



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2022 Rhif 670 (Cy. 150)

2022 No. 670 (W. 150)

ADDYSG, CYMRU

EDUCATION, WALES

**Rheoliadau Addysg (Eithriadau
Dros Dro ar gyfer Disgyblion a
Phlant Unigol) (Cymru) 2022**

**The Education (Temporary
Exceptions for Individual Pupils
and Children) (Wales) Regulations
2022**

NODYN ESBONIADOL

EXPLANATORY NOTE

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

(This note is not part of the Regulations)

Mae Deddf Cwricwlwm ac Asesu (Cymru) 2021 (“Deddf 2021”) yn sefydlu fframwaith newydd ar gyfer cwricwlwm ac yn gwneud darpariaeth ynghylch asesu ar gyfer disgyblion a phlant yng Nghymru (“y Cwricwlwm i Gymru”).

The Curriculum and Assessment (Wales) Act 2021 (“the 2021 Act”) establishes a new framework for a curriculum and makes provision about assessment for pupils and children in Wales (“the CfW”).

Mae'r Rheoliadau hyn yn galluogi penaethiaid ysgolion a gynhelir ac ysgolion meithrin a gynhelir a darparwyr addysg feithrin a gyllidir ond nas cynhelir (“y person perthnasol”) i benderfynu na ddylai darpariaethau'r Cwricwlwm i Gymru fod yn gymwys i blentyn neu ddisgybl, neu y dylent fod yn gymwys gydag addasiadau. Mae'r term “darparwr addysg feithrin a gyllidir ond nas cynhelir” wedi ei ddiffinio yn rheoliad 2.

These Regulations enable head teachers of maintained schools and maintained nursery schools and providers of funded non-maintained nursery education (“the relevant person”) to determine that the provisions of the CfW should not apply to a child or pupil, or should apply with modifications. The term “provider of funded non-maintained nursery education” is defined in regulation 2.

Mae rheoliad 4 yn darparu na chaniateir rhoi penderfyniad ond mewn achosion pan fo'r person perthnasol yn ystyried nad yw'n briodol gweithredu'r cwricwlwm perthnasol ar gyfer y plentyn hwnnw neu'r disgybl hwnnw am y tro a bod yr amgylchiadau yn debygol o newid fel y bydd yn briodol gweithredu'r cwricwlwm perthnasol ar gyfer y disgybl hwnnw neu'r plentyn hwnnw o fewn 6 mis i'r dyddiad y daw penderfyniad i rym. Mae i'r term “cwricwlwm perthnasol” yr ystyr a roddir iddo yn adran 56(5)(a) a (b) o Ddeddf 2021.

Regulation 4 provides that a determination may only be given in cases where the relevant person considers that it is not appropriate for the time being to implement the relevant curriculum for that child or pupil and the circumstances are likely to change so that within 6 months of the date on which a determination comes into force, it will be appropriate to implement the relevant curriculum for that pupil or child. The term “relevant curriculum” has the meaning given to it in section 56(5)(a) and (b) of the 2021 Act.

Mae rheoliad 5 yn darparu ar gyfer hyd penderfyniad. Ni chaiff hyd y penderfyniad cyntaf fod yn hwy na 6 mis mewn unrhyw achos.

Regulation 5 provides for the duration of a determination. In no case is the duration of the first determination to exceed 6 months.

Mae rheoliad 6 yn darparu y caniateir amrywio penderfyniad (ac eithrio er mwyn estyn ei gyfnod gweithredol). Mae rheoliad 7 yn gwneud darpariaeth ar gyfer dirymu'r penderfyniad.

Mae rheoliad 8 yn darparu y caniateir gwneud penderfyniadau pellach o dan amgylchiadau penodol ac yn ddarostyngedig, mewn rhai achosion, i gydsyniad yr awdurdod lleol neu'r corff llywodraethu, neu'r ddau. Mae rheoliad 9 yn gwneud yr un ddarpariaeth i bob pwrpas ar gyfer darparwyr addysg feithrin a gyllidir ond nas cynhelir.

Mae rheoliad 10 yn darparu y caiff rhieni plentyn neu ddisgybl ofyn i'r person perthnasol wneud penderfyniad neu ddirymu neu amrywio penderfyniad presennol.

Mae rheoliad 11 yn darparu bod rhaid i'r person perthnasol wneud, amrywio neu ddirymu penderfyniad o fewn dwy wythnos, gyda rhesymau os gwrthodir y cais.

Mae adran 44 o Ddeddf 2021 yn gwneud darpariaeth ynghylch yr wybodaeth y mae rhaid i bennaeth a darparwr addysg feithrin a gyllidir ond nas cynhelir ei darparu wrth wneud, amrywio neu ddirymu penderfyniad.

