



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2019 Rhif 761 (Cy. 144)

2019 No. 761 (W. 144)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

**EXITING THE EUROPEAN
UNION, WALES**

**GOFAL CYMDEITHASOL,
CYMRU**

SOCIAL CARE, WALES

**CYMWYSTERAU
PROFFESIYNOL, CYMRU**

**PROFESSIONAL
QUALIFICATIONS, WALES**

Rheoliadau Rheoleiddio ac Arolygu
Gofal Cymdeithasol
(Cymwysterau) (Cymru) (Diwygio)
(Ymadael â'r UE) 2019

The Regulation and Inspection of
Social Care (Qualifications)
(Wales) (Amendment) (EU Exit)
Regulations 2019

NODYN ESBONIADOL

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

Mae'r Rheoliadau hyn wedi eu gwneud drwy arfer y pwerau a roddir gan baragraff 1(1) o Atodlen 2 a pharagraff 21 o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 (p. 16), er mwyn ymdrin ag unrhyw fethiant yng nghyfraith yr UE a ddargedwir i weithredu'n effeithiol a diffygion eraill sy'n deillio o ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd.

Mae'r Rheoliadau hyn yn gwneud diwygiadau i Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016 (dccc 2) ("Deddf 2016") sy'n ymwneud â rheoleiddio gweithwyr cymdeithasol a rheolwyr gofal cymdeithasol yng Nghymru ac yn gwneud arbedion a darpariaeth drosiannol mewn cysylltiad â'r diwygiadau hynny.

Mae rheoliad 14 yn diwygio'r cyfeiriad at "cyfreithiwr Ewropeaidd" ym mharagraff 7 o Atodlen 1 i Ddeddf 2016 yn unol â'r trefniadau trosiannol a wneir ar gyfer cyfreithwyr o wladwriaethau'r AEE a'r Swistir gan Reoliadau Gwasanaethau Cyfreithwyr ac Ymarfer Cyfreithwyr (Dirymu etc.) (Ymadael â'r UE) 2019.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2) ("the 2016 Act") relating to the regulation of social workers and social care managers in Wales and make savings and transitional provision in connection with those amendments.

Regulation 14 amends the reference to "European lawyer" in paragraph 7 of Schedule 1 to the 2016 Act in line with the transitional arrangements made for lawyers from EEA states and Switzerland by the Services of Lawyers and Lawyer's Practice (Revocation etc.) (EU Exit) Regulations 2019.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Aseidiadau 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.

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.

2019 Rhif 761 (Cy. 144)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

**GOFAL CYMDEITHASOL,
CYMRU**

**CYMWYSTERAU
PROFFESIYNOL, CYMRU**

Rheoliadau Rheoleiddio ac Arolygu
Gofal Cymdeithasol
(Cymwysterau) (Cymru) (Diwygio)
(Ymadael â'r UE) 2019

Gwnaed

29 Mawrth 2019

Yn dod i rym yn unol â rheoliad 1(2) a (3)

Mae Gweinidogion Cymru drwy arfer y pwerau a roddir gan baragraff 1(1) o Atodlen 2 a pharagraff 21 o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018(1) yn gwneud y Rheoliadau a ganlyn.

Yn unol â pharagraff 1(9) o Atodlen 7 i'r Ddeddf honno, gosodwyd drafft o'r offeryn hwn gerbron Cynulliad Cenedlaethol Cymru ac fe'i cymeradwywyd ganddo drwy benderfyniad.

Enwi, cychwyn, cymhwyso a dehongli

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymwysterau) (Cymru) (Diwygio) (Ymadael â'r UE) 2019.

2019 No. 761 (W. 144)

**EXITING THE EUROPEAN
UNION, WALES**

SOCIAL CARE, WALES

**PROFESSIONAL
QUALIFICATIONS, WALES**

The Regulation and Inspection of
Social Care (Qualifications)
(Wales) (Amendment) (EU Exit)
Regulations 2019

Made

29 March 2019

*Coming into force in accordance with
regulation 1(2) and (3)*

The Welsh Ministers in exercise of the powers conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018(1) make the following Regulations.

