



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2013 Rhif 2535 (Cy. 250)

2013 No. 2535 (W. 250)

ADDYSG, CYMRU

EDUCATION, WALES

**Rheoliadau Addysg (Trefniadau
Apelau Derbyn) (Cymru)
(Diwygio) 2013**

**The Education (Admission Appeals
Arrangements) (Wales)
(Amendment) Regulations 2013**

NODYN ESBONIADOL

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

Mae'r Rheoliadau hyn wedi eu gwneud o dan adrannau 94, 95 a 138(7) ac (8) o Ddeddf Safonau a Fframwaith Ysgolion 1998 ("Deddf 1998"). Maent yn gymwys i'r holl apelau a wrandewir ar 1 Ionawr 2014 neu ar ôl hynny mewn cysylltiad â phenderfyniadau i dderbyn (neu i beidio â derbyn) disgyblion i ysgolion. Maent yn gwneud diwygiadau i Reoliadau Addysg (Trefniadau Apelau Derbyn) (Cymru) 2005 ("Rheoliadau 2005").

Mae rheoliad 2 yn rhoi rheoliad 6 newydd yn lle'r hen un yn Rheoliadau 2005. Mae'r rheoliad newydd yn darparu y caiff panelau apel ystyried a yw trefniadau derbyn yn anghyfreithlon am nad ydynt yn cydymffurfio â naill ai Deddf 1998, neu ddarpariaethau gorfodol unrhyw god derbyniadau ysgol (a ddyroddir o dan adran 84 o Ddeddf 1998). Pan fydd ysgol yn gwrthod rhoi lle i blentyn ar y sail y byddai derbyn y plentyn yn torri'r terfyn statudol ar faint dosbarth babanod oni bai bod camau perthnasol yn cael eu cymryd i osgoi'r toriad hwnnw, dim ond ar seiliau cyfyngedig penodol y caiff panelau gadarnhau'r apel. Mae'r rheoliad 6 newydd yn darparu y caiff panel gadarnhau'r fath apelau os yw'r panel wedi ei fodloni naill ai y byddai'r plentyn wedi cael cynnig lle petai'r trefniadau derbyn perthnasol wedi cael eu gweithredu'n gywir, neu pe baent wedi bod yn gyfreithlon, neu os yw'r panel wedi ei fodloni bod penderfyniad yr awdurdod derbyn yn afresymol.

Mae rheoliad 2 hefyd yn rhoi rheoliad 7 newydd yn lle'r hen un fel bod lwfansau y caniateir eu talu i aelodau panelau yn adlewyrchu'r cyfraddau sy'n gymwys i Gynghorwyr Cymunedol o dan Ran 8 o Fesur Llywodraeth Leol (Cymru) 2011.

These Regulations are made under sections 94, 95 and 138(7) and (8) of the School Standards and Framework Act 1998 ("the 1998 Act"). They apply to all appeals heard on or after 1 January 2014 in respect of decisions to admit (or not to admit) pupils to schools. They make amendments to the Education (Admission Appeals Arrangements) (Wales) Regulations 2005 ("the 2005 Regulations").

Regulation 2 substitutes a new regulation 6 in the 2005 Regulations. The new regulation provides that appeal panels may consider whether admission arrangements are unlawful because they do not comply with either the 1998 Act, or the mandatory provisions of any school admissions code (issued under section 84 of the 1998 Act). When a child is refused a place at school on the basis that to admit the child would breach the statutory limit on infant class size unless a relevant measure were taken to avoid that breach, panels may only uphold the appeal on certain limited grounds. The new regulation 6 provides that a panel may uphold such appeals if it is satisfied that either the child would have been offered a place if the relevant admission arrangements had been properly implemented, or if they had been lawful, or if the panel is satisfied that the decision of the admission authority was unreasonable.

Regulation 2 also substitutes a new regulation 7 so that allowances that may be paid to panel members reflect the rates applicable to Community Councillors under Part 8 of the Local Government (Wales) Measure 2011.