Mae adran 45 o Ddeddf 2021 yn darparu hawl i apelio i ddisgybl neu riant disgybl mewn perthynas â phenderfyniad pennaeth a wneir o dan adran 42 o Ddeddf 2021 a'r Rheoliadau hyn. Mae adran 46 yn darparu hawl i apelio i riant plentyn mewn perthynas â phenderfyniad a wneir gan ddarparwr addysg feithrin a gyllidir ond nas cynhelir o dan adran 42 o Ddeddf 2021 a'r Rheoliadau hyn.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Aseidiadau 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 oddi wrth: Llywodraeth Cymru, Parc Cathays, Caerdydd CF10 3NQ ac ar wefan Llywodraeth Cymru ar www.llyw.cymru.

Regulation 6 provides that a determination may be varied (except so as to extend its operative period). Regulation 7 makes provision for the revocation of the determination.

Regulation 8 provides that further determinations may be made in certain circumstances and subject, in some cases, to the consent of the local authority or the governing body, or both. Regulation 9 makes broadly the same provision for providers of funded non-maintained nursery education.

Regulation 10 provides that parents of a child or pupil may request the relevant person make a determination or that they revoke or vary an existing determination.

Regulation 11 provides the relevant person must make, vary or revoke a determination within two weeks, with reasons if the request is refused.

Section 44 of the 2021 Act makes provision about the information that a head teacher and a provider of funded non-maintained nursery education must provide when making, varying or revoking a determination.

Section 45 of the 2021 Act provides a right of appeal to a pupil or pupil's parent in relation to a head teacher's determination made under section 42 of the 2021 Act and these Regulations. Section 46 provides a right of appeal to a child's parent in relation to a determination made by the provider of funded non-maintained nursery education under section 42 of the 2021 Act and these Regulations.

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 from the Welsh Government at Cathays Park, Cardiff CF10 3NQ and on the Welsh Government website at www.gov.wales.

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**The Education (Temporary
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and Children) (Wales) Regulations
2022**

Gwnaed 15 Mehefin 2022

Made 15 June 2022

*Gosodwyd gerbron Senedd
Cymru* 17 Mehefin 2022

Laid before Senedd Cymru 17 June 2022

Yn dod i rym yn unol â rheoliad 1(2) i (6)

*Coming into force in accordance with
regulation 1(2) to (6)*

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir iddynt gan adrannau 42(1), (2) a (4) a 75(1) o Ddeddf Cwricwlwm ac Asesu (Cymru) 2021(1), yn gwneud y Rheoliadau a ganlyn:

The Welsh Ministers, in exercise of the powers conferred on them by sections 42(1), (2) and (4) and 75(1) of the Curriculum and Assessment (Wales) Act 2021(1) make the following Regulations:

Enwi a chychwyn

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Addysg (Eithriadau Dros Dro ar gyfer Disgyblion a Phlant Unigol) (Cymru) 2022.

(2) Daw'r Rheoliadau hyn i rym ar 1 Medi 2022—

- (a) ar gyfer disgyblion(2) a phlant(3) y darperir addysg feithrin ar eu cyfer(4),
- (b) ar gyfer disgyblion mewn blwyddyn derbyn(5) mewn ysgol a gynhelir,
- (c) ar gyfer disgyblion ym mlynnyddoedd 1 i 6 mewn ysgol a gynhelir(6), a

Title and commencement

1.—(1) The title of these Regulations is the Education (Temporary Exceptions for Individual Pupils and Children) (Wales) Regulations 2022.

(2) These Regulations come into force on 1 September 2022—

- (a) for pupils(2) and children(3) for whom nursery education is provided(4),
- (b) for pupils in a reception year(5) at a maintained school,
- (c) for pupils in years 1 to 6 at a maintained school(6), and

(1) 2021 dsc 4.

(2) Gweler rheoliad 2 am y diffiniad o "disgybl".

(3) Gweler rheoliad 2 am y diffiniad o "plentyn".

(4) Gweler rheoliad 2 am y diffiniad o "addysg feithrin".

(5) Gweler rheoliad 2 am y diffiniad o "blwyddyn derbyn".

(6) Gweler rheoliad 2 am y diffiniad o "ysgol a gynhelir".

(1) 2021 asc 4.

(2) See regulation 2 for the definition of "pupil".

(3) See regulation 2 for the definition of "child".

(4) See regulation 2 for the definition of "nursery education".

(5) See regulation 2 for the definition of "reception year".

(6) See regulation 2 for the definition of "maintained school".

(d) ar gyfer disgyblion ym mlwyddyn 7 mewn ysgol a gynhelir pan fo'r pennaeth a'r corff llywodraethu wedi mabwysiadu cwricwlwm perthnasol(1) o dan Ran 2 o Ddeddf 2021.

