part XA of and Schedule 9A to the 1989 Act. In particular, in Schedule 2, provision is made to ensure that legal proceedings under or in relation to Part XA of and Schedule 9A to the 1989 Act are unaffected.

Schedule 3 contains savings and transitional provision. In particular—

- Paragraph 2 provides that persons who are registered as child minders or providers of day care under Part XA of and Schedule 9A to the 1989 Act immediately before 1 April 2011 will, subject to exceptions, be treated on and after that date ("the relevant date") as if they were registered in accordance with the provisions of the new regime under Part 2 of the Measure. It also makes appropriate provision about conditions attaching to this "transferred" registration.
- Paragraph 3 makes provision about certificates of registration where a person's registration is deemed to be transferred under the new regime set out in Part 2 of the Measure. Provision is also made for the issue of a certificate of registration under Part 2 of the Measure in prescribed circumstances.
- Paragraph 4 makes provision for persons who were not eligible for registration as child minders or providers of day care before the relevant date. In particular, it disapplies, in prescribed circumstances, the application of provisions in Part 2 of the Measure which make it an offence to act as a child minder or provider of day care for children without being registered.
- Paragraph 5 makes provision for applications made under Part XA of and Schedule 9A to the 1989 Act that have not been determined on 1 April 2011 to be treated as having been made under Part 2 of the Measure and determined by the Welsh Ministers under those provisions.

- Mae paragraffau 6 a 7 yn darparu ar gyfer trin hysbysiadau o fwriad a ddyroddir yn yr amgylchiadau a ragnodir o dan Ran XA (gwrthod cais am gofrestriad, neu ddi-ddymu cofrestriad presennol, gosod amod ar gofrestriad person neu wrthod tynnu ymaith neu amrywio amod a osodwyd eisoes ar gofrestriad person) fel pe bai'r hysbysiadau wedi'u dyroddi yn unol ag adran 36 o'r Mesur.
- Mae paragraffau 8, 9 a 10 yn gwneud darpariaeth ar gyfer trin apelau a wnaed i'r Tribiwnlys Haen Gyntaf yn unol ag adran 79M o Ddeddf 1989, a wnaed cyn y dyddiad perthnasol ac nad ydynt wedi eu penderfynu, fel pe baent yn apelau o dan adran 37 o'r Mesur ac ar gyfer eu penderfynu yn unol â'r ddarpariaeth honno.
- Mae paragraff 11 yn darparu y bydd hysbysiad gorfodi a gyflwynwyd gan Weinidogion Cymru yn unol ag adran 79D o Ddeddf 1989, ac sy'n parhau i gael effaith yn union cyn y dyddiad perthnasol, yn parhau i gael effaith ar ac o'r dyddiad hwnnw ymlaen, fel pe bai wedi ei gyflwyno o dan adran 21(3) o'r Mesur.
- Mae paragraff 12 yn darparu y bydd hysbysiad cydymffurfio a ddyroddwyd gan Weinidogion Cymru i berson yn unol â Rheoliadau Gwarchod Plant a Gofal Dydd (Cymru) 2002 cyn y dyddiad perthnasol yn parhau i gael effaith ar ac ar ôl y dyddiad hwnnw, fel pe bai wedi ei ddyroddi yn unol â rheoliad 18 o Reoliadau Gwarchod Plant a Gofal Dydd (Cymru) 2010.
- Mae paragraff 13 yn caniatáu i Weinidogion Cymru roi sylw, wrth arfer eu swyddogaethau o dan Ran 2 o'r Mesur, i gydymffurfiaeth person, neu'i fethiant i gydymffurfio, â'r ddyletswydd a osodir gan reoliad 23 o Reoliadau Gwarchod Plant a Gofal Dydd (Cymru) 2010 (*safonau gofynnol cenedlaethol*).
- Mae paragraff 14 yn darparu, pan fo cofrestriad person wedi ei atal gan Weinidogion Cymru yn unol â Rheoliadau Atal Dros Dro Ddarparwyr Gofal Dydd a Gwarchodwyr Plant (Cymru) 2004 yn union cyn y dyddiad perthnasol, y trinnir yr ataliad ar ac ar ôl y dyddiad hwnnw fel pe bai wedi ei wneud o Reoliadau Gwarchod Plant a Gofal Dydd (Cymru) 2010 ("Rheoliadau 2010"). Bydd apelau yn erbyn ataliad, a wnaed cyn y dyddiad perthnasol a heb eu penderfynu gan y Tribiwnlys Haen Gyntaf, yn cael eu trin ar ac ar ôl y dyddiad hwnnw fel pe baent wedi eu gwneud o dan reoliad 45 o Reoliadau 2010.
- Paragraphs 6 and 7 make provision for notices of intention issued in the prescribed circumstances under Part XA of the 1989 Act (to refuse an application for registration, or to cancel an existing registration, to impose a condition upon a person's registration or to refuse to remove or vary any condition already imposed on a person's registration) to be treated as though the notices were issued in accordance with section 36 of the Measure.
- Paragraphs 8, 9 and 10 make provision in respect of appeals made to the First-tier Tribunal in accordance with section 79M of 1989 Act, which have been made before the relevant date and which have not been determined, to be treated as an appeal under section 37 of the Measure and determined in accordance with that provision.
- Paragraph 11 provides that an enforcement notice served by the Welsh Ministers in accordance with section 79D of the 1989 Act which continues to have effect immediately before the relevant date will continue to have effect on and from that date as though it were served under section 21(3) of the Measure.
- Paragraph 12 makes provision for a compliance notice issued by the Welsh Ministers to a person in accordance with the Child Minding and Day Care (Wales) Regulations 2002 before the relevant date to continue to have effect on and after that date as though it were issued in accordance with regulation 18 of the Child Minding and Day Care (Wales) Regulations 2010.
- Paragraph 13 allows the Welsh Ministers to have regard, when exercising their functions under Part 2 of the Measure, to a person's compliance or failure to comply with the duty imposed by regulation 23 of the Child Minding and Day Care (Wales) Regulations 2002 (*national minimum standards*).
- Paragraph 14 provides that where immediately before the relevant date, a person's registration is suspended by the Welsh Ministers in accordance the Suspension of Day Care Providers and Child Minders (Wales) Regulations 2004, the suspension is to be treated on and after that date as if it were made under the Child Minding and Day Care (Wales) Regulations 2010 ("the 2010 Regulations"). Appeals against a suspension made before the relevant date and which have not been determined by the First-tier Tribunal will be treated on and after that date as having been made under regulation 45 of the 2010 Regulations.

- Mae paragraff 15 yn gwneud darpariaeth i unrhyw ganiatâd ar gyfer hepgor anghymhwysiad (a roddwyd o dan Reoliadau Gwarchod Plant a Gofal Dydd (Anghymhwysio) (Cymru) 2010), nad yw wedi ei dynnu'n ôl, barhau i gael effaith o dan y Rheoliadau hynny, a arbedir gan erthygl 3 hyd nes gwneir rheoliadau o dan adran 38 o'r Mesur (*anghymhwysio rhag cofrestru*).
- Mae paragraff 16 yn darparu, pan fo Gweinidogion Cymru wedi gwneud cais i ynad heddwch am orchymyn i ddiddymu cofrestrriad person o dan adran 79K(1)(a)(i) o Ddeddf 1989 ac yn union cyn y dyddiad perthnasol, nad yw'r gorchymyn hwnnw wedi ei wneud, y trinnir y cais hwnnw, ar ac ar ôl y dyddiad hwnnw, fel pe bai wedi ei wneud o dan adran 34 o'r Mesur (*amddiffyn plant mewn argyfwng: diddymu cofrestrriad*).
- Mae'n darparu hefyd, pan fo'r gorchymyn y gwneir cais amdano yn un ar gyfer amrywio neu dynnu ymaith amod, neu osod amod newydd, ar gofrestrriad person (yn unol ag adran 79K(1)(a)(ii) neu (iii) yn eu trefn) ac, yn union cyn y dyddiad perthnasol, nad yw'r gorchymyn hwnnw wedi ei wneud, y bydd Gweinidogion Cymru yn tynnu'r cais hwnnw yn ôl ac yn gweithredu yn unol ag adran 35 o'r Mesur (*amddiffyn plant mewn argyfwng: newidiadau i amodau*).
- Paragraph 15 make provision for any consents given (under the Disqualification Regulations 2010) to waive a disqualification, which have not been withdrawn, to continue to have effect under those Regulations, which are saved by article 3 until such time as regulations are made under section 38 of the Measure (*disqualification from registration*).
- Paragraph 16 provides that where the Welsh Ministers have made an application to a justice of the peace for an order under section 79K(1)(a)(i) of the 1989 Act cancelling a person's registration and immediately before the relevant date that order has not been made, that application will on and after that date be treated as having been made under section 34 of the Measure (*protection of children in an emergency: cancellation of registration*).
- It also makes provision for when the order applied for seeks to vary or remove a condition, or to impose a new condition, upon a person's registration (in accordance with section 79K(1)(a)(ii) or (iii) respectively), and immediately before the relevant date that order has not been made, the Welsh Ministers will withdraw that application and take action in accordance with section 35 of the Measure (*protection of children in an emergency: changes to conditions*).