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Gwnaed 1 Hydref 2013

Made 1 October 2013

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru* 4 Hydref 2013

Laid before the National Assembly for Wales
4 October 2013

Yn dod i rym 1 Ionawr 2014

Coming into force 1 January 2014

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd i'r Ysgrifennydd Gwladol gan adrannau 94, 95 a 138(7) ac (8) o Ddeddf Safonau a Fframwaith Ysgolion 1998(1), ac a freiniwyd bellach ynddynt hwy(2), yn gwneud y Rheoliadau a ganlyn:

The Welsh Ministers in exercise of the powers conferred on the Secretary of State by sections 94, 95 and 138(7) and (8) of the School Standards and Framework Act 1998(1), and now vested in them(2), make the following Regulations:

Enwi, cychwyn a chymhwyso

Title, commencement and application

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Addysg (Trefniadau Apelau Derbyn) (Cymru) (Diwygio) 2013 a deuant i rym ar 1 Ionawr 2014.

1.—(1) The title of these Regulations is the Education (Admission Appeals Arrangements) (Wales) (Amendment) Regulations 2013 and they come into force on 1 January 2014.

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

(2) These Regulations apply in relation to Wales.

**Diwygio Rheoliadau Addysg (Trefniadau Apelau
Derbyn) (Cymru) 2005**

**Amendment of the Education (Admission Appeals
Arrangements) (Wales) Regulations 2005**

2.—(1) Mae Rheoliadau Addysg (Trefniadau Apelau Derbyn) (Cymru) 2005(3) wedi eu diwygio fel a ganlyn.

2.—(1) The Education (Admission Appeals Arrangements) (Wales) Regulations 2005(3) are amended as follows.

(2) Yn rheoliad 2(1)—

(2) In regulation 2(1)—

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- (1) 1998 p.31. Mewnosodwyd is-adran 5A yn adran 94 gan adran 50 o Ddeddf Addysg 2002 (p.32). Mewnosodwyd is-adran 3A yn adran 95 gan baragraff 9 o Atodlen 4 i Ddeddf Addysg 2002.
- (2) Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol o dan yr adrannau hyn i Gynulliad Cenedlaethol Cymru gan Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672) ac yna i Weinidogion Cymru gan baragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p.32).
- (3) O.S. 2005/1398 (Cy.112).

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- (1) 1998 c.31. Subsection 5A was inserted into section 94 by section 50 of the Education Act 2002 (c.32). Subsection 3A was inserted into section 95 by paragraph 9 of Schedule 4 to the Education Act 2002.
- (2) The functions of the Secretary of State under these sections were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and then to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32).
- (3) S.I. 2005/1398 (W.112).

- (a) dileer y diffiniad o “Deddf 1972”;
- (b) yn y man priodol yn nhrefn yr wyddor mewnosoder—
 “ystyr “Cod Derbyniadau Ysgol” (“*School Admissions Code*”) yw unrhyw god ar gyfer derbyniadau ysgol a ddyroddir o dan adran 84(1);”;
 “ystyr “Mesur 2011” (“*the 2011 Measure*”) yw Mesur Llywodraeth Leol (Cymru) 2011(2);”.

(3) Yn lle rheoliad 6 rhodder—

“Ystyriaethau perthnasol mewn apelau sy’n cael eu dwyn o dan adrannau 94 a 95 o Ddeddf 1998

6.—(1) Mewn perthynas ag apêl a wneir o dan y trefniadau y cyfeirir atynt yn rheoliad 3(a) i (ch), rhaid i’r materion i’w hystyried gan banel apêl wrth ystyried apêl gynnwys—

- (a) unrhyw hoff ddewis a fynegir gan yr apelydd; a
- (b) y trefniadau ar gyfer derbyn disgyblion a gyhoeddir gan yr awdurdod lleol neu’r corff llywodraethu yn unol â rheoliadau a wneir o dan adran 92.