(3) Daw'r Rheoliadau hyn i rym ar 1 Medi 2023—

(a) ar gyfer disgyblion ym mlwyddyn 7 mewn ysgol a gynhelir, a

(b) ar gyfer disgyblion ym mlwyddyn 8 mewn ysgol a gynhelir.

(4) Daw'r Rheoliadau hyn i rym ar 1 Medi 2024 ar gyfer disgyblion ym mlwyddyn 9 mewn ysgol a gynhelir.

(5) Daw'r Rheoliadau hyn i rym ar 1 Medi 2025 ar gyfer disgyblion ym mlwyddyn 10 mewn ysgol a gynhelir.

(6) Daw'r Rheoliadau hyn i rym ar 1 Medi 2026 ar gyfer disgyblion ym mlwyddyn 11 mewn ysgol a gynhelir.

Dehongli

2. Yn y Rheoliadau hyn—

ystyr “addysg feithrin” (“*nursery education*”) yw addysg lawnamser neu ran-amser sy'n addas i blant neu ddisgyblion nad ydynt wedi cyrraedd yr oedran ysgol gorfodol a ddarperir—

(a) mewn ysgol a gynhelir neu ysgol feithrin a gynhelir, neu

(b) gan ddarparwr addysg feithrin a gyllidir ond nas cynhelir;

mae i “addysg feithrin a gyllidir ond nas cynhelir” (“*funded non-maintained nursery education*”) yr ystyr a roddir iddo yn adran 80(1)(a) o Ddeddf 2021;

mae i “anghenion addysgol arbennig” yr ystyr a roddir i “special educational needs” yn adran 312 o Ddeddf 1996(2);

(d) for pupils in year 7 at a maintained school where the head teacher and governing body have adopted a relevant curriculum(1) under Part 2 of the 2021 Act.

(3) These Regulations come into force on 1 September 2023—

(a) for pupils in year 7 at a maintained school, and

(b) for pupils in year 8 at a maintained school.

(4) These Regulations come into force on 1 September 2024 for pupils in year 9 at a maintained school.

(5) These Regulations come into force on 1 September 2025 for pupils in year 10 at a maintained school.

(6) These Regulations come into force on 1 September 2026 for pupils in year 11 at a maintained school.

Interpretation

2. In these Regulations—

“the 1996 Act” (“*Deddf 1996*”) means the Education Act 1996(2);

“the 2021 Act” (“*Deddf 2021*”) means the Curriculum and Assessment (Wales) Act 2021;

“additional learning needs” (“*anghenion dysgu ychwanegol*”) has the meaning given to it in section 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018(3);

“child” (“*plentyn*”) has the meaning given to it in section 579(1) of the 1996 Act;

“determination” (“*penderfyniad*”) means a determination made under section 42(1) or (2) of the 2021 Act;

“funded non-maintained nursery education” (“*addysg feithrin a gyllidir ond nas cynhelir*”) has the meaning given to it in section 80(1)(a) of the 2021 Act;

“local authority” (“*awdurdod lleol*”) means the local authority that maintains the school;

“nursery education” (“*addysg feithrin*”) means full-time or part-time education suitable for children or pupils who have not attained compulsory school age provided—

(a) in a maintained school or a maintained nursery school, or

(1) Gweler rheoliad 2 am y diffiniad o “cwricwlwm perthnasol”.

(2) Diwygiwyd adran 312(1) gan adran 82 o Ddeddf Plant a Theuluoedd 2014 (p. 6) a pharagraffau 1 ac 11(1) a (2) o Ran 1 o Atodlen 3 i'r Ddeddf honno. Diwygiwyd is-adran (2) gan adran 57(1) a (4) o Ddeddf Addysg 1997 (p. 44) a pharagraff 23(a) a (b) o Atodlen 7 ac Atodlen 8 i'r Ddeddf honno, gan adran 59 o Ddeddf Prentisiaethau, Sgiliau, Plant a Dysgu 2009 (p. 22) a pharagraffau 1 a 6(1) a (2) o Atodlen 2 i'r Ddeddf honno, gan O.S. 2010/1158 a chan adran 82 o Ddeddf Plant a Theuluoedd 2014 a pharagraffau 1 ac 11(1) a (2) o Ran 1 o Atodlen 3 i'r Ddeddf honno. Mewnosodwyd is-adran (3A) gan adran 59 o Ddeddf Prentisiaethau, Sgiliau, Plant a Dysgu 2009 a pharagraffau 1 a 6(1) a (3) o Atodlen 2 i'r Ddeddf honno ac fe'i diwygiwyd ymhellach gan adran 82 o Ddeddf Plant a Theuluoedd 2014 a pharagraffau 1 ac 11(1), (3)(a)(i) a (ii), (3)(b) a (4) o Ran 1 o Atodlen 3 i'r Ddeddf honno. Diwygiwyd is-adran (4) gan adran 140(1) a (3) o Ddeddf Safonau a Fframwaith Ysgolion 1998 (p. 31) a pharagraff 71(a) o Atodlen 30 i'r Ddeddf honno. Diwygiwyd is-adran (5) gan adran 140(1) a (3) o Ddeddf Safonau a Fframwaith Ysgolion 1998 a pharagraff 71(b) o Atodlen 30 i'r Ddeddf honno. Mae adran 312 bellach wedi ei diddymu gan adran 96 o Ddeddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018 (dccc 2) a pharagraff 4(1) a (9) o Atodlen 1 i'r Ddeddf honno ond nid yw'r diddymiad hwnnw mewn grym yn llawn eto.