NODYN YNGLŶN Â GORCHMYNION CYCHWYN CYNHARACH

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

Darpariaeth	Dyddiad cychwyn	Rhif yr O.S.
Adran 57	1 Medi 2010	O.S.2010/1699 (Cy.160) (C.87)
Adran 58 (yn rhannol)	1 Medi 2010	O.S.2010/1699 (Cy.160) (C.87)
Adran 59	1 Medi 2010	O.S.2010/1699 (Cy.160) (C.87)
Adran 60	1 Medi 2010	O.S.2010/1699 (Cy.160) (C.87)
Adran 61	1 Medi 2010	O.S.2010/1699 (Cy.160) (C.87)
Adran 62	1 Medi 2010	O.S.2010/1699 (Cy.160) (C.87)
Adran 63	1 Medi 2010	O.S.2010/1699 (Cy.160) (C.87)
Adran 64	1 Medi 2010	O.S.2010/1699 (Cy.160) (C.87)

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

Provision	Date of commencement	S.I. number
Section 57	1 September 2010	S.I. 2010/1699 (W.160) (C.87)
Section 58 (partially)	1 September 2010	S.I. 2010/1699 (W.160) (C.87)
Section 59	1 September 2010	S.I. 2010/1699 (W.160) (C.87)
Section 60	1 September 2010	S.I. 2010/1699 (W.160) (C.87)
Section 61	1 September 2010	S.I. 2010/1699 (W.160) (C.87)
Section 62	1 September 2010	S.I. 2010/1699 (W.160) (C.87)
Section 63	1 September 2010	S.I. 2010/1699 (W.160) (C.87)
Section 64	1 September 2010	S.I. 2010/1699 (W.160) (C.87)

Adran 65	1 Medi 2010	O.S.2010/1699 (Cy.160) (C.87)
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Section 65	1 September 2010	S.I. 2010/1699 (W.160) (C.87)
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Gweler hefyd adran 75(1) a (2) o'r Mesur am y darpariaethau a ddaeth i rym ar 10 Chwefror 2010 (dyddiad y cymeradwyo gan Ei Mawrhydi yn y Cyfrin Gyngor).

See also section 75(1) and (2) of the Measure for the provisions that came into force on 10 February 2010 (date of approval by Her Majesty in Council).

2010 Rhif 2582 (Cy.216) (C.123)

2010 No. 2582 (W.216) (C.123)

**GOFAL CYMDEITHASOL,
CYMRU**

**SOCIAL CARE,
WALES**

**PLANT A PHOBL IFANC,
CYMRU**

**CHILDREN AND YOUNG PERSONS,
WALES**

Gorchymyn Mesur Plant a
Theuluoedd (Cymru) 2010
(Cychwyn Rhif 2, Arbedion a
Darpariaethau Trosiannol) 2010

The Children and Families (Wales)
Measure 2010 (Commencement
No. 2, Savings and Transitional
Provisions) Order 2010

Gwnaed

20 Hydref 2010

Made

20 October 2010

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd gan adrannau 74(2)(c) a 75(3) o Fesur plant a Theuluoedd (Cymru) 2010(1), yn gwneud y Gorchymyn canlynol:

The Welsh Ministers, in exercise of the powers conferred by sections 74(2)(c) and 75(3) of the Children and Families (Wales) Measure 2010(1), make the following Order:

Enwi a dehongli

1.–(1) Enw'r Gorchymyn hwn yw Gorchymyn Mesur Plant a Theuluoedd (Cymru) 2010 (Cychwyn Rhif 2, Arbedion a Darpariaethau Trosiannol) 2010.

Title and interpretation

1.–(1) The title of this Order is the Children and Families (Wales) Measure 2010 (Commencement No. 2, Savings and Transitional Provisions) Order 2010.

(2) Yn y Gorchymyn hwn—

(2) In this Order—

ystyr "Deddf 1989" ("*the 1989 Act*") yw Deddf Plant 1989(2);

"the 1989 Act" ("*Deddf 1989*") means the Children Act 1989(2);

ystyr "y Mesur" ("*the Measure*") yw Mesur Plant a Theuluoedd (Cymru) 2010;

"the Measure" ("*y Mesur*") means the Children and Families (Wales) Measure 2010;

ystyr "y Rheoliadau Anghymhwyso" ("*the Disqualification Regulations*") yw Rheoliadau Gwarchod Plant a Gofal Dydd (Anghymhwyso) (Cymru) 2010(3).

"the Disqualification Regulations" ("*y Rheoliadau Anghymhwyso*") means the Child Minding and Day Care (Disqualification) (Wales) Regulations 2010(3).

Darpariaethau sy'n dod i rym ar 1 Ebrill 2011

2. Yn ddarostyngedig i erthyglau 3, 4 a 5, mae'r darpariaethau o'r Mesur a bennir yn Atodlen 1 yn dod i rym ar 1 Ebrill 2011.

Provisions coming into force on 1 April 2011

2. Subject to articles 3, 4 and 5, the provisions of the Measure specified in Schedule 1 come into force on 1 April 2011.

(1) 2010 mccc 1.

(2) 1989 p. 41.

(3) O.S.2010/1703 (Cy.163).

(1) 2010 nawm 1.

(2) 1989 c. 41.

(3) S.I. 2010/1703 (W.163).

Darpariaeth arbed ar gyfer y Rheoliadau Anghymhwysu

3. Er gwaethaf diddymu adrannau 79C(2) a (3) a 79M o Ddeddf 1989, mae Rheoliadau Gwarchod Plant a Gofal Dydd (Anghymhwysu) (Cymru) 2010 yn parhau i gael effaith hyd nes gwneir rheoliadau o dan adran 38 o'r Mesur (*anghymhwysu rhag cofrestru*).

Arbedion a darpariaethau trosiannol

4. Mae Atodlenni 2 a 3, sy'n gwneud arbedion a darpariaethau trosiannol mewn cysylltiad â chychwyn gan y Gorchymyn hwn y darpariaethau a bennir yn Atodlen 1 yn cael effaith ac yn dod i rym ar 1 Ebrill 2011.

Saving provision for the Disqualification Regulations

3. Notwithstanding the repeal of sections 79C(2) and (3) and 79M of the 1989 Act, the Child Minding and Day Care (Disqualification) (Wales) Regulations 2010 continue to have effect until such time as regulations are made under section 38 of the Measure (*disqualification from registration*).

Savings and transitional provisions

4. Schedules 2 and 3, which make savings and transitional provisions in connection with the commencement by this Order of the provisions set out in Schedule 1, have effect and come into force on 1 April 2011.