In accordance with paragraph 1(9) of Schedule 7 to that Act, a draft of this instrument has been laid before and approved by a resolution of the National Assembly for Wales.

Title, commencement, application and interpretation

1.—(1) The title of these Regulations is the Regulation and Inspection of Social Care (Qualifications) (Wales) (Amendment) (EU Exit) Regulations 2019.

(2) Yn ddarostyngedig i baragraff (3), daw'r Rheoliadau hyn i rym ar y diwrnod ymadael.

(3) Daw rheoliad 14(2) i rym ar 11.00pm ar 31 Rhagfyr 2020.

(4) Mae'r Rheoliadau hyn yn gymwys o ran Cymru.

(5) Yn y Rheoliadau hyn, ystyr "Deddf 2016" yw Deddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016(1).

(2) Subject to paragraph (3), these Regulations come into force on exit day.

(3) Regulation 14(2) comes into force at 11.00pm on 31 December 2020.

(4) These Regulations apply in relation to Wales.

(5) In these Regulations, "the 2016 Act" means the Regulation and Inspection of Social Care (Wales) Act 2016(1).

RHAN 1

Diwygiadau i ddeddfwriaeth

Diwygiadau i Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016

2. Mae Deddf 2016 wedi ei diwygio fel a ganlyn.

3. Yn adran 66(1) (dehongli Rhannau 3 i 8), hepgorer y diffiniadau o "gwladolyn", "Gwladwriaeth Ewropeaidd berthnasol", "person esempt", "rhan gweithwyr cymdeithasol Ewropeaidd sydd ar ymweliad", "rhan rheolwyr gofal cymdeithasol Ewropeaidd sydd ar ymweliad" ac "y Rheoliadau Systemau Cyffredinol"(2).

4. Yn adran 74 (rheolau: ffioedd)(3), hepgorer is-adran (3).

5. Yn adran 80 (y gofrestr)(4), hepgorer is-adrannau (1)(c) a (d), (2)(c) a (d) a (3)(c) a (d).

6. Yn adran 84 ("wedi ei gymhwyso'n briodol")(5), hepgorer paragraff (aa)(ii).

7. Yn adran 85 (cymwysterau a geir y tu allan i Gymru – gweithwyr cymdeithasol)(6), hepgorer is-adran (1).

8. Hefgorer adran 85A (cymwysterau a geir y tu allan i Gymru – rheolwyr gofal cymdeithasol)(7).

PART 1

Amendments to legislation

Amendments to the Regulation and Inspection of Social Care (Wales) Act 2016

2. The 2016 Act is amended as follows.

3. In section 66(1) (interpretation of Parts 3 to 8), omit the definitions of "exempt person", "the General Systems Regulations", "national", "relevant European State", "visiting European social care manager part" and "visiting European social worker part"(2).

4. In section 74 (rules: fees)(3), omit subsection (3).

5. In section 80 (the register)(4), omit subsections (1)(c) and (d), (2)(c) and (d), and (3)(c) and (d).

6. In section 84 ("appropriately qualified")(5), omit paragraph (aa)(ii).

7. In section 85 (qualifications gained outside Wales – social workers)(6), omit subsection (1).

8. Omit section 85A (qualifications gained outside Wales – social care managers)(7).

(1) 2016 decc 2.

(2) Mewnosodwyd y diffiniadau "rhan gweithwyr cymdeithasol Ewropeaidd sydd ar ymweliad" a "rhan rheolwyr gofal cymdeithasol Ewropeaidd sydd ar ymweliad" gan O.S. 2016/1030, rheoliad 121(2).

(3) Amnewidiwyd "rhan gweithwyr cymdeithasol Ewropeaidd sydd ar ymweliad neu'r rhan rheolwyr gofal cymdeithasol Ewropeaidd sydd ar ymweliad" gan O.S. 2016/1030, rheoliad 123.