(1) See regulation 2 for the definition of “relevant curriculum”.

(2) 1996 c. 56.

(3) 2018 anaw 2.

mae i “anghenion dysgu ychwanegol” (“*additional learning needs*”) yr ystyr a roddir iddo yn adran 2 o Ddeddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) 2018(1);

ystyr “awdurdod lleol” (“*local authority*”) yw'r awdurdod lleol sy'n cynnal yr ysgol;

ystyr “blwyddyn 1” (“*year 1*”) yw grŵp blwyddyn y mae'r rhan fwyaf o'r disgyblion yn cyrraedd 6 oed ynddo;

ystyr “blwyddyn 2” (“*year 2*”) yw grŵp blwyddyn y mae'r rhan fwyaf o'r disgyblion yn cyrraedd 7 oed ynddo;

ystyr “blwyddyn 3” (“*year 3*”) yw grŵp blwyddyn y mae'r rhan fwyaf o'r disgyblion yn cyrraedd 8 oed ynddo;

ystyr “blwyddyn 4” (“*year 4*”) yw grŵp blwyddyn y mae'r rhan fwyaf o'r disgyblion yn cyrraedd 9 oed ynddo;

ystyr “blwyddyn 5” (“*year 5*”) yw grŵp blwyddyn y mae'r rhan fwyaf o'r disgyblion yn cyrraedd 10 oed ynddo;

ystyr “blwyddyn 6” (“*year 6*”) yw grŵp blwyddyn y mae'r rhan fwyaf o'r disgyblion yn cyrraedd 11 oed ynddo;

ystyr “blwyddyn 7” (“*year 7*”) yw grŵp blwyddyn y mae'r rhan fwyaf o'r disgyblion yn cyrraedd 12 oed ynddo;

ystyr “blwyddyn 8” (“*year 8*”) yw grŵp blwyddyn y mae'r rhan fwyaf o'r disgyblion yn cyrraedd 13 oed ynddo;

ystyr “blwyddyn 9” (“*year 9*”) yw grŵp blwyddyn y mae'r rhan fwyaf o'r disgyblion yn cyrraedd 14 oed ynddo;

ystyr “blwyddyn 10” (“*year 10*”) yw grŵp blwyddyn y mae'r rhan fwyaf o'r disgyblion yn cyrraedd 15 oed ynddo;

ystyr “blwyddyn 11” (“*year 11*”) yw grŵp blwyddyn y mae'r rhan fwyaf o'r disgyblion yn cyrraedd 16 oed ynddo;

ystyr “blwyddyn derbyn” (“*reception year*”) yw grŵp blwyddyn y mae'r rhan fwyaf o'r disgyblion yn cyrraedd 5 oed ynddo;

mae i “cwricwlwm perthnasol” (“*relevant curriculum*”) yr ystyr a roddir iddo yn adran 56(5)(a) a (b) o Ddeddf 2021;

(b) by the provider of funded non-maintained nursery education;

“operative date” (“*dyddiad gweithredol*”) means the date on which a determination comes into force;

“operative period” (“*cyfnod gweithredol*”) has the meaning given to it in section 43 of the 2021 Act;

“parent” (“*rhiant*”) has the meaning given to it in section 576 of the 1996 Act;

“provider of funded non-maintained nursery education” (“*darparwr addysg feithrin a gyllidir ond nas cynhelir*”) has the meaning given to it in section 80(1) of the 2021 Act;

“pupil” (“*disgybl*”) has the meaning given to it in section 26(4)(a) of the 2021 Act;

“reception year” (“*blwyddyn derbyn*”) means a year group in which the majority of the pupils attain the age of 5;

“relevant curriculum” (“*cwricwlwm perthnasol*”) has the meaning given to in section 56(5)(a) and (b) of the 2021 Act;

“relevant person” (“*person perthnasol*”) means—

- (a) in relation to a maintained school and a maintained nursery school, the head teacher, and
- (b) in relation to funded non-maintained nursery education, the provider;

“special educational needs” (“*anghenion addysgol arbennig*”) has the meaning given to it in section 312 of the 1996 Act(1);