Huw Lewis

Dirprwy Weinidog dros Blant, o dan awdurdod y Gweinidog dros Blant, Addysg a Dysgu Gydol Oes, un o Weinidogion Cymru

20 Hydref 2010

Deputy Minister for Children, under authority of the Minister for Children, Education and Lifelong Learning, one of the Welsh Ministers

20 October 2010

ATODLEN 1

SCHEDULE 1

Erthygl 2

Article 2

DARPARIAETHAU SY'N DOD I RYM AR 1
EBRILL 2011PROVISIONS COMING INTO FORCE ON 1
APRIL 2011

Adran 19	Ystyr gwarchod plant a gofal dydd i blant
Adran 20	Cofrestr o warchodwyr plant
Adran 21	Dyletswydd gwarchodwyr plant i gofrestru
Adran 22	Cofrestr o ddarparwyr gofal dydd i blant
Adran 23	Dyletswydd darparwyr gofal dydd i gofrestru
Adran 24	Ceisiadau i gofrestru: gwarchod plant
Adran 25	Gofynion rhagnodedig ar gyfer cofrestru fel gwarchodwr plant
Adran 26	Ceisiadau i gofrestru: gofal dydd i blant
Adran 27	Gofynion rhagnodedig ar gyfer cofrestru darparwyr gofal dydd i blant
Adran 28	Cofnodi ar y gofrestr a thystysgrifau
Adran 29	Amodau wrth gofrestru
Adran 30	Rheoliadau sy'n llywodraethu gweithgareddau
Adran 31	Diddymu cofrestriad
Adran 32	Atal cofrestriad
Adran 33	Tynnu oddi ar y gofrestr yn wirfoddol
Adran 34	Amddiffyn plant mewn argyfwng: diddymu cofrestriad
Adran 35	Amddiffyn plant mewn argyfwng: newidiadau i amodau
Adran 36	Gweithdrefnau ar gyfer cymryd camau penodol
Adran 37	Apelau
Adran 38	Anghymhwysio rhag cofrestru
Adran 39	Canlyniadau anghymwysio

Section 19	Meaning of child minding and day care for children
Section 20	Register of child minders
Section 21	Duty of child minders to register
Section 22	Register of providers of day care for children
Section 23	Duty of day care providers to register
Section 24	Applications for registration: child minding
Section 25	Prescribed requirements for registration as a child minder
Section 26	Applications for registration: day care for children
Section 27	Prescribed requirements for registration of providers of day care for children
Section 28	Entry on register and certificates
Section 29	Conditions on registration
Section 30	Regulations governing activities
Section 31	Cancellation of registration
Section 32	Suspension of registration
Section 33	Voluntary removal from the register
Section 34	Protection of children in an emergency: cancellation of registration
Section 35	Protection of children in an emergency: changes to conditions
Section 36	Procedure for taking certain steps
Section 37	Appeals
Section 38	Disqualification from registration
Section 39	Consequences of disqualification

Adran 40	Arolygu
Adran 41	Pwerau mynediad
Adran 42	Pwerau arolygu
Adran 43	Pŵer cwnstabl i gynorthwyo wrth arfer pwerau mynediad
Adran 44	Cyflenwi gwybodaeth i Weinidogion Cymru
Adran 45	Cyflenwi gwybodaeth i awdurdodau lleol
Adran 46	Y tramgwydd o wneud datganiad anwir neu gamarweiniol
Adran 47	Hysbysiadau o gosb
Adran 48	Hysbysiadau o gosb: darpariaethau atodol
Adran 49	Terfyn amser ar gyfer achosion
Adran 50	Tramgwyddau gan gyrff corfforaethol
Adran 51	Cymdeithasau anghorfforedig
Adran 52	Swyddogaethau awdurdodau lleol
Adran 53	Ffioedd
Adran 54	Cydweithredu rhwng awdurdodau
Adran 55	Hysbysiadau
Adran 56	Marwolaeth person cofrestredig
Adran 72 ac Atodlen 1 i'r graddau y maent yn ymwneud ag	(i) paragraffau 1 i 18; (ii) paragraffau 21 i 28.
Adran 73 ac Atodlen 2 i'r graddau y maent yn ymwneud ag	(i) Deddf Plant 1989; (ii) Deddf Addysg 2002; a (iii) Deddf Gofal Plant 2006.

Section 40	Inspection
Section 41	Powers of entry
Section 42	Powers of inspection
Section 43	Power of constable to assist in exercising powers of entry
Section 44	Supply of information to the Welsh Ministers
Section 45	Supply of information to local authorities
Section 46	Offence of making false or misleading statement
Section 47	Penalty notices
Section 48	Penalty notices: supplementary provisions
Section 49	Time limit for proceedings
Section 50	Offences by bodies corporate
Section 51	Unincorporated associations
Section 52	Functions of local authorities
Section 53	Fees
Section 54	Co-operation between authorities
Section 55	Notices
Section 56	Death of registered person
Section 72 and Schedule 1 in so far as they relate to	(i) paragraphs 1 to 18; (ii) paragraphs 21 to 28.
Section 73 and Schedule 2 in so far as they relate to	(i) the Children Act 1989; (ii) the Education Act 2002; and (iii) the Childcare Act 2006.

ARBEDION CYFFREDINOL

GENERAL SAVINGS

Dehongli**1. Yn yr Atodlen hon ac yn Atodlen 3–**

mae i "Tribiwnlys Haen Gyntaf" ("*First-tier Tribunal*") yr ystyr a roddir i "First-tier Tribunal" yn Neddf Tribiwnlysoedd, Llysoedd a Gorfodi 2007(1).

Arbedion cyffredinol ar gyfer pethau a wnaed cyn y dyddiad perthnasol

2.–(1) Onid oes bwriad i'r gwrthwyneb yn ymddangos yn Atodlen 3, ni fydd dyfodiad i rym y darpariaethau yn Atodlen 1 yn effeithio ar –

- (a) unrhyw weithred a wneir, unrhyw hysbysiad a gyflwynir, unrhyw gais a wneir nac unrhyw benderfyniad a wneir; neu
- (b) unrhyw ofyniad neu gyfyngiad amser; neu
- (c) unrhyw achos cyfreithiol a gychwynwyd; neu
- (ch) unrhyw orchymyn a wnaed gan lys, gan ynad heddwch neu gan y Tribiwnlys Haen Gyntaf

o dan, neu mewn perthynas ag unrhyw rai o'r darpariaethau a ddiwygiwyd neu a ddiddymwyd o ganlyniad i gychwyn Atodlenni 1 a 2 o'r Mesur.

(2) Mewn perthynas â'r darpariaethau a ddiwygiwyd neu a ddiddymwyd o ganlyniad i gychwyn Atodlenni 1 a 2 o'r Mesur, ceir dwyn neu barhau achosion cyfreithiol, a cheir gosod a gorfodi rhwymedïau neu gosbau mewn perthynas â gweithredoedd a wnaed o dan, mewn perthynas â, neu'n groes i unrhyw rai o'r darpariaethau hynny cyn y dyddiad perthnasol, fel pe na bai'r diwygiadau neu'r ddiddymiadau wedi eu gwneud.

Interpretation**1. In this Schedule and in Schedule 3–**

"First-tier Tribunal" ("*Tribiwnlys Haen Gyntaf*") has the same meaning as in the Tribunals, Courts and Enforcement Act 2007(1).

General savings for things done before the relevant date

2.–(1) Unless in Schedule 3 the contrary intention appears, the coming into force of the provisions set out in Schedule 1 does not affect–

- (a) any act done, any notice served, any application made or any decision taken; or
- (b) any requirement or limitation of time; or
- (c) any legal proceedings commenced; or
- (d) any order made by a court, a justice of the peace or the First-Tier Tribunal

under, or in relation to any of the provisions amended or repealed as a consequence of the commencement of Schedules 1 and 2 of the Measure.