(4) Gwnaed diwygiadau perthnasol gan O.S. 2016/1030, rheoliad 127(2), (3) a (4).

(5) Gwnaed diwygiadau perthnasol gan O.S. 2016/1030, rheoliad 129(2) a (3).

(6) Mewnosodwyd "- gweithwyr cymdeithasol" ym mhennawd yr adran gan O.S. 2016/1030, rheoliad 131(2).

(7) Mewnosodwyd gan O.S. 2016/1030, rheoliad 133.

(1) 2016 anaw 2.

(2) The definitions "visiting European social care manager part" and "visiting European social worker part" were inserted by S.I. 2016/1030, regulation 120(2).

(3) "European social worker part or visiting European social care manager part" was substituted by S.I. 2016/1030, regulation 122.

(4) Relevant amendments were made by S.I. 2016/1030, regulation 126(2), (3) and (4).

(5) Relevant amendments were made by S.I. 2016/1030, regulation 128(2) and (3).

(6) "- social workers" was inserted into the section heading by S.I. 2016/1030, regulation 130(2).

(7) Inserted by S.I. 2016/1030, regulation 132.

9. Hepgorer adran 90 (gweithwyr cymdeithasol sydd ar ymweliad o Wladwriaethau Ewropeaidd perthnasol)(1).

10. Hepgorer adran 90A (rheolwyr gofal cymdeithasol sydd ar ymweliad o Wladwriaethau Ewropeaidd perthnasol)(2).

11. Hepgorer adran 105 (apelau eraill: penderfyniadau a wneir o dan y Rheoliadau Systemau Cyffredinol)(3).

12. Yn adran 113 (datblygiad proffesiynol parhaus), hepgorer is-adrannau (3) i (5)(4).

13. Yn adran 164 (ystyr “person cofrestredig” yn Rhan 6)(5)—

- (a) yn lle “y rhan gweithwyr cymdeithasol, mewn rhan ychwanegol” rhodder “y rhan gweithwyr cymdeithasol neu mewn rhan ychwanegol”;
- (b) hepgorer “neu yn y rhan gweithwyr cymdeithasol Ewropeaidd sydd ar ymweliad neu’r rhan rheolwyr gofal cymdeithasol Ewropeaidd sydd ar ymweliad”.

14.—(1) Yn Atodlen 1 (gwasanaethau rheoleiddiedig: diffiniadau), ym mharagraff 7 (gwasanaethau eirioli)—

- (a) yn is-baragraff (4)—
 - (i) ar ddiwedd paragraff (a), hepgorer “neu”;
 - (ii) yn lle paragraff (b) rhodder—
“(b) yn unigolyn—
 - (i) y mae rheoliad 5(1)(a) o’r Rheoliadau Dirymu yn gymwys iddo,
 - (ii) yr oedd rheoliad 5(1)(b) o’r Rheoliadau hynny yn gymwys iddo ac sy’n dod yn gyfreithiwr Ewropeaidd cofrestredig (yn rhinwedd penderfyniad ar gais yr unigolyn neu ar apêl),
 - (iii) yr oedd rheoliad 5(1)(c) o’r Rheoliadau hynny yn gymwys iddo ac y caiff ei ataliad dros dro ei derfynu (pa un ai ar apêl neu fel arall), neu

9. Omit section 90 (visiting social workers from relevant European States)(1).

10. Omit section 90A (visiting social care managers from relevant European States)(2).

11. Omit section 105 (other appeals: decisions made under the General Systems Regulations)(3).

12. In section 113 (continuing professional development), omit subsections (3) to (5)(4).

13. In section 164 (meaning of “registered person” in Part 6)(5)—

- (a) for “the social worker part, an added part” substitute “the social worker part or an added part”;
- (b) omit “or the visiting European social worker part or visiting European social care manager part”.