“year 1” (“*blwyddyn 1*”) means a year group in which the majority of pupils attain the age of 6;

(1) Section 312(1) was amended by section 82 of, and paragraphs 1 and 11(1) and (2) of Part 1 of Schedule 3 to, the Children and Families Act 2014 (c. 6). Subsection (2) was amended by section 57(1) and (4) of, and paragraph 23(a) and (b) of Schedule 7 and Schedule 8 to, the Education Act 1997 (c. 44), by section 59 of, and paragraphs 1 and 6(1) and (2) of Schedule 2 to, the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), by S.I. 2010/1158 and by section 82 of, and paragraphs 1 and 11(1) and (2) of Part 1 of Schedule 3 to, the Children and Families Act 2014. Subsection (3A) was inserted by section 59 of, and paragraphs 1 and 6(1) and (3) of Schedule 2 to, the Apprenticeships, Skills, Children and Learning Act 2009 and was further amended by section 82 of, and paragraphs 1 and 11(1), (3)(a)(i) and (ii), (3)(b) and (4) of Part 1 of Schedule 3 to, the Children and Families Act 2014. Subsection (4) was amended by section 140(1) and (3) of, and paragraph 71(a) of Schedule 30 to, the School Standards and Framework Act 1998 (c. 31). Subsection (5) was amended by section 140(1) and (3) of, and paragraph 71(b) of Schedule 30 to, the School Standards and Framework Act 1998. Section 312 has now been repealed by section 96 of, and paragraph 4(1) and (9) of Schedule 1 to, the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (anaw 2) but that repeal is not yet fully in force.

(1) 2018 dccc 2.

mae i “cyfnod gweithredol” (“*operative period*”) yr ystyr a roddir iddo yn adran 43 o Ddeddf 2021;

mae i “darparwr addysg feithrin a gyllidir ond nas cynhelir” (“*provider of funded non-maintained nursery education*”) yr ystyr a roddir iddo yn adran 80(1) o Ddeddf 2021;

ystyr “Deddf 1996” (“*the 1996 Act*”) yw Deddf Addysg 1996(1);

ystyr “Deddf 2021” (“*the 2021 Act*”) yw Deddf Cwricwlwm ac Asesu (Cymru) 2021;

mae i “disgybl” (“*pupil*”) yr ystyr a roddir iddo yn adran 26(4)(a) o Ddeddf 2021;

ystyr “dyddiad gweithredol” (“*operative date*”) yw’r dyddiad y daw penderfyniad i rym;

ystyr “grŵp blwyddyn” (“*year group*”) yw grŵp o blant mewn ysgol y bydd y rhan fwyaf ohonynt, mewn blwyddyn ysgol benodol, yn cyrraedd yr un oedran;

ystyr “penderfyniad” (“*determination*”) yw penderfyniad a wneir o dan adran 42(1) neu (2) o Ddeddf 2021;

ystyr “person perthnasol” (“*relevant person*”) yw—

- (a) mewn perthynas ag ysgol a gynhelir ac ysgol feithrin a gynhelir, y pennaeth, a
- (b) mewn perthynas ag addysg feithrin a gyllidir ond nas cynhelir, y darparwr;

mae i “plentyn” yr ystyr a roddir i “child” yn adran 579(1) o Ddeddf 1996;

mae i “rhiant” yr ystyr a roddir i “parent” yn adran 576 o Ddeddf 1996.

Dirymu

3. Mae Rheoliadau Addysg (Y Cwricwlwm Cenedlaethol) (Eithriadau Dros Dro ar gyfer Disgyblion Unigol) (Cymru) 1999(2) wedi eu dirymu o 1 Medi 2026.

Achosion ac amgylchiadau pan ganiateir gwneud penderfyniadau

4.—(1) Ni chaiff person perthnasol ond wneud penderfyniad mewn cysylltiad â disgybl neu blentyn os yw wedi ei fodloni—

- (a) nad yw am y tro yn briodol gweithredu’r cwricwlwm perthnasol ar gyfer y disgybl hwnnw neu’r plentyn hwnnw, a

“year 2” (“*blwyddyn 2*”) means a year group in which the majority of pupils attain the age of 7;

“year 3” (“*blwyddyn 3*”) means a year group in which the majority of pupils attain the age of 8;

“year 4” (“*blwyddyn 4*”) means a year group in which the majority of pupils attain the age of 9;

“year 5” (“*blwyddyn 5*”) means a year group in which the majority of pupils attain the age of 10;

“year 6” (“*blwyddyn 6*”) means a year group in which the majority of pupils attain the age of 11;

“year 7” (“*blwyddyn 7*”) means a year group in which the majority of pupils attain the age of 12;

“year 8” (“*blwyddyn 8*”) means a year group in which the majority of pupils attain the age of 13;

“year 9” (“*blwyddyn 9*”) means a year group in which the majority of pupils attain the age of 14;

“year 10” (“*blwyddyn 10*”) means a year group in which the majority of pupils attain the age of 15;

“year 11” (“*blwyddyn 11*”) means a year group in which the majority of pupils attain the age of 16;

“year group” (“*grŵp blwyddyn*”) means a group of children at a school the majority of whom will, in a particular school year, attain the same age.