(2) In relation to the provisions amended or repealed as consequence of the commencement of Schedules 1 and 2 of the Measure, legal proceedings may be brought or continued and remedies or penalties may be imposed and enforced in relation to acts done under, in relation to, or in contravention of any of those provisions before the relevant date, as if the amendments or repeals had not been made.

ARBEDION A DARPARIAETHAU
TROSIANNOL MEWN PERTHYNAS Â RHAN XA
O DDEDDF 1989 AC ATODLEN 9A I'R DDEDDF
HONNO, A RHAN 2 O'R MESUR

SAVINGS AND TRANSITIONAL PROVISIONS
IN RESPECT OF PART XA OF AND SCHEDULE
9A TO THE 1989 ACT, AND PART 2 OF THE
MEASURE

Dehongli

1. Yn yr Atodlen hon—

ystyr "Rhan 2 o'r Mesur" ("*Part 2 of the Measure*")
yw adrannau 19 i 56 o'r Mesur;

ystyr "Rheoliadau 2002" ("*the 2002 Regulations*")
yw Rheoliadau Gwarchod Plant a Gofal Dydd
(Cymru) 2002(1);

ystyr "Rheoliadau 2010" ("*the 2010 Regulations*")
yw Rheoliadau Gwarchod Plant a Gofal Dydd
(Cymru) 2010(2);

ystyr "Rheoliadau Atal 2004" ("*the Suspension
Regulations 2004*") yw Rheoliadau Atal Dros Dro
Ddarparwyr Gofal Dydd a Gwarchodwyr Plant
(Cymru) 2004(3);

ystyr "Gorchymyn Eithriadau 2010" ("*the
Exceptions Order 2010*") yw Gorchymyn
Eithriadau Gwarchod Plant a Gofal Dydd (Cymru)
2010;

ystyr "Rheoliadau Anghymhwysu 2010" ("*the
Disqualification Regulations 2010*") yw
Rheoliadau Gwarchod Plant a Gofal Dydd
(Anghymhwysu) (Cymru) 2010(4);

ystyr "y dyddiad perthnasol" ("*the relevant date*")
yw 1 Ebrill 2011;

mae "trosglwyddo" ("*transfer*") mewn perthynas â
chofrestru yn cyfeirio at y broses y gwneir
darpariaeth ar ei chyfer ym mharagraff 2(2) a
dehonglir "trosglwyddwyd" ("*transferred*") yn unol
â hynny.

Cofrestru Gwarchodwyr Plant a Darparwyr Gofal Dydd o dan Ran XA o Ddeddf 1989 ac Atodlen 9A i'r ddeddf honno ar 1 Ebrill 2011

2.—(1) Mae'r paragraff hwn yn gymwys mewn
perthynas â pherson sydd, yn union cyn y dyddiad
perthnasol—

-
- (1) O.S.2002/812 (Cy.92).
(2) O.S.2010/2574 (Cy.214).
(3) O.S.2004/3282 (Cy.285).
(4) O.S.2010/1703 (Cy.163).

Interpretation

1. In this Schedule—

"Part 2 of the Measure" ("*Rhan 2 o'r Mesur*")
means sections 19 to 56 of the Measure;

"the 2002 Regulations" ("*Rheoliadau 2002*")
means the Child Minding and Day Care (Wales)
Regulations 2002(1);

"the 2010 Regulations" ("*Rheoliadau 2010*")
means the Child Minding and Day Care (Wales)
Regulations 2010(2);

"the Suspension Regulations 2004" ("*Rheoliadau
2004*") means the Suspension of Day Care
Providers and Child Minders (Wales) Regulations
2004(3);

"the Exceptions Order 2010" ("*Gorchymyn
Eithriadau*") means the Child Minding and Day
Care Exceptions (Wales) Order 2010;

"the Disqualification Regulations 2010"
("*Rheoliadau Anghymhwysu 2010*") means the
Disqualification from Caring for Children (Wales)
Regulations 2010(4);

"the relevant date" ("*y dyddiad perthnasol*") means
1 April 2011;

"transfer" ("*trosglwyddo*") in relation to
registration refers to the process for which
provision is made in paragraph 2(2) and
"transferred" ("*trosglwyddwyd*") is to be construed
accordingly.

Registration of Child Minders and Day Care Providers under Part XA of and Schedule 9A to the 1989 Act on 1 April 2011

2.—(1) This paragraph applies in respect of a person
who immediately before the relevant date—

-
- (1) S.I. 2002/812 (W.92).
(2) S.I. 2010/2574 (W.214).
(3) S.I. 2004/3282 (W.285).
(4) S.I. 2010/1703 (W.163).

- (a) wedi ei gofrestru fel gwarchodwr plant gan Weinidogion Cymru o dan adran 79(F)(1) o Ddeddf 1989 (*caniatáu neu wrthod cofrestriad*); neu
- (b) wedi ei gofrestru fel darparrydd gofal dydd i blant gan Weinidogion Cymru o dan adran 79(F)(2) o Ddeddf 1989.

(2) Yn effeithiol o'r dyddiad perthnasol ymlaen, at ddibenion Rhan 2 o'r Mesur, trinnir person y cyfeirir ato yn is-baragraff (1) fel pe bai wedi gwneud cais am gofrestriad, a chofrestriad wedi ei ganiatáu iddo.

(3) Pan fo cofrestriad person wedi ei drosglwyddo yn unol ag is-baragraff (2), bydd unrhyw amod a osodwyd ar y person hwnnw o dan adran 79F(3) (*caniatáu neu wrthod cofrestriad*) neu 79M(2) (*apelau*) o Ddeddf 1989 ac a oedd yn gymwys i gofrestriad y person yn union cyn y dyddiad perthnasol, yn parhau i gael effaith fel pe bai'n amod a osodwyd o dan adran 29 (*amodau wrth cofrestru*) neu adran 37 (*apelau*) o'r Mesur.

(4) Yn ddarostyngedig i baragraff 14, mae'r paragraff yn gymwys hyd yn oed pan fo cofrestriad y person, yn union cyn y dyddiad perthnasol, wedi ei atal dros dro gan Weinidogion Cymru yn unol â rheoliad 3 o Reoliadau 2004.

(5) Nid yw is-baragraff (2) yn gymwys mewn perthynas â pherson a oedd, cyn y dyddiad perthnasol, wedi cyfleu i Weinidogion Cymru ei ddymuniad i beidio â bod yn gofrestredig fel gwarchodwr plant o dan adran 24 neu, yn ôl fel y digwydd, fel darparrydd gofal dydd i blant o dan adran 26 o'r Mesur.

(6) Nid yw is-baragraff (2) yn gymwys mewn perthynas â pherson a oedd, yn union cyn y dyddiad perthnasol, wedi ei gofrestru fel gwarchodwr plant o dan adran 79F(1) neu, yn ôl fel y digwydd, fel darparrydd gofal dydd o dan adran 79F(2) o Ddeddf 1989 ac, ar y dyddiad perthnasol ac yn unol â dyfodiad i rym Gorchymyn Eithriadau 2010, nad yw bellach yn gymwys i gofrestru fel gwarchodwr plant o dan adran 24 neu, yn ôl fel y digwydd, fel darparrydd gofal dydd i blant o dan adran 26 o'r Mesur.

Tystysgrifau cofrestru

3.–(1) Mae'r paragraff hwn yn gymwys mewn perthynas ag unrhyw berson y trosglwyddir ei gofrestriad yn unol â pharagraff 2(2).

(2) Nid yw'r trosglwyddiad yn gyfystyr â rhoi cofrestriad adran 28(1)(b) neu (2)(b) o'r Mesur (*cofnodi ar y gofrestr a thystysgrifau*).

(3) Bydd tystysgrif a ddyroddwyd gan Weinidogion Cymru i'r person hwnnw mewn perthynas â'r cofrestriad gwreiddiol o dan adran 79F o Ddeddf 1989, ac a oedd yn gyfredol yn union cyn y dyddiad perthnasol, yn cael effaith at bob diben, yn

- (a) is registered as a child minder by the Welsh Ministers under section 79(F)(1) of the 1989 Act (*grant or refusal of registration*); or
- (b) is registered as a provider of day care for children by the Welsh Ministers under section 79(F)(2) of the 1989 Act.

