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WELSH STATUTORY
INSTRUMENTS

2021 Rhif 861 (Cy. 200)

2021 No. 861 (W. 200)

ADDYSG, CYMRU

EDUCATION, WALES

Rheoliadau Deddf Anghenion
Dysgu Ychwanegol a'r Tribiwnlys
Addysg (Cymru) 2018 (Diwygiadau
Canlyniadol) 2021

The Additional Learning Needs and
Education Tribunal (Wales) Act
2018 (Consequential Amendments)
Regulations 2021

NODYN ESBONIADOL

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

Mae'r Rheoliadau hyn wedi eu gwneud o ganlyniad i Ddeddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018. Mae'r Ddeddf honno'n diwygio'r gyfraith ar addysg a hyfforddiant ar gyfer plant a phobl ifanc ag anghenion dysgu ychwanegol ac yn ailenwi Tribiwnlys Anghenion Addysgol Arbennig Cymru yn Dribiwnlys Addysg Cymru.

Mae'r Rheoliadau hyn yn diweddarau cyfeiriadau mewn deddfwriaeth sylfaenol i adlewyrchu'r newidiadau hyn.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, ystyriwyd nad oedd yn angenrheidiol cynnal asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in consequence of the Additional Learning Needs and Education Tribunal (Wales) Act 2018. That Act reforms the law on education and training for children and young people with additional learning needs and renames the Special Educational Needs Tribunal for Wales as the Education Tribunal for Wales.

These Regulations update references in primary legislation to reflect these changes.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.

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Rheoliadau Deddf Anghenion
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Canlyniadol) 2021

The Additional Learning Needs and
Education Tribunal (Wales) Act
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Gwnaed 15 Gorffennaf 2021
Yn dod i rym 1 Medi 2021

Made 15 July 2021
Coming into force 1 September 2021

Mae Gweinidogion Cymru drwy arfer y pwerau yn adran 97(1) a (2) o Ddeddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018(1) yn gwneud y Rheoliadau a ganlyn.

The Welsh Ministers in exercise of the powers in section 97(1) and (2) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018(1) make the following Regulations.

Yn unol ag adran 98(3)(c)(2) o'r Ddeddf honno, gosodwyd drafft o'r Rheoliadau hyn gerbron Senedd Cymru ac fe'i cymeradwywyd ganddi drwy benderfyniad.

In accordance with section 98(3)(c)(2) of that Act, a draft of these Regulations was laid before, and approved by a resolution of, Senedd Cymru.

RHAN 1
Cyflwyniad

PART 1
Introduction

Enwi a chychwyn

1. Enw'r Rheoliadau hyn yw Rheoliadau Deddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018 (Diwygiadau Canlyniadol) 2021 a deuant i rym ar 1 Medi 2021.

Title and commencement

1. The title of these Regulations is the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Consequential Amendments) Regulations 2021 and they come into force on 1 September 2021.

(1) 2018 decc 2.

(2) Mae'r cyfeiriadau yn adran 98(3) at Gynulliad Cenedlaethol Cymru bellach yn cael effaith fel cyfeiriadau at Senedd Cymru yn rhinwedd adran 150A(2) o Ddeddf Llywodraeth Cymru 2006 (p. 32).

(1) 2018 anaw 2.

(2) The references in section 98(3) to the National Assembly for Wales now have effect as references to Senedd Cymru, by virtue of section 150A(2) of the Government of Wales Act 2006 (c. 32).

RHAN 2

Diwygiadau i Ddeddfwriaeth Sylfaenol

Deddf Llywodraeth Leol 1974

2.—(1) Mae Deddf Llywodraeth Leol 1974(1) wedi ei diwygio fel a ganlyn.

(2) Yn Atodlen 5, ym mharagraff 5(2)(b)(2), ar ôl “special educational needs (within the meaning given by section 579(1) of the Education Act 1996)” mewnosoder “or additional learning needs (within the meaning given by section 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018)”.

Deddf Addysg 1997

3.—(1) Mae Deddf Addysg 1997(3) wedi ei diwygio fel a ganlyn.

(2) Yn adran 32(6)(a)(4), yn lle “special educational needs (as defined in section 312 of the Education Act 1996)” rhodder “additional learning needs (as defined in section 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018)”.

