



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2015 Rhif 1500 (Cy. 172)

2015 No. 1500 (W. 172)

**GOFAL CYMDEITHASOL,
CYMRU**

SOCIAL CARE, WALES

Rheoliadau Deddf Gwasanaethau
Cymdeithasol a Llesiant (Cymru)
2014 (Mentrau Cymdeithasol,
Cydweithredol a Thrydydd Sector)
(Cymru) 2015

The Social Services and Well-being
(Wales) Act 2014 (Social
Enterprise, Co-operative and Third
Sector) (Wales) Regulations 2015

NODYN ESBONIADOL

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

Mae adran 16(1) o Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 (“y Ddeddf”) yn gosod dyletswydd ar awdurdodau lleol i hyrwyddo mentrau cymdeithasol, sefydliadau cydweithredol, trefniadau cydweithredol a sefydliadau trydydd sector i ddarparu gofal a chymorth a gwasanaethau ataliol yn eu hardal. Mae adran 16(2) yn diffinio “menter gymdeithasol” a “sefydliad trydydd sector”. Mae’r diffiniad o “menter gymdeithasol” yn cynnwys gofyniad bod ei gweithgareddau yn gyfan gwbl neu’n bennaf yn rhai y gallai person farnu’n rhesymol eu bod yn weithgareddau a gyflawnir er budd y gymdeithas. Mae “sefydliad trydydd sector” wedi ei ddiffinio fel sefydliad y gallai person farnu’n rhesymol ei fod yn sefydliad sy’n bodoli’n gyfan gwbl neu’n bennaf i ddarparu buddion i’r gymdeithas. Mae’r cyfeiriad at “y gymdeithas” yn y ddau ddiffiniad wedi ei ddiffinio fel un sy’n cynnwys adran o’r gymdeithas.

Mae’r Rheoliadau hyn yn darparu mwy o fanylion am y mathau o sefydliadau neu drefniadau sydd i’w trin neu ddim i’w trin fel mentrau cymdeithasol, sefydliadau neu drefniadau cydweithredol a’r hyn y caniateir ei ystyried yn adran o’r gymdeithas. Mae’r Rheoliadau hyn yn gwneud darpariaeth ynglŷn â’r hyn sy’n gyfystyr â gweithgaredd y gallai person farnu’n rhesymol ei fod yn weithgaredd a gyflawnir er budd y gymdeithas. Mae’r Rheoliadau yn gwneud darpariaeth hefyd ar gyfer yr hyn a gaiff fod yn gyfystyr ag adran o’r gymdeithas at ddibenion y diffiniad o “menter gymdeithasol” a “sefydliad trydydd sector”.

Section 16(1) of the Social Services and Well-being (Wales) Act 2014 (“the Act”) imposes a duty on local authorities to promote social enterprises, co-operative organisations, co-operative arrangements and third sector organisations to provide care and support and preventative services in their area. Section 16(2) defines “social enterprise” and “third sector organisation”. The definition of “social enterprise” includes a requirement that its activities are wholly or mainly activities which a person might reasonably consider to be activities carried on for the benefit of society. “Third sector organisation” is defined as an organisation which a person might reasonably consider to exist wholly or mainly to provide benefits for society. The reference to “society” in both definitions is defined as including a section of society.

These Regulations provide further detail about the sorts of organisations or arrangements which are or are not to be treated as social enterprises, co-operative organisations or arrangements and what may be considered to be a section of society. These Regulations make provision as to what constitutes activity which a person might reasonably consider to be carried on for the benefit of society. The Regulations also make provision for what may constitute a section of society for the purpose of the definition of a “social enterprise” and a “third sector organisation”.

Mae rheoliadau 3, 4, 5 a 6 yn gwneud darpariaeth ynglŷn â'r hyn a drinnir fel gweithgaredd y gallai person farnu'n rhesymol ei fod yn weithgaredd a gyflawnir er budd y gymdeithas.

Mae rheoliad 7 yn rhestru enghreifftiau o sefydliadau y caniateir eu trin fel menter gymdeithasol. Mae rheoliad 8 yn darparu y caiff sefydliad gael ei drin fel menter gydweithredol, p'un a yw wedi ei gofrestru o dan Ddeddf Cymdeithasau Cydweithredol a Chymdeithasau Budd Cymunedol 2014 ai peidio, ar yr amod ei fod yn cydymffurfio â'r egwyddorion ar gyfer menter gydweithredol.