(2) With effect from the relevant date, a person referred to in sub-paragraph (1) will, for the purposes of Part 2 of the Measure, be treated as having applied for and having been granted registration.

(3) Where a person's registration is transferred pursuant to sub-paragraph (2), any condition, which was imposed upon that person under section 79F(3) (*grant or refusal of registration*) or 79M(2) (*appeals*) of the 1989 Act and which applied to a person's registration immediately before the relevant date, continues to have effect as if it were a condition imposed under section 29 (*conditions on registration*) or section 37 (*appeals*) of the Measure.

(4) Subject to paragraph 14, this paragraph applies even when immediately before the relevant date the person's registration is suspended by the Welsh Ministers in accordance with regulation 3 of the Suspension Regulations 2004.

(5) Sub-paragraph (2) does not apply in respect of a person who, before the relevant date, has communicated to the Welsh Ministers the wish not to be registered as a child minder under section 24 or, as the case may be, provider of day care for children under section 26 of the Measure.

(6) Sub-paragraph (2) does not apply in respect of a person who immediately before the relevant date was registered as child minder under section 79F(1) or, as the case may be, a provider of day care under section 79F(2) of the 1989 Act and who, on the relevant date and in accordance with the coming into force of the Exceptions Order 2010, is no longer eligible to register as child minder under section 24 or, as the case may be, a provider of day care for children under section 26 of the Measure.

Certificates of registration

3.–(1) This paragraph applies in relation to any person whose registration is transferred under paragraph 2(2).

(2) The transfer does not constitute a grant of registration for the purposes of section 28(1)(b) or (2)(b) of the Measure (*entry on the register and certificates*).

(3) A certificate issued by the Welsh Ministers to that person in relation to the original registration under section 79F of the 1989 Act which was current immediately before the relevant date will, subject to sub-paragraphs (4) and (5), have effect for all purposes

ddarostyngedig i is-baragraffau (4) a (5), fel pe bai wedi ei dyroddi ar y dyddiad perthnasol yn unol ag adran 28(1)(b) neu (2)(b) o'r Mesur.

(4) Nid yw adran 28(3) o'r Mesur yn cael effaith mewn perthynas â thystysgrif y cyfeirir ati yn is-baragraff (3).

(5) At ddibenion adran 28(4) o'r Mesur (sy'n darparu ar gyfer dyroddi tystysgrifau diwygiedig oherwydd newid yn yr amgylchiadau) a heb leihau dim ar ei heffaith fel arall, bydd achlysur yr arolygiad cyntaf ar ôl y dyddiad perthnasol gan arolygydd awdurdodedig—

- (a) gwarchod plant, neu
- (b) gofal dydd mewn unrhyw fangre,

a ddarperir gan berson y mae'r paragraff hwn yn gymwys iddo, yn gyfystyr â newid yn yr amgylchiadau at ddibenion yr adran honno mewn perthynas â'r cofrestriad dan sylw.

Personau nad ydynt yn gymwys i gofrestru o dan Ran XA o Ddeddf 1989 ac Atodlen 9A i'r Ddeddf honno cyn 1 Ebrill 2011

4.—(1) Mae'r is-baragraff hwn yn gymwys i unrhyw berson ("gwarchodwr plant anghofrestredig") sydd, cyn y dyddiad perthnasol—

- (a) yn anghymwys i gofrestru fel gwarchodwr plant o dan Ran XA o Ddeddf 1989 ac Atodlen 9A i'r Ddeddf honno ond y mae'n ofynnol iddo gofrestru o dan Ran 2 o'r Mesur;
- (b) yn gofalu am blant sydd o dan wyth mlwydd oed am dâl, mewn mangre ddomestig; ac
- (c) yn gwneud cais yn briodol cyn 1 Gorffennaf 2011 o dan adran 24 o'r Mesur am gofrestrriad fel gwarchodwr plant.

(2) Nid yw'r darpariaethau o dan adran 21(1), (2), (5) a (6) o'r Mesur yn gymwys i warchodwr plant anghofrestredig o dan is-baragraff (1) mewn perthynas â'i fangre—

- (a) hyd nes caniateir y cais, naill ai'n ddiamod neu'n ddarostyngedig yn unig i amodau sydd wedi eu cytuno mewn ysgrifen gyda Gweinidogion Cymru; neu
- (b) os caniateir y cais yn ddarostyngedig i amodau nad ydynt wedi eu cytuno felly, neu os gwrthodir y cais—
 - (i) os na ddygir apêl, hyd nes daw'r cyfnod o 28 diwrnod i ben ar ôl cyflwyno'r hysbysiad i'r gwarchodwr anghofrestredig o'r penderfyniad gan Weinidogion Cymru; neu
 - (ii) os dygir apêl, hyd nes penderfynir neu y rhoddir y gorau i'r apêl.

(3) Mae'r is-baragraff hwn yn gymwys i unrhyw berson ("darparydd anghofrestredig gofal dydd i blant") sydd, cyn y dyddiad perthnasol —

as if it was issued on the relevant date pursuant to section 28(1)(b) or (2)(b) of the Measure.

(4) Section 28(3) of the Measure does not have effect in relation to a certificate to which sub-paragraph (3) refers.

(5) For the purposes of section 28(4) of the Measure (which provides for the issue of amended certificates due to a change of circumstances) and without prejudice to its effect otherwise, the occasion of the first inspection following the relevant date by an authorised inspector of—

- (a) child minding, or
- (b) day care on any premises

provided by a person to whom this paragraph applies will be taken to constitute a change of circumstances for the purposes of that section in relation to the registration concerned.

Persons not eligible for registration under Part XA of and Schedule 9A to the 1989 Act before 1 April 2011

4.—(1) This sub-paragraph applies to any person ("an unregistered child minder") who before the relevant date—

- (a) is not eligible to register as a child minder under Part XA of and Schedule 9A to the 1989 Act but is required to register under Part 2 of the Measure;
- (b) looks after children under the age of eight on domestic premises for reward; and
- (c) duly makes an application before 1 July 2011 under section 24 of the Measure for registration as a child minder.

(2) The provisions under section 21(1), (2), (5) and (6) of the Measure do not apply to an unregistered child minder under sub-paragraph (1)—

- (a) until such time as the application is granted, either unconditionally or subject only to conditions which have been agreed in writing with the Welsh Ministers; or
- (b) if the application is granted subject to conditions which have not been so agreed, or refused—
 - (i) if no appeal is brought, until the expiration of the period of 28 days after service upon the unregistered provider of the decision of the Welsh Ministers; or
 - (ii) if an appeal is brought, until it is determined or abandoned.

(3) This sub-paragraph applies to any person ("an unregistered provider of day care for children") who before the relevant date—

- (a) yn anghymwys i gofrestru fel darparwr gofal dydd i blant o dan Ran XA o Ddeddf 1989 ac Atodlen 9A i'r Ddeddf honno;
- (b) yn gofalu am blant sydd o dan wyth mlwydd oed am dâl, mewn mangre ac eithrio mangre ddomestig; ac
- (c) yn gwneud cais yn briodol cyn 1 Gorffennaf o dan adran 26 o'r Mesur am gofrestrriad fel darparwr gofal dydd i blant.

(4) Nid yw'r darpariaethau o dan adran 23(1) a (2) o'r Mesur yn gymwys i ddarparwr gofal dydd i blant anghofrestredig o dan is-baragraff (3) mewn perthynas â'i fangre –

- (a) hyd nes caniateir y cais, naill ai'n ddiamed neu'n ddarostyngedig yn unig i amodau sydd wedi eu cytuno mewn ysgrifen gyda Gweinidogion Cymru; neu
- (b) os caniateir y cais yn ddarostyngedig i amodau nad ydynt wedi eu cytuno felly, neu os gwrthodir y cais–
 - (i) os na ddygir apêl, hyd nes daw'r cyfnod o 28 diwrnod i ben ar ôl cyflwyno'r hysbysiad i'r darparwr anghofrestredig o'r penderfyniad gan Weinidogion Cymru; neu
 - (ii) os dygir apêl, hyd nes penderfynir neu y rhoddir y gorau i'r apêl.