(2) Y trefniadau derbyn y cyfeirir atynt ym mharagraff (1)(b) yw’r trefniadau a gyhoeddir pan fynegwyd unrhyw hoff ddewis gan yr apelydd.

(3) Caiff ystyriaeth o’r mater a grybwyllir ym mharagraff (1)(b) gynnwys ystyried a yw’r trefniadau hynny yn cydymffurfio ag unrhyw ofynion gorfodol—

- (i) Cod Derbyniadau Ysgol, neu
- (ii) Rhan 3 o Ddeddf 1998.

(4) Pan wnaed penderfyniad ar y sail y byddai rhagfarn o’r math y cyfeirir ati yn adran 86(3)(a) yn codi fel a grybwyllir yn is-adran (4) o’r adran honno, caiff panel apêl benderfynu bod lle i’w gynnig i blentyn dim ond os yw’r panel wedi ei fodloni bod un o’r amodau a grybwyllir ym mharagraff (5) yn gymwys.

(5) Yr amodau a grybwyllir yn y paragraff hwn yw—

- (a) delete the definition of “the 1972 Act”;
- (b) in the appropriate place in alphabetical order insert—
 ““the 2011 Measure” (“*Mesur 2011*”) means the Local Government (Wales) Measure 2011(1);”;
 ““School Admissions Code” (“*Cod Derbyniadau Ysgol*”) means any code for school admissions issued under section 84(2);”.

(3) For regulation 6 substitute—

“Relevant considerations in appeals brought under sections 94 and 95 of the 1998 Act

6.—(1) In relation to an appeal made under the arrangements referred to in regulation 3(a) to (d), the matters to be taken into account by an appeal panel, in considering an appeal, must include—

- (a) any preference expressed by the appellant; and
- (b) the arrangements for admission of pupils published by the local authority or the governing body in accordance with regulations made under section 92.

(2) The arrangements for admission referred to in paragraph (1)(b) are the arrangements published when any preference was expressed by the appellant.

(3) Consideration of the matter mentioned in paragraph (1)(b) may include consideration of whether those arrangements comply with any mandatory requirements of—

- (i) a School Admissions Code, or
- (ii) Part 3 of the 1998 Act.

(4) Where the decision was made on the ground that prejudice of the kind referred to in section 86(3)(a) would arise as mentioned in subsection (4) of that section, an appeal panel may determine that a place is to be offered to the child only if they are satisfied that one of the conditions mentioned in paragraph (5) applies.

(5) The conditions mentioned in this paragraph are—

(1) Diwygiwyd adran 84 gan adran 40 o Ddeddf Addysg ac Arolygiadau 2006 (p.40) a Rhan 6 o Atodlen 18 iddi.
 (2) 2011 mccc 4.

(1) 2011 nawm 4.
 (2) Section 84 was amended by section 40 of, and Part 6 of Schedule 18 to, the Education and Inspections Act 2006 (c.40).

- (a) y byddai'r plentyn wedi cael cynnig lle petai trefniadau derbyn yr ysgol wedi cydymffurfio â gofynion—

- (i) Cod Derbyniadau Ysgol, neu
(ii) Rhan 3 o Ddeddf 1998;

- (b) y byddai'r plentyn wedi cael cynnig lle petai trefniadau derbyn yr ysgol wedi eu gweithredu'n gywir; neu

- (c) nid oedd y penderfyniad yn un y byddai awdurdod derbyn rhesymol wedi ei wneud o dan amgylchiadau'r achos.

(6) Mewn perthynas ag apêl a wneir o dan drefniadau y cyfeirir atynt yn rheoliad 3(d), wrth ystyried apêl rhaid i banel apêl roi sylw i'r canlynol—

- (a) y rhesymau dros benderfyniad yr awdurdod lleol y dylai'r plentyn dan sylw gael ei dderbyn; a
(b) unrhyw resymau a gyflwynir gan y corff llywodraethu ynghylch pam y byddai derbyn y plentyn yn amhriodol.