Revocation

3. The Education (National Curriculum) (Temporary Exceptions for Individual Pupils) (Wales) Regulations 1999(1) are revoked from 1 September 2026.

Cases and circumstances in which determinations may be made

4.—(1) A relevant person may only make a determination in respect of a pupil or child if satisfied—

- (a) that it is not for the time being appropriate to implement the relevant curriculum for that pupil or child, and

(1) 1996 p. 56.

(2) O.S. 1999/1815, a ddiwygiwyd gan O.S. 2010/1142 (Cy. 101).

(1) S.I. 1999/1815, amended by S.I. 2010/1142 (W. 101).

- (b) bod yr amgylchiadau sy'n arwain at y farn honno yn debygol o newid yn sylweddol fel y bydd, o fewn 6 mis i'r dyddiad gweithredol, yn briodol gweithredu'r cwricwlwm perthnasol ar gyfer y disgybl hwnnw neu'r plentyn hwnnw.

(2) Ni chaiff person perthnasol ond wneud penderfyniad os yw wedi ei fodloni y bydd y cwricwlwm a fydd yn cael ei weithredu ar gyfer y disgybl neu'r plentyn o ganlyniad i'r penderfyniad—

- (a) yn galluogi'r disgybl neu'r plentyn i ddatblygu yn y ffyrdd a ddisgrifir yn y pedwar diben,
- (b) yn sicrhau addysgu a dysgu sy'n cynnig cynnydd priodol ar gyfer pob disgybl neu blentyn,
- (c) yn addas ar gyfer oedran, gallu a dawn y disgybl neu'r plentyn,
- (d) yn ystyried y canlynol o ran y disgybl neu'r plentyn—
 - (i) ei anghenion dysgu ychwanegol, neu
 - (ii) ei anghenion addysgol arbennig ar gyfer disgybl neu blentyn y mae Pennod 1 o Ran 4 o Ddeddf 1996 yn parhau i fod yn gymwys iddo, ac
- (e) yn sicrhau addysgu a dysgu eang a chytbwys i'r disgybl neu'r plentyn.

(3) Ni chaiff person perthnasol wneud penderfyniad ar y sail bod gan ddisgybl neu blentyn anghenion dysgu ychwanegol neu anghenion addysgol arbennig, neu y gall fod ganddo anghenion dysgu ychwanegol neu anghenion addysgol arbennig.

Cyfnod gweithredol

5.—(1) Rhaid i berson perthnasol benderfynu mewn cysylltiad ag unrhyw ddisgybl cofrestredig ar ddyddiad gweithredol a chyfnod gweithredol y penderfyniad hwnnw.

(2) Ni chaniateir pennu felly ddyddiad gweithredol sy'n llai nag 1 mis ar ôl y dyddiad y rhoddir y penderfyniad oni bai bod y person perthnasol wedi ei fodloni ei bod yn hanfodol er budd y disgybl neu am resymau addysgol eraill y dylai'r penderfyniad ddod i rym yn gynharach.

(3) Y cyfnod gweithredol hwyaf y caniateir ei bennu mewn penderfyniad yw naill ai—

- (a) cyfnod penodol nad yw'n hwy na 6 mis, neu
- (b) cyfnod y mae rhaid dod ag ef i ben gan y person perthnasol heb fod yn hwyrach na 6 mis i'w ddechrau.

- (b) the circumstances that give rise to that opinion are likely to change significantly so that, within 6 months of the operative date, it will be appropriate to implement the relevant curriculum for that pupil or child.

(2) A relevant person may only make a determination if satisfied that the curriculum that will be implemented for the pupil or child as a result of the determination will—

- (a) enable the pupil or child to develop in the ways described in the four purposes,
- (b) secure teaching and learning that offers appropriate progression for each pupil or child,
- (c) be suitable for the pupil or child's age, ability and aptitude,
- (d) take account of the pupil's or child's—
 - (i) additional learning needs, or
 - (ii) special educational needs for a pupil or child in relation to whom Chapter 1 of Part 4 of the 1996 Act continues to apply, and
- (e) secure broad and balanced teaching and learning for the pupil or child.

(3) A relevant person must not make a determination on the grounds that a pupil or child has, or may have, additional learning needs or special educational needs.