Ceisiadau am gofrestrriad o dan Ran XA o Ddeddf 1989 ac Atodlen 9A i'r Ddeddf honno: ceisiadau nas penderfynwyd

5.–(1) Pan fo person wedi gwneud cais am gofrestrriad fel gwarchodwr plant o dan adran 79E o Ddeddf 1989 (*ceisiadau i gofrestru*), a Gweinidogion Cymru, yn union cyn y dyddiad perthnasol, heb ganiatáu neu wedi gwrthod cais y person hwnnw, rhaid penderfynu'r cais fel pe bai wedi ei wneud o dan adran 24 o'r Mesur (*ceisiadau i gofrestru: gwarchod plant*).

(2) Pan fo person wedi gwneud cais am gofrestrriad fel darparwr gofal dydd o dan adran 79E o Ddeddf 1989 (*ceisiadau i gofrestru*), a Gweinidogion Cymru, yn union cyn y dyddiad perthnasol, heb ganiatáu neu wedi gwrthod cais y person hwnnw, rhaid penderfynu'r cais fel pe bai wedi ei wneud o dan adran 26 o'r Mesur (*ceisiadau i gofrestru: gofal dydd i blant*).

(3) Pan fo'r paragraff hwn yn gymwys, ni chaiff Gweinidogion Cymru gofrestru'r person hwnnw ac eithrio pan fyddai wedi bod yn ofynnol i Weinidogion Cymru ganiatáu'r cais, pe bai'r cais wedi ei wneud o dan adran 24 neu, yn ôl fel y digwydd, adran 26 o'r Mesur.

- (a) is not eligible to register as provider of day care under Part XA of and Schedule 9A to the 1989 Act;
- (b) looks after children under the age of eight on premises other than domestic premises for reward; and
- (c) duly makes an application before 1 July 2011 under section 26 of the Measure for registration as a provider of day care for children.

(4) The provisions under section 23 (1) and (2) of the Measure do not apply to an unregistered provider of day care for children under sub-paragraph (3) in respect of their premises–

- (a) until such time as the application is granted, either unconditionally or subject only to conditions which have been agreed in writing with the Welsh Ministers; or
- (b) if the application is granted subject to conditions which have not been so agreed, or refused–
 - (i) if no appeal is brought, until the expiration of the period of 28 days after service upon the unregistered provider of the decision of the Welsh Ministers; or
 - (ii) if an appeal is brought, until it is determined or abandoned.

Applications for registration under Part XA of and Schedule 9A to the 1989 Act: undetermined applications

5.–(1) Where a person has applied for registration as a child minder under section 79E of the 1989 Act (*applications for registration*) and, immediately before the relevant date, the Welsh Ministers have not granted or refused the person's application, the application is to be determined as if it had been made under section 24 of the Measure (*applications for registration: child minding*).

(2) Where a person has applied for registration as a provider of day care under section 79E of the 1989 Act and, immediately before the relevant date, the Welsh Ministers have not granted or refused the person's application, the application is to be determined as if it had been made under section 26 of the Measure (*applications for registration: day care for children*).

(3) Where this paragraph applies, the Welsh Ministers may only register that person if, had the application been made under Part 2 of the Measure, the Welsh Ministers would have been required by section 24 or, as the case may be, section 26 of the Measure, to grant the application.

Hysbysiad o fwriad i wrthod cais i gofrestru o dan adran 79L(1)(a) o Ddeddf 1989

6.–(1) Mae'r paragraff hwn yn gymwys pan fo Gweinidogion Cymru, cyn y dyddiad perthnasol, wedi anfon hysbysiad at berson o'u bwriad i wrthod cais i gofrestru o dan adran 79(L)(1)(a) o Ddeddf 1989 (*hysbysiad o fwriad i gymryd camau*).

(2) Bydd yr hysbysiad yn cael ei drin, ar ac ar ôl y dyddiad perthnasol, fel hysbysiad a roddwyd o dan adran 36(3) o'r Mesur (*gweithdrefnau ar gyfer cymryd camau penodol*).

(3) Bydd y person sydd, cyn y dyddiad perthnasol, wedi rhoi gwybod i Weinidogion Cymru, yn unol ag adran 79L(3) o Ddeddf 1989, am ei ddymuniad i wrthwynebu cymryd y cam hwnnw, yn cael ei drin fel pe bai wedi rhoi hysbysiad o dan adran 36(6) o'r Mesur.

(4) Bydd gwrthwynebiad, a wnaed o dan adran 79L(3) o Ddeddf 1989 cyn y dyddiad perthnasol yn erbyn cymryd cam, yn cael ei drin ar neu ar ôl y dyddiad hwnnw fel pe bai wedi ei wneud yn unol ag adran 36(6) o'r Mesur.

(5) Bydd hysbysiad, a anfonwyd at y person yn unol ag adran 79L(5) o Ddeddf 1989 cyn y dyddiad perthnasol, yn cael ei drin ar neu ar ôl y dyddiad hwnnw fel pe bai'n hysbysiad a roddwyd yn unol ag adran 36(8) o'r Mesur.

(6) Pan fo'r paragraff hwn yn gymwys, bydd hysbysiad yn parhau i gael effaith i'r graddau hynny, yn unig, ag y câi effaith pe bai wedi ei roi o dan adran 36 o'r Mesur.

Hysbysiad o fwriad i gymryd camau o dan adran 79L(1)(b) i (d) o Ddeddf 1989

7.–(1) Mae'r paragraff hwn yn gymwys–

- (a) pan drosglwyddir cofrestrriad person yn unol â pharagraff 2(2);
- (b) pan fo Gweinidogion Cymru, cyn y dyddiad perthnasol, wedi anfon hysbysiad at y person o'u bwriad i gymryd un o'r camau a grybwyllir yn adran 79L(1)(b) i (d) o Ddeddf 1989; ac
- (c) y cam hwnnw heb gael effaith.

(2) Bydd hysbysiad a anfonwyd at y person o dan adran 79L(1) yn cael ei drin, ar ac ar ôl y dyddiad perthnasol, fel pe bai'n hysbysiad a roddwyd o dan adran 36(3) o'r Mesur.

(3) Bydd person sydd, cyn y dyddiad perthnasol, wedi rhoi gwybod i Weinidogion Cymru, yn unol ag adran 79L(3) o Ddeddf 1989, am ei ddymuniad i wrthwynebu cymryd y cam hwnnw, yn cael ei drin fel pe bai'r person hwnnw wedi rhoi hysbysiad o dan adran 36(6) o'r Mesur.

Notice of intention to refuse an application for registration under section 79L(1)(a) of the 1989 Act

6.–(1) This paragraph applies where the Welsh Ministers have, before the relevant date, sent a notice to a person of intention to refuse an application for registration under section 79(L)(1)(a) of the 1989 Act (*notice of intention to take steps*).

(2) The notice will, on and after the relevant date, be treated as a notice given under section 36(3) of the Measure (*procedure for taking certain steps*).

(3) A person who has, before the relevant date, informed the Welsh Ministers, in accordance with section 79L(3) of the 1989 Act, of the desire to object to the step being taken, will be treated as having given notice under section 36(6) of the Measure.

(4) An objection made before the relevant date under section 79L(3) of the 1989 Act to a step being taken will be treated on or after that date as having been made in pursuance of section 36(6) of the Measure.

(5) A notice sent to the person in accordance with section 79L(5) of the 1989 Act before the relevant date will be treated on and after that date as being a notice given under section 36(8) of the Measure.

