OFFERYNNAU STATUDOL CYMRU

2019 Rhif 1149 (Cy. 199)

TAI, CYMRU

Rheoliadau Dyrannu Tai a Digartrefedd (Cymhwystra) (Cymru) (Diwygio) (Rhif 2) 2019

NODYN ESBONIADOL

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

Mae'r Rheoliadau hyn yn diwygio darpariaethau Rheoliadau Dyrannu Tai a Digartrefedd (Cymhwystra) (Cymru) 2014 (O.S. 2014/2603 (Cy. 257)) ("Rheoliadau 2014"), sy'n rhagnodi'r dosbarthiadau o bersonau sy'n ddarostyngedig i reolaeth fewnfudo sy'n bersonau sy'n gymwys i gael cymorth tai o dan adrannau 66, 68, 73 a 75 o Ddeddf Tai (Cymru) 2014 (2014 dccc 7), yn ogystal â'r dosbarthiadau o bersonau o dramor, nad ydynt yn ddarostyngedig i reolaeth fewnfudo, sy'n anghymwys i gael cymorth tai o dan y Ddeddf honno. At y dibenion hyn, mae i "personau sy'n ddarostyngedig i reolaeth fewnfudo" yr un ystyr ag a roddir i "person subject to immigration control" yn adran 13(2) o Ddeddf Lloches a Mewnfudo 1996 (p. 49).

Mae rheoliad 5 o Reoliadau 2014 yn rhagnodi dosbarthiadau o bersonau sy'n ddarostyngedig i reolaeth fewnfudo sy'n gymwys i gael cymorth tai. Mae rheoliad 2(2) yn diwygio'r ddarpariaeth honno drwy ychwanegu dau ddosbarth pellach o bersonau at y rhestr honno, sef y rhai sy'n dod o dan adran 67 o Ddeddf Mewnfudo 2016 (p. 19) ac sydd naill ai â chaniatâd cyfyngedig i aros o dan baragraff 352ZH o'r rheolau mewnfudo neu ganiatâd Calais i aros o dan baragraff 352J o'r rheolau mewnfudo (a osodwyd gerbron Senedd y DU ar 23 Mai 1994 (HC 395)) ("y rheolau mewnfudo").

O dan reoliad 6 o Reoliadau 2014, mae person nad yw'n ddarostyngedig i reolaeth fewnfudo yn anghymwys i gael cymorth tai pan na fo'n preswylio fel arfer yn y Deyrnas Unedig, Ynysoedd y Sianel, Ynys Manaw, neu Weriniaeth Iwerddon neu pan fo ei *unig* hawl i breswylio yn y mannau hynny—

WELSH STATUTORY INSTRUMENTS

2019 No. 1149 (W. 199)

HOUSING, WALES

The Allocation of Housing and Homelessness (Eligibility) (Wales) (Amendment) (No 2) Regulations 2019

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the provisions of the Allocation of Housing and Homelessness (Eligibility) (Wales) Regulations 2014 (S.I. 2014/2603 (W. 257)) ("the 2014 Regulations"), which prescribe the classes of persons subject to immigration control who are eligible for housing assistance under sections 66, 68, 73 and 75 of the Housing (Wales) Act 2014 (2014 anaw 7), as well as the classes of persons from abroad, not subject to immigration control, who are ineligible for housing assistance under that Act. For these purposes, 'person subject to immigration control' has the meaning given in section 13(2) of the Asylum and Immigration Act 1996 (c. 49).

Regulation 5 of the 2014 Regulations prescribes classes of persons subject to immigration control who are eligible for housing assistance. Regulation 2(2) amends that provision by adding two further classes of person to the list, that is, those captured by section 67 of the Immigration Act 2016 (c. 19) and have either limited leave to remain under paragraph 352ZH of the immigration rules or Calais leave to remain under paragraph 352J of the immigration rules (laid before Parliament on 23 May 1994 (HC 395)) ("the immigration rules").

Under regulation 6 of the 2014 Regulations, a person who is not subject to immigration control is ineligible for housing assistance where they are not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland or their *only* right to reside in those places is—

(a) fel "ceisiwr gwaith" AEE neu fel "aelod o deulu" ceisiwr gwaith AEE;

(b) yn hawl cychwynnol i breswylio am gyfnod nad yw'n hwy na thri mis o dan Reoliadau Mewnfudo (Ardal Economaidd Ewropeaidd) 2016 (O.S. 2016/1052) ("Rheoliadau AEE 2016");

(c) oherwydd ei fod yn berson nad yw'n wladolyn AEE sy'n brif ofalwr dibynnydd AEE o dan Reoliadau AEE 2016.