Operative period

5.—(1) A relevant person must determine in respect of any registered pupil the operative date and operative period of that determination.

(2) No operative date which is less than 1 month after the date on which the determination is given may be so specified unless the relevant person is satisfied that it is essential in the interests of the pupil or for other educational reasons that the determination should come into force earlier.

(3) The maximum operative period that may be specified in a determination is either—

- (a) a fixed period that does not exceed 6 months, or
- (b) a period that must be brought to an end by the relevant person no later than 6 months from its beginning.

Amrywio penderfyniadau

6.—(1) Caiff person perthnasol amrywio unrhyw benderfyniad, ac eithrio mewn perthynas â'i gyfnod gweithredol, os yw wedi ei fodloni nad yw unrhyw ddarpariaeth sydd wedi ei chynnwys ynddo yn briodol mwyach ar gyfer y disgybl hwnnw neu'r plentyn hwnnw.

(2) Ni ddaw amrywiad i benderfyniad i rym tan o leiaf 1 mis ar ôl y dyddiad y rhoddir hysbysiad amrywio oni bai bod y person perthnasol wedi ei fodloni ei bod yn hanfodol er budd y disgybl neu'r plentyn neu am resymau addysgol eraill iddo gael ei ddwyn i rym yn gynharach.

Dirymu penderfyniadau

7. Pan fo person perthnasol yn ystyried nad yw penderfyniad a wnaed yn briodol mwyach ar gyfer y disgybl neu'r plentyn, caiff y person perthnasol, drwy hysbysiad ysgrifenedig ddirymu'r penderfyniad hwnnw.

Penderfyniadau pellach gan benaethiaid

8.—(1) Caiff pennaeth sydd wedi gwneud penderfyniad mewn cysylltiad â disgybl o dan reoliad 4 wneud penderfyniad pellach mewn cysylltiad â'r disgybl hwnnw os yw wedi ei fodloni—

- (a) nad yw'n briodol o hyd am y tro weithredu'r cwricwlwm perthnasol ar gyfer y disgybl hwnnw, a
- (b) bod yr amgylchiadau sy'n arwain at y farn honno yn debygol o newid yn sylweddol fel y bydd, o fewn 3 mis i'r dyddiad gweithredol, yn briodol gweithredu'r cwricwlwm perthnasol ar gyfer y disgybl hwnnw.

(2) Rhaid i gyfnod gweithredol y penderfyniad pellach ddechrau—

- (a) yn union ar ôl diwedd cyfnod gweithredol y penderfyniad cyntaf, yn ddarostyngedig i gael cydsyniad ysgrifenedig ymlaen llaw gan 3 aelod o'r corff llywodraethu, a
- (b) yn union ar ôl i benderfyniad pellach a wneir o dan baragraff (1) ddod i ben, yn ddarostyngedig i gael cydsyniad ysgrifenedig ymlaen llaw gan 3 aelod o'r corff llywodraethu a chan yr awdurdod lleol.

(3) Caiff pennaeth wneud penderfyniad pellach yn seiliedig ar resymau gwahanol i'r rhai y gwnaed y penderfyniad cyntaf yn seiliedig arnynt os yw'r pennaeth yn cael cydsyniad ysgrifenedig ymlaen llaw gan y canlynol—

- (a) 3 aelod o'r corff llywodraethu, a
- (b) yr awdurdod lleol.

Variation of determinations

6.—(1) A relevant person may vary any determination, except in relation to its operative period, if satisfied that any provision contained in it is no longer appropriate for that pupil or child.

(2) A variation to a determination does not come into force until at least 1 month after the date on which notice of variation is given unless the relevant person is satisfied that it is essential in the interests of the pupil or child or for other educational reasons for it to be brought into force earlier.

Revocation of determinations

7. Where a relevant person considers that a determination made is no longer appropriate for the pupil or child, the relevant person may, by a notice in writing revoke that determination.

Further determinations by head teachers

8.—(1) A head teacher who has made a determination in respect of a pupil under regulation 4 may make a further determination in respect of that pupil if satisfied—

- (a) that it is still not for the time being appropriate to implement the relevant curriculum for that pupil, and
- (b) the circumstances that give rise to that opinion are likely to change significantly so that, within 3 months of the operative date, it will be appropriate to implement the relevant curriculum for that pupil.

(2) The operative period of the further determination must begin immediately after—

- (a) the end of the operative period of the first determination, subject to the prior written consent of 3 members of the governing body being obtained, and
- (b) the expiry of a further determination made under paragraph (1) subject to the prior written consent of 3 members of the governing body and of the local authority being obtained.

(3) A head teacher may make a further determination based on different reasons for which the first determination was made if the head teacher obtains the prior written consent of—

- (a) 3 members of the governing body, and
- (b) the local authority.