Mae rheoliad 9 yn pennu enghraifft o'r hyn a gaiff fod yn gyfystyr ag adran o'r gymdeithas.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, lluniwyd asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn. Gellir cael copi drwy gysylltu â'r Adran Iechyd a Gwasanaethau Cymdeithasol, Llywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ.

Regulations 3, 4, 5 and 6 make provision about what is treated as an activity which a person might reasonably consider to be an activity carried on for the benefit of society.

Regulation 7 lists examples of organisations which can be treated as a social enterprise. Regulation 8 provides that an organisation may be treated as a co-operative whether or not it is registered under the Co-operative and Community Benefit Societies Act 2014 provided that it conforms to the principles for a co-operative.

Regulation 9 specifies an example of what may constitute a section of society.

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

2015 Rhif 1500 (Cy. 172)

**GOFAL CYMDEITHASOL,
CYMRU**

**Rheoliadau Deddf Gwasanaethau
Cymdeithasol a Llesiant (Cymru)
2014 (Mentrau Cymdeithasol,
Cydweithredol a Thrydydd Sector)
(Cymru) 2015**

Gwnaed

8 Gorffennaf 2015

Yn dod i rym

6 Ebrill 2016

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd iddynt gan adran 16(3) o Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014(1), yn gwneud y Rheoliadau a ganlyn:

Yn unol ag adran 196(6) o'r Ddeddf honno, gosodwyd drafft o'r offeryn hwn gerbron Cynulliad Cenedlaethol Cymru a chymeradwywyd ef ganddo drwy benderfyniad.

Enwi, cychwyn a chymhwyso

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 (Mentrau Cymdeithasol, Cydweithredol a Thrydydd Sector) (Cymru) 2015.

(2) Daw'r Rheoliadau hyn i rym ar 6 Ebrill 2016 ac maent yn gymwys o ran Cymru.

Dehongli

2. Yn y Rheoliadau hyn—

2015 No. 1500 (W. 172)

SOCIAL CARE, WALES

**The Social Services and Well-being
(Wales) Act 2014 (Social
Enterprise, Co-operative and Third
Sector) (Wales) Regulations 2015**

Made

8 July 2015

Coming into force

6 April 2016

The Welsh Ministers, in exercise of the powers conferred on them by section 16(3) of the Social Services and Well-being (Wales) Act 2014(1), make the following Regulations.

In accordance with section 196(6) of that Act, a draft of this instrument was laid before and approved by a resolution of the National Assembly for Wales.

Title, commencement and application

1.—(1) The title of these Regulations is The Social Services and Well-being (Wales) Act 2014 (Social Enterprise, Co-operative and Third Sector) (Wales) Regulations 2015.

(2) These Regulations come into force on 6 April 2016 and apply in relation to Wales.

Interpretation

2. In these Regulations—

(1) 2014 dccc 4.

(1) 2014 anaw 4.

ystyr “awdurdod lleol” (“*local authority*”) yw awdurdod lleol sy’n arfer swyddogaethau o dan adran 16 o’r Ddeddf;

ystyr “y Ddeddf” (“*the Act*”) yw Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014.

“the Act” (“*y Ddeddf*”) means the Social Services and Well-being (Wales) Act 2014;

“local authority” (“*awdurdod lleol*”) means a local authority exercising functions under section 16 of the Act.

Gweithgareddau sydd o fudd i’r gymdeithas

3. At ddibenion y diffiniad o “menter gymdeithasol” yn adran 16(2) o’r Ddeddf, nid yw gweithgaredd i’w drin fel gweithgaredd y gallai person farnu’n rhesymol ei fod yn weithgaredd a gyflawnir er budd y gymdeithas ond—

- (a) os yw’n gynhwysol (fel y’i diffinnir yn rheoliad 4);
- (b) os yw’n cynnwys pobl (fel y’i diffinnir yn rheoliad 5); ac
- (c) os yw’n hyrwyddo llesiant (fel y’i diffinnir yn rheoliad 6).