(7) Yn y rheoliad hwn, ystyr “hoff ddewis” (“*preference*”) yw hoff ddewis a fynegir yn unol â threfniadau a wneir o dan adran 86(1) neu adran 86A(1)(1), mewn perthynas â blwyddyn ysgol 2013-2014, a'r blynyddoedd ysgol dilynol.”

(4) Yn lle rheoliad 7 rhodder y canlynol—

“Talu lwfansau

7.—(1) Mae'r rheoliad hwn yn gymwys i unrhyw aelod o banel apêl a gyfansoddir yn unol ag unrhyw un neu ragor o baragraffau Atodlen 1.

(2) Caiff yr awdurdod lleol perthnasol dalu i aelod y cyfeirir ato ym mharagraff (1) lwfansau ar gyfer—

- (a) colled ariannol;
(b) teithio; ac
(c) cynhaliaeth.

(3) Mae'r lwfansau y cyfeirir atynt ym mharagraff (2) i fod ar y cyfraddau mwyaf diweddar a nodir ar gyfer taliadau i aelodau cynghorau cymuned a thref mewn adroddiad (“yr adroddiad”) gan Banel Annibynnol Cymru

(1) Mewnosodwyd adran 86A yn Neddf Safonau a Fframwaith Ysgolion 1998 gan adran 150 o Ddeddf Addysg a Sgiliau 2008.

- (a) the child would have been offered a place if the schools admission arrangements had complied with the requirements of—

- (i) a School Admissions Code, or
(ii) Part 3 of the 1998 Act;

- (b) the child would have been offered a place if the school's admission arrangements had been properly implemented; or

- (c) the decision was not one which a reasonable admission authority would have made in the circumstances of the case.

(6) In relation to an appeal made under arrangements referred to in regulation 3(e) an appeal panel in considering an appeal must have regard to—

- (a) the reasons for the local authority's decision that the child in question should be admitted; and
(b) any reasons put forward by the governing body as to why the child's admission would be inappropriate.

(7) In this regulation, “*preference*” (“*hoff ddewis*”) means a preference expressed in accordance with arrangements made under section 86(1) or section 86A(1)(1), in relation to the school year 2013-2014, and subsequent schools years.”

(4) For regulation 7 substitute the following—

“Payment of allowances

7.—(1) This regulation applies to any member of an appeal panel constituted in accordance with any of the paragraphs of Schedule 1.

(2) The relevant local authority may pay to a member referred to in paragraph (1) allowances for—

- (a) financial loss;
(b) travel; and
(c) subsistence.

(3) The allowances referred to in paragraph (2) are to be at the most recent rates set out for payments to members of a community and town council in a report (“the report”) by the

(1) Section 86A was inserted into the School Standards and Framework Act 1998 by section 150 of the Education and Skills Act 2008.

ar Gydnabyddiaeth Ariannol⁽¹⁾ a ddyroddir o dan Ran 8 o Fesur 2011 (aelodau: taliadau a phensiynau).

(4) Mae unrhyw gyfeiriad yn yr adroddiad at ddyletswydd a gymeradwywyd i'w ddarllen fel ei fod yn cynnwys cyfeiriad at fod yn bresennol mewn cyfarfod o banel apêl.”

Independent Remuneration Panel for Wales⁽¹⁾ issued under Part 8 of the 2011 Measure (members: payments and pensions).

(4) Any reference in the report to an approved duty is to be read as including a reference to attendance at a meeting of an appeal panel.”

Huw Lewis

Y Gweinidog Addysg a Sgiliau, un o Weinidogion Cymru
1 Hydref 2013

Minister for Education and Skills, one of the Welsh Ministers
1 October 2013

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(1) Gwneir darpariaeth ar gyfer Panel Annibynnol Cymru ar Gydnabyddiaeth Ariannol yn adran 141 o Fesur Llywodraeth Leol (Cymru) 2011.

(1) Provision for the Independent Remuneration Panel for Wales is made in section 141 of the Local Government (Wales) Measure 2011.

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