Deddf Anghenion Addysgol Arbennig ac Anabledd 2001

4.—(1) Mae Deddf Anghenion Addysgol Arbennig ac Anabledd 2001(5) wedi ei diwygio fel a ganlyn.

(2) Yn Atodlen 8, Rhan 1, hepgorer paragraff 12.

Deddf Addysg 2002

5.—(1) Mae Deddf Addysg 2002(6) wedi ei diwygio fel a ganlyn.

(2) Yn adran 1(3)(7), ym mharagraff (g) o'r diffiniad o “qualifying body”, hepgorer “or the National Assembly for Wales”.

(3) Yn adran 2(5)(8), yn lle “children with special educational needs” rhodder—

PART 2

Amendments to Primary Legislation

Local Government Act 1974

2.—(1) The Local Government Act 1974(1) is amended as follows.

(2) In Schedule 5, in paragraph 5(2)(b)(2), after “special educational needs (within the meaning given by section 579(1) of the Education Act 1996)” insert “or additional learning needs (within the meaning given by section 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018)”.

Education Act 1997

3.—(1) The Education Act 1997(3) is amended as follows.

(2) In section 32(6)(a)(4), for “special educational needs (as defined in section 312 of the Education Act 1996)” substitute “additional learning needs (as defined in section 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018)”.

Special Educational Needs and Disability Act 2001

4.—(1) The Special Educational Needs and Disability Act 2001(5) is amended as follows.

(2) In Schedule 8, Part 1, omit paragraph 12.

Education Act 2002

5.—(1) The Education Act 2002(6) is amended as follows.

(2) In section 1(3)(7), in paragraph (g) of the definition of “qualifying body”, omit “or the National Assembly for Wales”.

(3) In section 2(5)(8), for “children with special educational needs” substitute—

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- (1) 1974 p. 7.
 - (2) Diwygiwyd paragraff 5 o Atodlen 5 gan baragraff 63 o Atodlen 3 i Ddeddf Plant a Theuluoedd 2014 (p. 6). Mae paragraff 5 hefyd yn cynnwys diwygiadau eraill nad ydynt yn berthnasol i'r Rheoliadau hyn.
 - (3) 1997 p. 44.
 - (4) Mae diwygiadau i adran 32 nad ydynt yn berthnasol i'r Rheoliadau hyn.
 - (5) 2001 p. 10.
 - (6) 2002 p. 32.
 - (7) Diwygiwyd adran 1 gan baragraff 1 o Atodlen 16 i Ddeddf Addysg ac Arolygiadau 2006 (p. 40). Mae adran 1 hefyd yn cynnwys diwygiadau eraill nad ydynt yn berthnasol i'r Rheoliadau hyn. Mae paragraff (g) o'r diffiniad wedi ei amnewid gan Ddeddf Addysg a Sgiliau 2008 (p. 25) ond nid yw'r amnewidiad mewn grym eto.
 - (8) Mae diwygiadau i adran 2 nad ydynt yn berthnasol i'r Rheoliadau hyn.

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- (1) 1974 c. 7.
 - (2) Paragraph 5 of Schedule 5 was amended by paragraph 63 of Schedule 3 to the Children and Families Act 2014 (c. 6). Paragraph 5 also includes other amendments which are not relevant to these Regulations.
 - (3) 1997 c. 44.
 - (4) There are amendments to section 32 which are not relevant to these Regulations.
 - (5) 2001 c. 10.
 - (6) 2002 c. 32.
 - (7) Section 1 was amended by paragraph 1 of Schedule 16 to the Education and Inspections Act 2006 (c. 40). Section 1 also includes other amendments which are not relevant to these Regulations. Paragraph (g) of the definition is substituted by the Education and Skills Act 2008 (c. 25) but the substitution is not yet in force.
 - (8) There are amendments to section 2 which are not relevant to these Regulations.

“—

- (a) in relation to England, children with special educational needs, or
- (b) in relation to Wales, persons under 25 with special educational needs.”

(4) Ar ôl adran 92 (disgyblion â chynlluniau AIG) mewnosoder—

“Pupils with Individual Development Plans

92A. The additional learning provision described in an individual development plan prepared or maintained by a local authority in Wales under Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 may include provision—

- (a) excluding the application of the National Curriculum for England, or
- (b) applying the National Curriculum for England with such modifications as may be specified in the plan.”