Mae rheoliad 2(3) yn diwygio'r ddarpariaeth honno. Effaith y diwygiad yw cynnal y status quo, felly pan roddir caniatâd cyfyngedig i ddod i mewn i'r Deyrnas Unedig neu i aros ynddi yn unol ag Atodiad EU i'r rheolau mewnfudo i bersonau sydd hefyd â hawl i breswylio o'r math a grybwyllir uchod, nid yw hynny yn effeithio ar eu cymhwystra.

Mae Rheoliadau 2014 yn cyfeirio at Reoliadau Mewnfudo (Ardal Economaidd Ewropeaidd) 2006 (O.S. 2006/1003) ("Rheoliadau AEE 2006"). Gan fod Rheoliadau AEE 2006 wedi eu dirymu gan Reoliadau AEE 2016, effaith paragraff 1 o Atodlen 7 i Reoliadau AEE 2016 yw bod cyfeiriadau at Reoliadau AEE 2006 yn Rheoliadau 2014 i'w darllen fel cyfeiriadau at ddarpariaethau cyfatebol Rheoliadau AEE 2016.

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.

(a) as an EEA 'jobseeker' or as the 'family member' of an EEA jobseeker;

(b) an initial right to reside for a period not exceeding three months under the Immigration (European Economic Area) Regulations 2016 (S.I. 2016/1052) ("the EEA Regulations 2016");

(c) because they are a non-EEA national primary carer of an EEA dependant under the EEA Regulations 2016.

Regulation 2(3) amends that provision. The effect of the amendment is to maintain the status quo so that, where a person with a right to reside of the type mentioned above is also granted limited leave to enter or remain in the United Kingdom pursuant to Appendix EU of the immigration rules, this does not affect their eligibility.

The 2014 Regulations refer to the Immigration (European Economic Area) Regulations 2006 (S.I. 2006/1003) ("the EEA Regulations 2006"). Whilst the EEA Regulations 2006 have been revoked by the EEA Regulations 2016, the effect of paragraph 1 of Schedule 7 to the EEA Regulations 2016 is that references to the EEA Regulations 2006 in the 2014 Regulations are to be read as references to the corresponding provisions of the EEA Regulations 2016.

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.

OFFERYNNAU STATUDOL CYMRU

2019 Rhif 1149 (Cy. 199)

TAI, CYMRU

Rheoliadau Dyrannu Tai a Digartrefedd (Cymhwystra) (Cymru) (Diwygio) (Rhif 2) 2019

Gwnaed	*18 Gorffennaf 2019*
Yn dod i rym	*19 Gorffennaf 2019*

Mae Gweinidogion Cymru yn gwneud y Rheoliadau a ganlyn drwy arfer y pwerau a roddir iddynt gan baragraff 1(2) a (4) o Atodlen 2 i Ddeddf Tai (Cymru) 2014(**1**).

Yn unol ag adran 142(3)(b) o'r Ddeddf honno, gosodwyd drafft o'r Rheoliadau hyn gerbron Cynulliad Cenedlaethol Cymru ac fe'i cymeradwywyd ganddo drwy benderfyniad.

Enwi a chychwyn

1. Enw'r Rheoliadau hyn yw Rheoliadau Dyrannu Tai a Digartrefedd (Cymhwystra) (Cymru) (Diwygio) (Rhif 2) 2019 a deuant i rym ar 19 Gorffennaf 2019.

Diwygio Rheoliadau Dyrannu Tai a Digartrefedd (Cymhwystra) (Cymru) 2014

2.—(1) Mae Rheoliadau Dyrannu Tai a Digartrefedd (Cymhwystra) (Cymru) 2014(**2**) wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 5 (personau sy'n ddarostyngedig i reolaeth fewnfudo sy'n gymwys i gael cymorth tai)—

(a) ar ddiwedd paragraff (f), hepgorer "ac";

(**1**) 2014 dccc 7.
(**2**) O.S. 2014/2603 (Cy. 257).

WELSH STATUTORY INSTRUMENTS

2019 No. 1149 (W. 199)

HOUSING, WALES

The Allocation of Housing and Homelessness (Eligibility) (Wales) (Amendment) (No 2) Regulations 2019

Made	*18 July 2019*
Coming into force	*19 July 2019*

The Welsh Ministers make the following Regulations in exercise of the powers conferred on them by paragraph 1(2) and (4) of Schedule 2 to the Housing (Wales) Act 2014(**1**).

In accordance with section 142(3) (b) of that Act, a draft of these Regulations has been laid before and approved by a resolution of the National Assembly for Wales.