(6) Where this paragraph applies, a notice continues to have effect only to the extent that it could have had effect had it been given under section 36 of the Measure.

Notice of intention to take steps under section 79L(1)(b) to (d) of the 1989 Act

7.–(1) This paragraph applies where–

- (a) a person's registration is transferred in accordance with paragraph 2(2);
- (b) the Welsh Ministers have, before the relevant date, sent a notice to the person of intention to take one of the steps mentioned in section 79L(1)(b) to (d) of the 1989 Act; and
- (c) that step has not taken effect.

(2) The notice sent to the person under section 79L(1) will, on and after the relevant date, be treated as being notice given under section 36(3) of the Measure.

(3) A person who has, before the relevant date, informed the Welsh Ministers of the desire to object to the step being taken under section 79L(3) of the 1989 Act, will be treated as having given notice under section 36(6) of the Measure.

(4) Bydd gwrthwynebiad, a wnaed o dan adran 79L(3) o Ddeddf 1989 cyn y dyddiad perthnasol yn erbyn cymryd cam, yn cael ei drin ar neu ar ôl y dyddiad hwnnw fel pe bai wedi ei wneud yn unol ag adran 36(6) o'r Mesur.

(5) Bydd hysbysiad, a anfonwyd gan Weinidogion Cymru at y person yn unol ag adran 79L(5) o Ddeddf 1989 cyn y dyddiad perthnasol, yn cael ei drin ar neu ar ôl y dyddiad hwnnw fel pe bai'n hysbysiad a roddwyd yn unol ag adran 36(8) o'r Mesur.

(6) Pan fo'r paragraff hwn yn gymwys, bydd hysbysiad yn parhau i gael effaith i'r graddau hynny, yn unig, ag y câi effaith pe bai wedi ei roi o dan adran 36 o'r Mesur.

Apelau yn erbyn camau a grybwyllir yn adran 79L(1) o Ddeddf 1989

8.–(1) Mae'r paragraff hwn yn gymwys pan fo apêl wedi ei gwneud, cyn y dyddiad perthnasol, i'r Tribiwnlys Haen Gyntaf o dan adran 79M(1) o Ddeddf 1989 (*apelau*), yn erbyn cam a gymerwyd gan Weinidogion Cymru ac a grybwyllir yn adran 79L(1), ac nad yw'r Tribiwnlys wedi cyrraedd penderfyniad o dan adran 79M(2) mewn perthynas â'r apêl.

(2) Bydd yr apêl, ar ac ar ôl y dyddiad perthnasol, yn cael ei drin fel pe bai'n apêl o dan adran 37 o'r Mesur (*apelau*).

(3) Pan fo'r paragraff hwn yn gymwys, rhaid penderfynu'r apêl fel pe bai'r cam y gwnaed yr apêl mewn perthynas ag ef wedi ei gymryd o dan y Mesur.

Apelau: amddiffyn plant mewn argyfwng

9.–(1) Mae'r paragraff hwn yn gymwys pan fo apêl wedi ei gwneud, cyn y dyddiad perthnasol, i'r Tribiwnlys Haen Gyntaf o dan adran 79M(1) o Ddeddf 1989, yn erbyn gorchymyn o dan adran 79K o Ddeddf 1989 (*amddiffyn plant mewn argyfwng*), ac nad yw'r Tribiwnlys wedi cyrraedd penderfyniad o dan adran 79M(2) mewn perthynas â'r apêl.

(2) Rhaid trin yr apêl, ar ac ar ôl y dyddiad perthnasol, fel pe bai'n apêl o dan adran 37 o'r Mesur.

Apelau: anghymhwys

10.–(1) Mae'r paragraff hwn yn gymwys pan fo apêl wedi ei gwneud, cyn y dyddiad perthnasol, i'r Tribiwnlys Haen Gyntaf o dan adran 79M(1) o Ddeddf 1989, yn erbyn penderfyniad gan Weinidogion Cymru o dan reoliad 9 o Reoliadau Anghymhwys 2010, ac nad yw'r Tribiwnlys wedi cyrraedd penderfyniad o dan adran 79M(2) mewn perthynas â'r apêl.

(2) Yn ddarostyngedig i erthygl 3, bydd yr apêl, ar ac ar ôl y dyddiad perthnasol, yn cael ei drin fel pe bai'n apêl a wnaed yn unol â Rheoliadau Anghymhwys

(4) An objection made before the relevant date under section 79L(3) of the 1989 Act to a step being taken will be treated on and after that date as having been made in pursuance to section 36(6) of the Measure.

(5) A notice sent to a person by the Welsh Ministers in accordance with section 79L(5) of the 1989 Act before the relevant date will be treated on and after that date as being notice given under section 36(8) of the Measure.

(6) Where this paragraph applies, a notice continues to have effect only to the extent that it could have effect had it been given under section 36 of the Measure.

Appeals against steps mentioned in section 79L(1) of the 1989 Act

8.–(1) This paragraph applies where, before the relevant date, an appeal has been made to the First-tier Tribunal under section 79M(1) of the 1989 Act (*appeals*) against a step taken by the Welsh Ministers mentioned in section 79L(1), in respect of which the Tribunal has not reached a decision under section 79M(2).

(2) The appeal will be treated, on and after the relevant date, as being an appeal under section 37 of the Measure (*appeals*).

(3) Where this paragraph applies, an appeal falls to be decided as if the step in respect of which the appeal is brought had been taken under the Measure.

Appeals: protection of children in an emergency

9.–(1) This paragraph applies where, before the relevant date, an appeal has been made to the First-Tier Tribunal under section 79M(1) of the 1989 Act against an order under section 79K of the 1989 Act (*protection of children in an emergency*), in respect of which the Tribunal has not reached a decision under section 79M(2).

(2) The appeal will be treated, on and after the relevant date, as being an appeal under section 37 of the Measure.

Appeals: disqualification

10.–(1) This paragraph applies where, before the relevant date, an appeal has been made to the First-Tier Tribunal under section 79M(1) of the 1989 Act against a determination by the Welsh Ministers under regulation 9 of the Disqualification Regulations 2010, in respect of which the Tribunal has not reached a decision under section 79M(2).

(2) Subject to article 3, the appeal will be treated, on and after the relevant date, as being an appeal made in accordance with the Disqualification Regulations 2010

2010 a bydd yn cael ei benderfynu yn unol ag adran 79M o Ddeddf 1989.

Hysbysiad o dan adran 79D o Ddeddf 1989

11. Pan fo Gweinidogion Cymru, cyn y dyddiad perthnasol, wedi cyflwyno hysbysiad gorfodi o dan adran 79D(2) o Ddeddf 1989, bydd yr hysbysiad yn parhau i gael effaith ar ac ar ôl y dyddiad perthnasol fel pe bai wedi ei gyflwyno o dan adran 21(3) o'r Mesur (*dyletswydd gwarchodwyr plant i gofrestru*).

Hysbysiadau cydymffurfio o dan Reoliadau 2002

12. Pan fo Gweinidogion Cymru, cyn y dyddiad perthnasol, wedi dyroddi hysbysiad cydymffurfio yn unol â rheoliad 3C o Reoliadau 2002 (*hysbysiad cydymffurfio*), bydd yr hysbysiad hwnnw, ar neu ar ôl y dyddiad perthnasol, yn cael ei drin fel pe bai wedi ei roi o dan reoliad 18 o Reoliadau 2010.

Safonau Gofynnol Cenedlaethol

13. Wrth arfer swyddogaethau o dan Ran 2 o'r Mesur, caiff Gweinidogion Cymru roi sylw i'r canlynol—

- (a) unrhyw beth a wneir, neu'r honnir iddo gael ei wneud, gan berson a gofrestrwyd o dan Ran XA o Ddeddf 1989 ac Atodlen 9A i'r Ddeddf honno i gydymffurfio â'r ddyletswydd a osodir gan reoliad 23 o Reoliadau 2002 (*safonau*);
- (b) unrhyw fethiant, neu fethiant honedig, gan berson a gofrestrwyd o dan Ran XA o Ddeddf 1989 ac Atodlen 9A i'r Ddeddf honno i gydymffurfio â'r ddyletswydd a osodir gan reoliad 24 o Reoliadau 2002.