14.—(1) In Schedule 1 (regulated services: definitions), in paragraph 7 (advocacy services)—

- (a) in sub-paragraph (4)—
 - (i) at the end of paragraph (a), omit “or”;
 - (ii) for paragraph (b) substitute—
“(b) an individual to whom—
 - (i) regulation 5(1)(a) of the Revocation Regulations applies,
 - (ii) regulation 5(1)(b) of those Regulations applied and who becomes a registered European lawyer (by virtue of a decision on the individual’s application or on appeal),
 - (iii) regulation 5(1)(c) of those Regulations applied and whose suspension is terminated (whether on appeal or otherwise), or

(1) Gwnaed diwygiadau perthnasol gan O.S. 2016/1030, rheoliad 135.

(2) Mewnosodwyd gan O.S. 2016/1030, rheoliad 137.

(3) Gwnaed diwygiadau perthnasol gan O.S. 2016/1030, rheoliad 139.

(4) Gwnaed diwygiadau perthnasol gan O.S. 2016/1030, rheoliad 141.

(5) Amnewidiwyd “rhan gweithwyr cymdeithasol Ewropeaidd sydd ar ymweliad neu’r rhan rheolwyr gofal cymdeithasol Ewropeaidd sydd ar ymweliad” gan O.S. 2016/1030, rheoliad 143(2).

(1) Relevant amendments were made by S.I. 2016/1030, regulation 134.

(2) Inserted by S.I. 2016/1030, regulation 136.

(3) Relevant amendments made by S.I. 2016/1030, regulation 138.

(4) Relevant amendments made by S.I. 2016/1030, regulation 140.

(5) “European social worker part or visiting European social care manager part” was substituted by S.I. 2016/1030, regulation 142(2).

(iv) yr oedd rheoliad 5(1)(d) o'r Rheoliadau hynny yn gymwys iddo ac y mae ei gofrestrriad yn gyfreithiwr Ewropeaidd cofrestredig wedi ei adfer, neu

(c) yn unigolyn y mae'r darpariaethau yn rheoliad 4A neu 5A o'r Rheoliadau Dirymu yn cael effaith ar ei gyfer er mwyn caniatáu i'r person hwnnw barhau i ymarfer fel cyfreithiwr yn y Deyrnas Unedig ar ôl y diwrnod ymadael.”;

(b) ar ôl is-baragraff (4) mewnosoder—

“(4A) Yn is-baragraff (4)—

mae i “cyfreithiwr Ewropeaidd cofrestredig” yr un ystyr â “registered European lawyer” yn rheoliad 2(1) o Reoliadau'r Cymunedau Ewropeaidd (Ymarfer Cyfreithwyr) 2000 (O.S. 2000/1119) fel yr oedd yn cael effaith yn union cyn y diwrnod ymadael;

ystyr “y Rheoliadau Dirymu” (“*the Revocation Regulations*”) yw Rheoliadau Gwasanaethau Cyfreithwyr ac Ymarfer Cyfreithwyr (Dirymu etc.) (Ymadael â'r UE) 2019 (O.S. 2019/375).”

(2) Yn Atodlen 1, ym mharagraff 7, hepgorer is-baragraff (4)(b) a'r diffiniad o “cyfreithiwr Ewropeaidd cofrestredig” yn is-baragraff (4A) (fel y'i hamnewidir ac y'i mewnosodir gan baragraff (1) o'r rheoliad hwn).

Diwygiad canlyniadol i Ddeddf Iechyd Meddwl 1983

15. Yn adran 130H(7)(b) (eiriolwyr iechyd meddwl annibynnol i Gymru: pwerau a dyletswyddau atodol) o Ddeddf Iechyd Meddwl 1983(1), hepgorer “or the visiting European part”.

RHAN 2

Arbedion a darpariaeth drosiannol

Ceisiadau sydd yn yr arfaeth

16.—(1) Pan geir cais perthnasol cyn y diwrnod ymadael, mae Deddf 2016 yn parhau i fod yn gymwys mewn perthynas â'r cais (gan gynnwys mewn perthynas ag unrhyw apêl sy'n codi ohono) ar ac ar ôl y diwrnod ymadael fel pe na bai'r diwygiadau a wnaed gan Ran 1 wedi eu gwneud.