Title and commencement

1. The title of these Regulations is the Allocation of Housing and Homelessness (Eligibility) (Wales) (Amendment) (No 2) Regulations 2019 and they come into force on 19 July 2019.

Amendment of the Allocation of Housing and Homelessness (Eligibility) (Wales) Regulations 2014

2.—(1) The Allocation of Housing and Homelessness (Eligibility) (Wales) Regulations 2014(**2**) are amended as follows.

(2) In regulation 5 (persons subject to immigration control who are eligible for housing assistance)—

(a) at the end of paragraph (f), omit "and";

(**1**) 2014 anaw 7.
(**2**) S.I. 2014/2603 (W. 257).

(b) ar ddiwedd paragraff (g) yn lle "." rhodder "; ac";

(c) ar ôl paragraff (g) mewnosoder—

"(h) Dosbarth H – person sy'n preswylio fel arfer yn y Deyrnas Unedig, Ynysoedd y Sianel, Ynys Manaw neu Weriniaeth Iwerddon ac a adleolwyd i'r Deyrnas Unedig o dan adran 67 o Ddeddf Mewnfudo 2016 ac sydd â chaniatâd cyfyngedig i aros o dan baragraff 352ZH o'r rheolau mewnfudo; ac

(i) Dosbarth I – person sy'n preswylio fel arfer yn y Deyrnas Unedig, Ynysoedd y Sianel, Ynys Manaw neu Weriniaeth Iwerddon ac sydd â chaniatâd Calais i aros o dan baragraff 352J o'r rheolau mewnfudo."

(3) Yn rheoliad 6 (personau eraill o dramor sy'n anghymwys i gael cymorth tai) ar ôl paragraff (1) mewnosoder—

"(1A) At ddibenion penderfynu pa un a yw'r unig hawl i breswylio sydd gan berson yn un o fath a grybwyllir ym mharagraff (1)(b) ac (c), mae hawl i breswylio yn rhinwedd y rhoddwyd caniatâd cyfyngedig i berson i ddod i mewn i'r Deyrnas Unedig neu i aros ynddi o dan Ddeddf Mewnfudo 1971(**1**) yn rhinwedd Atodiad EU i'r rheolau mewnfudo(**2**) a wnaed o dan adran 3 o'r Ddeddf honno i'w ddiystyru."

Darpariaethau trosiannol

3. Nid yw'r diwygiadau a wnaed gan reoliad 2(3) yn cael effaith mewn perthynas â chais i gael cymorth tai a wnaed o dan adrannau 66, 68, 73 a 75 o Ddeddf Tai (Cymru) 2014 a wnaed cyn i'r Rheoliadau hyn ddod i rym.

(b) at the end of paragraph (g) for "." substitute "; and";

(c) after paragraph (g) insert—

"(h) Class H – a person who is habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland and who has been relocated to the United Kingdom under section 67 of the Immigration Act 2016 and has limited leave to remain under paragraph 352ZH of the immigration rules; and

(i) Class I – a person who is habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland and has Calais Leave to remain under paragraph 352J of the immigration rules."

(3) In regulation 6 (other persons from abroad who are ineligible for housing assistance) after paragraph (1) insert—

"(1A) For the purposes of determining whether the only right to reside that a person has is of a kind mentioned in paragraph (1) (b) and (c), a right to reside by virtue of having been granted limited leave to enter or remain in the United Kingdom under the Immigration Act 1971(**1**) by virtue of Appendix EU to the immigration rules (**2**) made under section 3 of that Act is to be disregarded."

Transitional provisions

3. The amendments made by regulation 2(3) do not have effect in relation to an application for housing assistance provided under sections 66, 68, 73 and 75 of the Housing (Wales) Act 2014 which was made before the coming into force of these Regulations.

(**1**) 1971 p. 77. Nid yw'r diwygiadau i adran 3 yn berthnasol i'r Rheoliadau hyn.

(**2**) Gosodwyd gerbron Senedd y DU ar 23 Mai 1994 (HC 395), fel y'u diwygiwyd. Gosodwyd Atodiad EU gerbron Senedd y DU ar 20 Gorffennaf 2018 (CM 9675).

(**1**) 1971 c. 77. The amendments to section 3 are not relevant to these Regulations.

(**2**) Laid before Parliament on 23 May 1994 (HC 395), as amended. Appendix EU was laid before Parliament on 20 July 2018 (CM 9675).

Julie James

Y Gweinidog Tai a Llywodraeth Leol, un o Weinidogion Cymru
18 Gorffennaf 2019

Minister for Housing and Local Government, one of the Welsh Ministers
18 July 2019

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