Deddf Cenedligrwydd, Mewnfudo a Lloches 2002

6.—(1) Mae Deddf Cenedligrwydd, Mewnfudo a Lloches 2002(1) wedi ei diwygio fel a ganlyn.

(2) Yn adran 36—

- (a) yn is-adran (3)(b), yn lle “a statement in respect of the child under section 324 of the Education Act 1996 (c. 56) (special educational needs)” rhodder “an individual development plan maintained for the child under section 14 or 19 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018”;
- (b) hepgorer is-adran (5)(d) ac (e);
- (c) ar ôl is-adran (5)(f) hepgorer “and”;
- (d) ar ôl is-adran (5)(g) mewnosoder “, and”;
- (e) ar ôl is-adran (5)(g) mewnosoder—
 - “(h) section 51 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (duty to favour education for children at mainstream maintained schools).”;
- (f) yn lle is-adran (6) rhodder—
 - “(6) The power of the Education Tribunal for Wales under section 71(1) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (decisions on appeals under section 70) is subject to subsection (2) above.”;

(1) 2002 p. 41.

“—

- (a) in relation to England, children with special educational needs, or
- (b) in relation to Wales, persons under 25 with special educational needs.”

(4) After section 92 (pupils with EHC plans) insert—

“Pupils with Individual Development Plans

92A. The additional learning provision described in an individual development plan prepared or maintained by a local authority in Wales under Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 may include provision—

- (a) excluding the application of the National Curriculum for England, or
- (b) applying the National Curriculum for England with such modifications as may be specified in the plan.”

Nationality, Immigration and Asylum Act 2002

6.—(1) The Nationality, Immigration and Asylum Act 2002(1) is amended as follows.

(2) In section 36—

- (a) in subsection (3)(b), for “a statement in respect of the child under section 324 of the Education Act 1996 (c. 56) (special educational needs)” substitute “an individual development plan maintained for the child under section 14 or 19 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018”;
- (b) omit subsection (5)(d) and (e);
- (c) after subsection (5)(f) omit “and”;
- (d) after subsection (5)(g) insert “, and”;
- (e) after subsection (5)(g) insert—
 - “(h) section 51 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (duty to favour education for children at mainstream maintained schools).”;
- (f) for subsection (6) substitute—
 - “(6) The power of the Education Tribunal for Wales under section 71(1) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (decisions on appeals under section 70) is subject to subsection (2) above.”;

(1) 2002 c. 41.

- (g) yn is-adran (7)—
- (i) yn y geiriau o flaen paragraff (a), ar ôl “Children and Families Act 2014” mewnosoder “, Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018” ac ar ôl “special educational needs” mewnosoder “or additional learning needs”;
 - (ii) ar ôl paragraff (a) mewnosoder—
 - “(aa) the child receiving the additional learning provision called for by the child’s additional learning needs,”;
- (h) yn lle is-adran (9)(b) rhodder—
- “(b) the person responsible for education at an accommodation centre may refer a case to a local authority under section 12(2)(a) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 as though—
 - (i) a child for whom education is provided at the centre under section 29(1)(f) were a child who is a registered pupil at a school, and
 - (ii) that person were the governing body of the school.”;
- (i) hepgorer is-adran (9)(c).

Deddf Addysg 2005

7.—(1) Mae Deddf Addysg 2005(1) wedi ei diwygio fel a ganlyn.

(2) Yn adran 28(2), hepgorer is-adrannau (2)(d) a (4)(d).

Deddf Addysg ac Arolygiadau 2006

8.—(1) Mae Deddf Addysg ac Arolygiadau 2006(3) wedi ei diwygio fel a ganlyn.

(2) Yn adran 16(1)(c)(4), ar ôl “section 324 of EA 1996 (statement of special educational needs)” mewnosoder “or an individual development plan under section 14 or 19 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018”.

(3) Yn adran 88(5), hepgorer “or the Assembly” yn y ddau le y mae’n digwydd.