Activities that benefit society

3. For the purposes of the definition of “social enterprise” in section 16(2) of the Act, an activity is only to be treated as an activity which a person might reasonably consider to be an activity carried on for the benefit of society if—

- (a) it is inclusive (as defined in Regulation 4);
- (b) it involves people (as defined in Regulation 5); and
- (c) it promotes well-being (as defined in Regulation 6).

Cynhwysol

4. Mae gweithgaredd yn gynhwysol os yw’r sefydliad sy’n cyflawni’r gweithgaredd wedi rhoi sylw, mewn perthynas â’r gweithgaredd hwnnw, i’r ffactorau y mae’n rhaid i awdurdod cyhoeddus roi sylw iddynt wrth gydymffurfio â dyletswydd cydraddoldeb y sector cyhoeddus a nodir yn adran 149 o Ddeddf Cydraddoldeb 2010(1).

Inclusive

4. An activity is inclusive if the organisation that carries out the activity has, in relation to that activity, had regard to the factors to which a public authority must have regard in complying with the public sector equality duty set out in section 149 of the Equality Act 2010(1).

Cynnwys pobl

5. Mae gweithgaredd yn cynnwys pobl os yw’r sefydliad sy’n darparu’r gweithgaredd yn hyrwyddo ymglymiad personau y mae gofal a chymorth(2) neu wasanaethau ataliol i’w darparu ar eu cyfer yn y broses o ddylunio a gweithredu’r ddarpariaeth honno.

Involving People

5. An activity involves people if the organisation providing the activity promotes the involvement of persons for whom care and support(2) or preventative services are to be provided in the design and operation of that provision.

Hyrwyddo llesiant

6. Mae gweithgaredd yn hyrwyddo llesiant os oedd y sefydliad sy’n darparu’r gweithgaredd, wrth ddylunio a gweithredu’r gweithgaredd, wedi rhoi sylw i’r nod o geisio hyrwyddo llesiant pobl y mae arnynt angen gofal a chymorth, a gofalwyr y mae arnynt angen cymorth.

Promoting Well-being

6. An activity promotes well-being if the organisation providing the activity has, in the design and operation of the activity, had regard to the aim of seeking to promote the well-being of people who need care and support, and carers who need support.

Mentrau cymdeithasol

7.—(1) At ddibenion adran 16 o’r Ddeddf, mae’r mathau canlynol o sefydliad yn enghreifftiau o sefydliadau sydd i’w trin fel mentrau cymdeithasol—

Social Enterprise

7.—(1) For the purposes of section 16 of the Act the following types of organisation are examples of organisations which are to be treated as social enterprises—

(1) 2010 p. 15.

(2) Diffinnir “gofal a chymorth” yn rhannol yn adran 4 o’r Ddeddf.

(1) 2010 c. 15.

(2) “Care and support” is partially defined in section 4 of the Act.

- (a) cwmni buddiant cymunedol fel y cyfeirir ato yn adran 26 o Ddeddf Cwmnïau (Archwilio, Ymchwiliadau a Menter Gymunedol) 2004(1);
- (b) cymdeithas budd cymunedol sy'n bodloni'r gofynion ar gyfer cofrestru yn adran 2 o Ddeddf Cymdeithasau Cydweithredol a Chymdeithasau Budd Cymunedol 2014(2);
- (c) menter gymunedol;
- (d) undeb credyd sydd wedi ei gofrestru a'i reoleiddio o dan Ddeddf Undebau Credyd 1979(3);
- (e) cymdeithas dai (fel y'i diffinnir yn adran 1 o Ddeddf Cymdeithasau Tai 1985(4)).

(2) Yn rheoliad 7(1)(c) uchod ystyr “menter gymunedol” (“*community enterprise*”) yw corff—

- (a) y mae cyfrannu at ddatblygiad economaidd a chymdeithasol ardal benodol o Gymru yn brif ddiben ganddo; a
- (b) nad yw, yn ôl ei gyfansoddiad ysgrifenedig, yn derbyn i'w aelodaeth neb ond—
 - (i) personau sy'n preswyllo, neu sy'n cael eu cyflogi, yn yr ardal honno (neu sy'n preswyllo yno ac yn cael eu cyflogi yno); neu
 - (ii) personau a enwebir gan y personau a grybwyllwyd yn is-baragraff (i) uchod.

