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OFFERYNNAU STATUDOL  
CYMRU

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WELSH STATUTORY  
INSTRUMENTS

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**2021 Rhif 1428 (Cy. 369) (C. 80)**

**2021 No. 1428 (W. 369) (C. 80)**

**ADDYSG, CYMRU**

**EDUCATION, WALES**

Gorchymyn Deddf Anghenion  
Dysgu Ychwanegol a'r Tribiwnlys  
Addysg (Cymru) 2018 (Diwygio  
Gorchymyn Cychwyn Rhif 5 a  
Gorchymyn Cychwyn Rhif 6) 2021

The Additional Learning Needs and  
Education Tribunal (Wales) Act  
2018 (Amendment of  
Commencement Order No. 5 and  
Commencement Order No. 6) Order  
2021

**NODYN ESBONIADOL**

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

Mae'r Gorchymyn hwn yn diwygio Gorchymyn Deddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018 (Cychwyn Rhif 5 a Darpariaethau Trosiannol a Darpariaethau Arbed) 2021 a Gorchymyn Deddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018 (Cychwyn Rhif 6 a Darpariaethau Trosiannol a Darpariaethau Arbed) 2021 i wneud darpariaeth ynghylch galluedd plant. Mae hyn yn adlewyrchu adran 84 o Ddeddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018 sy'n darparu nad yw dyletswyddau ac amodau penodol yn y Ddeddf honno mewn perthynas â phlant (e.e. i roi copi o gynllun datblygu unigol i blentyn) yn gymwys os ystyrir nad oes gan y plentyn alluedd i ddeall y mater o dan sylw.

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 5 and Transitional and Saving Provisions) Order 2021 and the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 6 and Transitional and Saving Provisions) Order 2021 to make provision relating to the capacity of children. This reflects section 84 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 which provides that certain duties and conditions in that Act in relation to children (e.g. to give a child a copy of an individual development plan) do not apply if it is considered that the child does not have capacity to understand the subject matter.

**2021 Rhif 1428 (Cy. 369) (C. 80)**

**2021 No. 1428 (W. 369) (C. 80)**

**ADDYSG, CYMRU**

**EDUCATION, WALES**

Gorchymyn Deddf Anghenion  
Dysgu Ychwanegol a'r Tribiwnlys  
Addysg (Cymru) 2018 (Diwygio  
Gorchymyn Cychwyn Rhif 5 a  
Gorchymyn Cychwyn Rhif 6) 2021

The Additional Learning Needs and  
Education Tribunal (Wales) Act  
2018 (Amendment of  
Commencement Order No. 5 and  
Commencement Order No. 6) Order  
2021

*Gwnaed*

*14 Rhagfyr 2021*

*Made*

*14 December 2021*

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir gan adran 100(3) a (4) o Ddeddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018(1), yn gwneud y Gorchymyn a ganlyn:

The Welsh Ministers, in exercise of the powers conferred by section 100(3) and (4) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018(1), make the following Order:

**Enwi**

1. Enw'r Gorchymyn hwn yw Gorchymyn Deddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018 (Diwygio Gorchymyn Cychwyn Rhif 5 a Gorchymyn Cychwyn Rhif 6) 2021.

**Title**

1. The title of this Order is the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Amendment of Commencement Order No. 5 and Commencement Order No. 6) Order 2021.

**Diwygio Gorchymyn Deddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018 (Cychwyn Rhif 5 a Darpariaethau Trosiannol a Darpariaethau Arbed) 2021**

**Amendment of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 5 and Transitional and Saving Provisions) Order 2021**

2.—(1) Mae Gorchymyn Deddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018 (Cychwyn Rhif 5 a Darpariaethau Trosiannol a Darpariaethau Arbed) 2021(2) wedi ei ddiwygio fel a ganlyn.

2.—(1) The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 5 and Transitional and Saving Provisions) Order 2021(2) is amended as follows.

(2) Ar ôl erthygl 22 mewnosoder—

(2) After article 22 insert—

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(1) 2018 decc 2.

(2) O.S. 2021/1243 (Cy. 315) (C. 68).

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(1) 2018 anaw 2.

(2) S.I. 2021/1243 (W. 315) (C. 68).

### **“Galluedd plant**

**23.**—(1) Mae paragraff (2) yn gymwys—

- (a) i’r ddyletswydd i roi hysbysiad CDU neu hysbysiad Dim CDU i blentyn yn erthyglau 9(2), 10(2) ac 11(2);
- (b) i’r ddyletswydd i roi hysbysiad yn dilyn cais gan blentyn o dan erthygl 12;
- (c) i’r ddyletswydd i roi copi o’r cynllun datblygu unigol i blentyn o fewn 35 o ddiwrnodau ysgol yn erthygl 13(1);
- (d) i’r pŵer i roi hysbysiad ADY i blentyn yn erthygl 14(2);
- (e) i’r ddyletswydd i roi hysbysiad ADY yn dilyn cais gan blentyn o dan erthygl 14(3).

(2) Nid yw’r ddyletswydd neu’r pŵer yn gymwys os yw’r corff llywodraethu neu’r awdurdod lleol priodol (yn ôl y digwydd) yn ystyried nad oes gan y plentyn alluedd i ddeall y mater o dan sylw.