(1) 1983 p. 20; mewnosodwyd adran 130H gan Fesur Iechyd Meddwl (Cymru) 2010 (mccc 7), adran 34. Diwygiwyd is-adran (7)(b) o adran 130H gan Ddeddf 2016, Atodlen 3, paragraff 39.

(iv) regulation 5(1)(d) of those Regulations applied and whose registration as a registered European lawyer has been reinstated, or

(c) an individual for whom the provisions in regulation 4A or 5A of the Revocation Regulations have effect so as to allow that person to continue to practice as a lawyer in the United Kingdom after exit day.”;

(b) after sub-paragraph (4) insert—

“(4A) In sub-paragraph (4)—

“registered European lawyer” (“*cyfreithiwr Ewropeaidd cofrestredig*”) has the same meaning as in regulation 2(1) of the European Communities (Lawyer's Practice) Regulations 2000 (S.I. 2000/1119) as it had effect immediately before exit day;

“the Revocation Regulations” (“*y Rheoliadau Dirymu*”) means the Services of Lawyers and Lawyer's Practice (Revocation etc.) (EU Exit) Regulations 2019 (S.I. 2019/375).”

(2) In Schedule 1, in paragraph 7, omit sub-paragraph (4)(b) and the definition of “registered European lawyer” in sub-paragraph (4A) (as substituted and inserted by paragraph (1) of this regulation).

Consequential amendment to the Mental Health Act 1983

15. In section 130H(7)(b) (independent mental health advocates for Wales: supplementary powers and duties) of the Mental Health Act 1983(1), omit “or the visiting European part”.

PART 2

Savings and transitional provision

Pending applications

16.—(1) Where a relevant application is received before exit day, the 2016 Act continues to apply in relation to the application (including in relation to any appeal arising from it) on and after exit day as if the amendments made by Part 1 had not been made.

(1) 1983 c. 20; section 130H was inserted by the Mental Health (Wales) Measure 2010 (nawm 7), section 34. Subsection (7)(b) of section 130H was amended by the 2016 Act, Schedule 3, paragraph 39.

(2) Ym mharagraff (1), ystyr “cais perthnasol” yw cais—

- (a) i dderbyn i ran gweithwyr cymdeithasol Ewropeaidd sydd ar ymweliad neu'r rhan rheolwyr gofal cymdeithasol Ewropeaidd sydd ar ymweliad o'r gofrestr a gedwir o dan adran 80 o Ddeddf 2016,
- (b) i adnewyddu cofrestrriad yn y rhannau hynny o'r gofrestr o dan adran 86(2) o Ddeddf 2016,
- (c) i aildderbyn i'r rhannau hynny o'r gofrestr o dan adran 80 o Ddeddf 2016 ar ôl i gofrestrriad ddarfod, neu
- (d) i adfer i'r rhannau hynny o'r gofrestr o dan adran 96(2) neu 97(2) o Ddeddf 2016.

Gweithwyr cymdeithasol sydd ar ymweliad a rheolwyr gofal cymdeithasol sydd ar ymweliad: arbed yr hen gyfraith

17.—(1) Mae'r rheoliad hwn yn gymwys pan—

- (a) yn union cyn y diwrnod ymadael—
 - (i) roedd gan berson fudd rheoliad 12 o Reoliadau'r Undeb Ewropeaidd (Cydnabod Cymwysterau Proffesiynol) 2015(1) mewn cysylltiad â darparu gwasanaethau fel gweithiwr cymdeithasol neu reolwr gofal cymdeithasol gan y person hwnnw, a
 - (ii) roedd adran 90(3) neu 90A(3) o Ddeddf 2016 yn gymwys i'r person, a
- (b) bo'r person yn parhau i gael y budd hwnnw ar neu ar ôl y diwrnod ymadael.