Mentrau cydweithredol

8.—(1) At ddibenion adran 16(1) o'r Ddeddf—

- (a) caniateir i sefydliad gael ei drin fel sefydliad cydweithredol p'un a yw'n bodloni'r holl ofynion ar gyfer cofrestru o dan Ddeddf Cymdeithasau Cydweithredol a Chymdeithasau Budd Cymunedol 2014 ai peidio;
- (b) caniateir i drefniadau gael eu trin fel trefniadau cydweithredol p'un a yw'r sefydliad sy'n gwneud y trefniadau yn bodloni'r holl ofynion ar gyfer cofrestru o dan Ddeddf Cymdeithasau Cydweithredol a Chymdeithasau Budd Cymunedol 2014 ai peidio;

os yw'r sefydliad, neu'r sefydliad sy'n gwneud y trefniadau, yn cydymffurfio i raddau digonol â'r egwyddorion ar gyfer mentrau cydweithredol ym mharagraff (2).

- (a) a community interest company as referred to in section 26 of the Companies (Audit, Investigations and Community Enterprise) Act 2004(1);
- (b) a community benefit society which meets the requirements for registration in section 2 of the Co-operative and Community Benefit Societies Act 2014 (2);
- (c) a community enterprise;
- (d) a credit union which is registered and regulated under the Credit Unions Act 1979(3);
- (e) a housing association (as defined in section 1 of the Housing Associations Act 1985(4)).

(2) In regulation 7(1)(c) above a “community enterprise” (“*menter gymunedol*”) means a body which—

- (a) has the primary purpose of contributing to the economic and social development of a particular area of Wales; and
- (b) by its written constitution, admits to membership only—
 - (i) persons resident in, or employed in, that area (or both so resident and so employed); or
 - (ii) persons nominated by such persons as are mentioned in sub-paragraph (i) above.

Co-operatives

8.—(1) For the purposes of section 16(1) of the Act—

- (a) an organisation may be treated as a co-operative organisation whether or not it meets all the requirements for registration under the Co-operative and Community Benefit Societies Act 2014;
- (b) arrangements may be treated as co-operative arrangements whether or not the organisation making the arrangements meets all the requirements for registration under the Co-operative and Community Benefit Societies Act 2014;

if the organisation, or the organisation making the arrangements, conforms sufficiently with the principles for co-operatives in paragraph (2).

(1) 2004 p. 27.
 (2) 2014 p.14.
 (3) 1979 p. 34.
 (4) 1985 p. 69.

(1) 2004 c. 27.
 (2) 2014 c.14.
 (3) 1979 c. 34.
 (4) 1985 c. 69.

(2) Mae'r egwyddorion ar gyfer mentrau cydweithredol yn ei gwneud yn ofynnol bod y sefydliad yn un—

- (a) ymreolaethol,
- (b) a chanddo aelodaeth wirfoddol,
- (c) a chanddo'r diben o fodloni anghenion a dyheadau economaidd, cymdeithasol a diwylliannol cyffredin,
- (d) a berchenogir ar y cyd, ac
- (e) a reolir yn ddemocrataidd.

Adran o'r gymdeithas

9. At ddibenion adran 16 o'r Ddeddf caniateir i adran o'r gymdeithas gael ei ffurfio o'r canlynol —

- (a) y personau hynny y mae arnynt neu y gall fod arnynt angen gofal a chymorth;
- (b) gofalwyr y mae arnynt neu y gall fod arnynt angen cymorth; neu
- (c) plant, pobl sy'n gadael gofal a phobl ifanc y mae gan awdurdod lleol swyddogaethau sy'n arferadwy mewn perthynas â hwy o dan Ran 6 o'r Ddeddf.

(2) The principles for co-operatives require that the organisation is—

- (a) autonomous,
- (b) has voluntary membership,
- (c) has the purpose of meeting common economic, social and cultural needs and aspirations,
- (d) is jointly owned, and
- (e) is democratically controlled.

Section of society

9. For the purposes of section 16 of the Act a section of society may be made up of —

- (a) those persons who need or may need care and support;
- (b) carers who need or may need support; or
- (c) children, care leavers and young persons in relation to whom a local authority have functions exercisable under Part 6 of the Act.

Mark Drakeford

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol,
un o Weinidogion Cymru
8 Gorffennaf 2015

Minister for Health and Social Services, one of the
Welsh Ministers
8 July 2015

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