(3) Pan fo paragraff (2) yn gymwys mewn perthynas â’r ddyletswydd ym mharagraff (1)(a) neu (b), mae’r cyfeiriad cyntaf at blentyn yn erthygl 5 i’w ddarllen fel pe bai wedi ei hepgor.

(4) Pan fo paragraff (2) yn gymwys mewn perthynas â’r ddyletswydd ym mharagraff (1)(a) neu (b), mae’r cyfeiriad cyntaf at blentyn yn erthygl 6 i’w ddarllen fel pe bai wedi ei hepgor.

”

### **Diwygio Gorchymyn Deddf Anghenion Dysgu Ychwanegol a’r Tribiwnlys Addysg (Cymru) 2018 (Cychwyn Rhif 6 a Darpariaethau Trosiannol a Darpariaethau Arbed) 2021**

**3.**—(1) Mae Gorchymyn Deddf Anghenion Dysgu Ychwanegol a’r Tribiwnlys Addysg (Cymru) 2018 (Cychwyn Rhif 6 a Darpariaethau Trosiannol a Darpariaethau Arbed) 2021(1) wedi ei ddiwygio fel a ganlyn.

(2) Ar ôl erthygl 20 mewnosoder—

### **“Galluedd plant**

**21.**—(1) Mae paragraff (2) yn gymwys—

- (a) i’r ddyletswydd i roi hysbysiad CDU neu hysbysiad Dim CDU i blentyn yn erthyglau 9(2), 10(2) ac 11(2);

### **“Capacity of children**

**23.**—(1) Paragraph (2) applies to—

- (a) the duty to give a child an IDP notice or a No IDP notice in articles 9(2), 10(2) and 11(2);
- (b) the duty to give a notice following a request by a child under article 12;
- (c) the duty to give a child a copy of the individual development plan within 35 school days in article 13(1);
- (d) the power to give a child an ALN notice in article 14(2);
- (e) the duty to give an ALN notice following a request by a child under article 14(3).

(2) The duty or power does not apply if the governing body or the appropriate local authority (as the case may be) considers that the child does not have capacity to understand the subject matter.

(3) Where paragraph (2) applies in relation to the duty in paragraph (1)(a) or (b), the first reference to a child in article 5 is to be read as if it were omitted.

(4) Where paragraph (2) applies in relation to the duty in paragraph (1)(a) or (b), the first reference to a child in article 6 is to be read as if it were omitted.”

### **Amendment of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 6 and Transitional and Saving Provisions) Order 2021**

**3.**—(1) The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 6 and Transitional and Saving Provisions) Order 2021(1) is amended as follows.

(2) After article 20 insert—

### **“Capacity of children**

**21.**—(1) Paragraph (2) applies to—

- (a) the duty to give a child an IDP notice or a No IDP notice in articles 9(2), 10(2) and 11(2);

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(1) O.S. 2021/1244 (Cy. 316) (C. 69).

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(1) S.I. 2021/1244 (W. 316) (C. 69).

- (b) i'r ddyletswydd i roi hysbysiad yn dilyn cais gan blentyn o dan erthygl 12;
- (c) i'r ddyletswydd i roi copi o'r cynllun datblygu unigol i blentyn o fewn 12 wythnos yn erthygl 13(1);
- (d) i'r pŵer i roi hysbysiad ADY i blentyn yn erthygl 14(2).

(2) Nid yw'r ddyletswydd neu'r pŵer yn gymwys os yw'r awdurdod lleol priodol yn ystyried nad oes gan y plentyn alluedd i ddeall y mater o dan sylw.

(3) Pan fo paragraff (2) yn gymwys mewn perthynas â'r ddyletswydd ym mharagraff (1)(a) neu (b), mae'r cyfeiriad cyntaf at blentyn yn erthygl 5 i'w ddarllen fel pe bai wedi ei hepgor.

(4) Pan fo paragraff (2) yn gymwys mewn perthynas â'r ddyletswydd ym mharagraff (1)(a) neu (b), mae'r cyfeiriad cyntaf at blentyn yn erthygl 6 i'w ddarllen fel pe bai wedi ei hepgor.

- (b) the duty to give a notice following a request by a child under article 12;
- (c) the duty to give a child a copy of the individual development plan within 12 weeks in article 13(1);
- (d) the power to give a child an ALN notice in article 14(2).

(2) The duty or power does not apply if the appropriate local authority considers that the child does not have capacity to understand the subject matter.

(3) Where paragraph (2) applies in relation to the duty in paragraph (1)(a) or (b), the first reference to a child in article 5 is to be read as if it were omitted.

(4) Where paragraph (2) applies in relation to the duty in paragraph (1)(a) or (b), the first reference to a child in article 6 is to be read as if it were omitted.”

*Jeremy Miles*

Gweinidog y Gymraeg ac Addysg, un o Weinidogion  
Cymru  
14 Rhagfyr 2021

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Minister for Education and Welsh Language, one of  
the Welsh Ministers  
14 December 2021

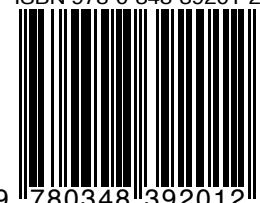
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