(1) 2005 p. 18.
 (2) Mae diwygiadau i adran 28 nad ydynt yn berthnasol i'r Rheoliadau hyn.
 (3) 2006 p. 40.
 (4) Diwygiwyd adran 16 gan baragraff 81 o Atodlen 3(2) i Ddeddf Plant a Theuluoedd 2014. Mae diwygiadau eraill i adran 16 nad ydynt yn berthnasol i'r Rheoliadau hyn.

- (g) in subsection (7)—
- (i) in the words before paragraph (a), after “Children and Families Act 2014” insert “, Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018” and after “special educational needs” insert “or additional learning needs”;
 - (ii) after paragraph (a) insert—
 - “(aa) the child receiving the additional learning provision called for by the child’s additional learning needs,”;
- (h) for subsection (9)(b) substitute—
- “(b) the person responsible for education at an accommodation centre may refer a case to a local authority under section 12(2)(a) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 as though—
 - (i) a child for whom education is provided at the centre under section 29(1)(f) were a child who is a registered pupil at a school, and
 - (ii) that person were the governing body of the school.”;
- (i) omit subsection (9)(c).

Education Act 2005

7.—(1) The Education Act 2005(1) is amended as follows.

(2) In section 28(2), omit subsections (2)(d) and (4)(d).

Education and Inspections Act 2006

8.—(1) The Education and Inspections Act 2006(3) is amended as follows.

(2) In section 16(1)(c)(4), after “section 324 of EA 1996 (statement of special educational needs)” insert “or an individual development plan under section 14 or 19 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018”.

(3) In section 88(5), omit “or the Assembly” in both places it occurs.

(1) 2005 c. 18.
 (2) There are amendments to section 28 which are not relevant to these Regulations.
 (3) 2006 c. 40.
 (4) Section 16 was amended by paragraph 81 of Schedule 3(2) to the Children and Families Act 2014. There are other amendments to section 16 which are not relevant to these Regulations.

Deddf Cymwysterau Cymru 2015

9.—(1) Mae Deddf Cymwysterau Cymru 2015(1) wedi ei diwygio fel a ganlyn.

(2) Yn adran 57(5)(a), ar ôl “anghenion addysgol arbennig” mewnosoder “neu anghenion dysgu ychwanegol”.

Deddf Cymru 2017

10.—(1) Mae Deddf Cymru 2017(2) wedi ei diwygio fel a ganlyn.

(2) Yn adran 59(1), yn lle paragraff (d) rhodder—

“(d) the Education Tribunal for Wales or Tribiwnlys Addysg Cymru;”.

(3) Hepgorer adran 62(4).

Deddf y Coronafeirws 2020

11.—(1) Mae Deddf y Coronafeirws 2020(3) wedi ei diwygio fel a ganlyn.

(2) Yn Atodlen 17, Rhan 1, paragraff 7(5)(4), ar ôl paragraff (g) mewnosoder—

“(ga) sections 13(1), 14(10), 19(7), 23(1) and 24(1) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (provisions relating to individual development plans);”.

Qualifications Wales Act 2015

9.—(1) The Qualifications Wales Act 2015(1) is amended as follows.

(2) In section 57(5)(a), after “special educational needs” insert “or additional learning needs”.

Wales Act 2017

10.—(1) The Wales Act 2017(2) is amended as follows.

(2) In section 59(1), for paragraph (d) substitute—

“(d) the Education Tribunal for Wales or Tribiwnlys Addysg Cymru;”.

(3) Omit section 62(4).

Coronavirus Act 2020

11.—(1) The Coronavirus Act 2020(3) is amended as follows.

(2) In Schedule 17, Part 1, paragraph 7(5)(4), after paragraph (g) insert—

“(ga) sections 13(1), 14(10), 19(7), 23(1) and 24(1) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (provisions relating to individual development plans);”.

Jeremy Miles

Y Gweinidog y Gymraeg ac Addysg, un o
Weinidogion Cymru
15 Gorffennaf 2021

Minister for Education and Welsh Language, one of
the Welsh Ministers
15 July 2021

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(1) 2015 decc 5.
(2) 2017 p. 4.
(3) 2020 p. 7.
(4) Mae diwygiadau i baragraff 7 nad ydynt yn berthnasol i'r Rheoliadau hyn.

(1) 2015 anaw 5.
(2) 2017 c. 4.
(3) 2020 c. 7.
(4) There are amendments to paragraph 7 which are not relevant to these Regulations.

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