Penderfyniadau pellach gan ddarparwyr addysg feithrin a gyllidir ond nas cynhelir

9.—(1) Caiff darparwr addysg feithrin a gyllidir ond nas cynhelir sydd wedi gwneud penderfyniad mewn cysylltiad â phlentyn wneud penderfyniad pellach mewn cysylltiad â'r plentyn hwnnw os yw wedi ei fodloni—

- (a) nad yw'n briodol o hyd am y tro weithredu'r cwricwlwm perthnasol ar gyfer y plentyn hwnnw, a
- (b) bod yr amgylchiadau sy'n arwain at y farn honno yn debygol o newid yn sylweddol fel y bydd, o fewn 3 mis i'r dyddiad gweithredol, yn briodol gweithredu'r cwricwlwm perthnasol ar gyfer y plentyn hwnnw.

(2) Rhaid i gyfnod gweithredol y penderfyniad pellach ddechrau—

- (a) yn union ar ôl diwedd cyfnod gweithredol y penderfyniad cyntaf, a
- (b) yn union ar ôl i benderfyniad pellach a wneir o dan baragraff (1) ddod i ben.

(3) Caiff darparwr addysg feithrin a gyllidir ond nas cynhelir wneud penderfyniad pellach heb fod yn hwy na 3 mis yn seiliedig ar resymau gwahanol i'r rhai y gwnaed y penderfyniad cyntaf yn seiliedig arnynt.

Ceisiadau gan ddisgyblion neu rieni

10.—(1) Caiff disgybl, neu riant disgybl, ar unrhyw adeg ofyn i'r pennaeth wneud penderfyniad (neu benderfyniad pellach), neu ddirymu neu amrywio penderfyniad sydd mewn grym ar hyn o bryd.

(2) Caiff rhiant plentyn ar unrhyw adeg ofyn i ddarparwr addysg feithrin a gyllidir ond nas cynhelir wneud penderfyniad (neu benderfyniad pellach), neu ddirymu neu amrywio penderfyniad sydd mewn grym ar hyn o bryd.

(3) Caniateir gwneud cais ar lafar neu'n ysgrifenedig a rhaid iddo gynnwys y rhesymau dros ei wneud.

(4) Nid yw'n ofynnol i'r pennaeth na'r darparwr addysg feithrin a gyllidir ond nas cynhelir ystyried cais i ddirymu neu amrywio penderfyniad sydd mewn grym ar hyn o bryd fwy nag unwaith yn ystod pob un o'r cyfnodau a ganlyn—

- (a) cyfnod gweithredol y penderfyniad hwnnw, a
- (b) cyfnod gweithredol unrhyw benderfyniad pellach neu benderfyniadau a wneir o dan reoliad 8 neu 9.

Further determinations by providers of funded non-maintained nursery education

9.—(1) A provider of funded non-maintained nursery education who has made a determination in respect of a child may make a further determination in respect of that child if satisfied—

- (a) that it is still not for the time being appropriate to implement the relevant curriculum for that child, and
- (b) the circumstances that give rise to that opinion are likely to change significantly so that, within 3 months of the operative date, it will be appropriate to implement the relevant curriculum for that child.

(2) The operative period of the further determination must begin immediately after—

- (a) the end of the operative period of the first determination, and
- (b) the expiry of a further determination made under paragraph (1).

(3) A provider of funded non-maintained nursery education may make a further determination of not more than 3 months based on different reasons for which the first determination was made.

Pupil or parental requests

10.—(1) A pupil, or a pupil's parent, may at any time request the head teacher to make a determination (or a further determination), or to revoke or vary a determination currently in force.

(2) A child's parent may at any time request the provider of funded non-maintained nursery education to make a determination (or a further determination), or to revoke or vary a determination currently in force.

(3) A request may be made orally or in writing and must include the reasons for which it is made.

(4) The head teacher and provider of non-maintained funded nursery education are not required to consider a request to revoke or vary a determination currently in force more than once during each of—

- (a) the operative period of that determination, and
- (b) the operative period of any further determination or determinations made under regulation 8 or 9.

Ceisiadau gan ddisgyblion neu rieni: Hysbysu

11. Rhaid i'r person perthnasol, o fewn 2 wythnos i gael cais o dan reoliad 10(1) neu (2), wneud, amrywio neu ddirymu'r penderfyniad neu roi hysbysiad ei fod wedi penderfynu gwrthod gwneud hynny.

Pupil or parental requests: Notice

11. The relevant person must, within 2 weeks of receiving a request under regulation 10(1) or (2) make, vary or revoke the determination or give notice of the decision to refuse to do so.

Jeremy Miles

Gweinidog y Gymraeg ac Addysg, un o Weinidogion
Cymru
15 Mehefin 2022

Minister for Education and Welsh Language, one of
the Welsh Ministers
15 June 2022

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