Atal

14.—(1) Mae'r paragraff hwn yn gymwys pan fo cofrestrriad person, yn union cyn y dyddiad perthnasol, wedi ei atal gan Weinidogion Cymru o dan reoliad 3 o reoliadau Atal 2004 (*pŵer i atal cofrestrriad*).

(2) Bydd cofrestrriad y person, ar ac ar ôl y dyddiad perthnasol, yn cael ei drin fel pe bai wedi ei atal gan Weinidogion Cymru o dan reoliad 40 o Reoliadau 2010 (*pŵer i atal cofrestrriad*).

(3) Pan fo person wedi apelio i'r Tribiwnlys o dan reoliad 8 o Reoliadau Atal 2004 (*hawliau i apelio*) ac nad yw'r Tribiwnlys Haen Gyntaf wedi cyrraedd penderfyniad, bydd yr apêl, ar ac ar ôl y dyddiad perthnasol, yn cael ei drin fel pe bai wedi ei gwneud o dan reoliad 45 o Reoliadau 2010 (*hawliau i apelio*).

and will be determined in accordance with section 79M of the 1989 Act.

Notice under section 79D of the 1989 Act

11. Where before the relevant date, the Welsh Ministers have served an enforcement notice under section 79D(2) of the 1989 Act, the notice continues to have effect on and after the relevant date as if it had been served under section 21(3) of the Measure (*duty of child minders to register*).

Compliance notices under the 2002 Regulations

12. Where before the relevant date, the Welsh Ministers have issued a compliance notice in accordance with regulation 3C of the 2002 Regulations (*compliance notification*), on or after the relevant date that notice will be treated as having been given under regulation 18 of the 2010 Regulations.

National Minimum Standards

13. In exercising functions under Part 2 of the Measure, the Welsh Ministers may have regard to—

- (a) anything done, or alleged to have been done, by a person registered under Part XA of and Schedule 9A to the 1989 Act to comply with the duty imposed by regulation 23 of the 2002 Regulations (*standards*);
- (b) any failure, or alleged failure, by a person registered under Part XA of and Schedule 9A to the 1989 Act to comply with the duty imposed by regulation 24 of the 2002 Regulations.

Suspension

14.—(1) This paragraph applies where immediately before the relevant date a person's registration is suspended by the Welsh Ministers under regulation 3 of the Suspension Regulations 2004 (*power to suspend registration*).

(2) The person's registration will, on and after the relevant date, be treated as suspended by the Welsh Ministers under regulation 40 of the 2010 Regulations (*power to suspend registration*).

(3) Where a person has appealed to the Tribunal under regulation 8 of the Suspension Regulations 2004 (*rights of appeal*) and the First-Tier Tribunal has not reached a decision, the appeal will, on and after the relevant date, be treated as having been made under regulation 45 of the 2010 Regulations (*rights of appeal*).

Anghymhwysio: hepgoriadau

15.–(1) Pan fo Gweinidogion Cymru, cyn y dyddiad perthnasol, wedi rhoi caniatâd i hepgor anghymhwysiad o dan reoliad 9 o Reoliadau Anghymhwysio 2010 (a heb dynnu'r caniatâd hwnnw yn ôl), bydd y caniatâd hwnnw'n parhau i gael effaith ar ac ar ôl y dyddiad perthnasol.

(2) Pan fo person, cyn y dyddiad perthnasol, wedi gwneud cais i Weinidogion Cymru roi caniatâd i hepgor anghymhwysiad o dan reoliad 9 o Reoliadau Anghymhwysio 2010, a bod Gweinidogion Cymru, yn union cyn y dyddiad perthnasol, heb wneud penderfyniad mewn perthynas â'r cais hwnnw, rhaid i Weinidogion Cymru wneud y penderfyniad yn unol â rheoliad 9 o Reoliadau Anghymhwysio 2010.

(3) Bydd caniatâd a roddir gan awdurdod lleol, ac y cyfeirir ato yn rheoliad 9(3)(b) o Reoliadau Anghymhwysio 2010, yn parhau i gael effaith ar ac ar ôl y dyddiad perthnasol.

Amddiffyn plant mewn argyfwng: cais o dan adran 79K o Ddeddf 1989

16. Pan fo Gweinidogion Cymru wedi gwneud cais i ynad heddwch am orchymyn–

- (a) sy'n diddymu cofrestriad person o dan adran 79K(1)(a)(i) (amddiffyn plant mewn argyfwng) o Ddeddf 1989, ac ynad heddwch, yn union cyn y dyddiad perthnasol, heb wneud y gorchymyn hwnnw, rhaid trin y cais, ar ac ar ôl y dyddiad hwnnw, fel pe bai wedi ei wneud o dan adran 34 o'r Mesur (*amddiffyn plant mewn argyfwng: diddymu cofrestriad*);
- (b) sy'n gofyn am amrywio neu dynnu ymaith amod, neu osod amod newydd ar gofrestrriad person o dan, yn eu trefn, adran 79K(1)(a)(ii) neu (iii) o Ddeddf 1989 ac ynad heddwch, yn union cyn y dyddiad perthnasol, heb wneud y gorchymyn hwnnw, rhaid i Weinidogion Cymru dynnu'r cais yn ôl a gweithredu yn unol ag adran 35 o'r Mesur (*amddiffyn plant mewn argyfwng: newidiadau i amodau*).

Disqualification: waivers

15.–(1) Where before the relevant date the Welsh Ministers have given consent to waive a disqualification under regulation 9 of the Disqualification Regulations 2010 (and have not withdrawn that consent) that consent will continue to have effect on and after the relevant date.

(2) Where before the relevant date a person has requested that the Welsh Ministers give consent to waive a disqualification under regulation 9 of the Disqualification Regulations 2010, and immediately before the relevant date, the Welsh Ministers have not made a determination in respect of the request, the Welsh Ministers must make the determination in accordance with regulation 9 of the Disqualification Regulations 2010.

(3) A consent given by a local authority and referred to in regulation 9(3)(b) of the Disqualification Regulations 2010 continues to have effect on and after the relevant date.

Protection of children in an emergency: application under section 79K of the 1989 Act

16. Where the Welsh Ministers have applied to a justice of the peace for an order–

- (a) cancelling a person's registration under section 79K(1)(a)(i) (protection of children in an emergency) of the 1989 Act and, immediately before the relevant date, the justice of the peace has not made the order, the application will, on and after that date, be treated as having been made under section 34 of the Measure (*protection of children in an emergency: cancellation of registration*);
- (b) seeking to vary or remove any condition upon a person's registration, or to impose a new condition under section 79K(1)(a)(ii) or (iii) respectively of the 1989 Act and, immediately before the relevant date, the justice of the peace has not made the order, the Welsh Ministers will withdraw the application and take action in accordance with the provisions of section 35 of the Measure (*protection of children in an emergency: changes to conditions*).

OFFERYNNAU STATUDOL
CYMRU

2010 Rhif 2582 (Cy.216) (C.123)

**GOFAL CYMDEITHASOL,
CYMRU**

**PLANT A PHOBL IFANC,
CYMRU**

Gorchymyn Mesur Plant a
Theuluoedd (Cymru) 2010
(Cychwyn Rhif 2, Arbedion a
Darpariaethau Trosiannol) 2010

WELSH STATUTORY
INSTRUMENTS

2010 No. 2582 (W.216) (C.123)

**SOCIAL CARE,
WALES**

**CHILDREN AND YOUNG PERSONS,
WALES**

The Children and Families (Wales)
Measure 2010 (Commencement
No. 2, Savings and Transitional
Provisions) Order 2010