(2) Er gwaethaf y diwygiadau a wnaed gan Ran 1, mae'r darpariaethau a ganlyn o Ddeddf 2016 yn parhau i fod yn gymwys mewn perthynas â darparu'r gwasanaethau hynny gan y person hwnnw ar ac ar ôl y diwrnod ymadael, fel yr oeddent yn gymwys cyn y diwrnod hwnnw, yn ddarostyngedig i'r addasiadau a bennir yn rheoliad 18 (dehongli darpariaethau sydd wedi eu harbed)—

- (a) yn adran 66(1) (dehongli Rhannau 3 i 8), y diffiniadau o “gwladolyn”, “Gwladwriaeth Ewropeaidd berthnasol”, “person esempt”, “rhan gweithwyr cymdeithasol Ewropeaidd sydd ar ymweliad”, “rhan rheolwyr gofal cymdeithasol Ewropeaidd sydd ar ymweliad” ac “y Rheoliadau Systemau Cyffredinol”;
- (b) adran 74(3) (rheolau: ffioedd);
- (c) yn adran 80, is-adrannau (1)(c) a (d), (2)(c) a (d) a (3)(c) a (d) (y gofrestr);

(2) In paragraph (1), “relevant application” means an application for—

- (a) admission to the visiting European social worker part or the visiting European social care manager part of the register kept under section 80 of the 2016 Act,
- (b) renewal of registration in those parts of the register under section 86(2) of the 2016 Act,
- (c) readmission to those parts of the register under section 80 of the 2016 Act following lapse of registration, or
- (d) restoration to those parts of the register under section 96(2) or 97(2) of the 2016 Act.

Visiting social workers and visiting social care managers: saving of old law

17.—(1) This regulation applies where—

- (a) immediately before exit day—
 - (i) a person had the benefit of regulation 12 of the European Union (Recognition of Professional Qualifications) Regulations 2015(1) in respect of the provision by that person of services as a social worker or a social care manager, and
 - (ii) section 90(3) or 90A(3) of the 2016 Act applied to the person, and
- (b) the person continues to have that benefit on or after exit day.

(2) Despite the amendments made by Part 1, the following provisions of the 2016 Act continue to apply in relation to the provision of those services by that person on and after exit day, as they applied before that day, subject to the modifications specified in regulation 18 (interpretation of saved provisions)—

- (a) in section 66(1) (interpretation of Parts 3 to 8), the definitions of “exempt person”, “the General Systems Regulations”, “national”, “relevant European State”, “visiting European social care manager part” and “visiting European social worker part”;
- (b) section 74(3) (rules: fees);
- (c) in section 80, subsections (1)(c) and (d), (2)(c) and (d) and (3)(c) and (d) (the register);

- (d) adran 90 (gweithwyr cymdeithasol sydd ar ymweliad o Wladwriaethau Ewropeaidd perthnasol);
 - (e) adran 90A (rheolwyr gofal cymdeithasol sydd ar ymweliad o Wladwriaethau Ewropeaidd perthnasol);
 - (f) adran 113(3) i (5) (datblygiad proffesiynol parhaus).
- (3) Mae paragraff (2) yn cael effaith tan—
- (a) yn achos person sydd wedi ei gofrestru yn unol ag adran 90(3) neu 90A(3) o Ddeddf 2016, y diwrnod y caiff enw'r person ei ddileu o'r gofrestr o dan adran 90(6) neu 90A(6) o'r Ddeddf honno yn ôl y digwydd;
 - (b) yn achos person sy'n cael ei drin fel pe bai wedi ei gofrestru o dan adran 90(4) neu 90A(4) o'r Ddeddf honno, y diwrnod y mae hawlogaeth y person i gael ei gofrestru o dan adran 90(3) neu 90A(3) o Ddeddf 2016 yn peidio yn rhinwedd adran 90(5) neu 90A(5) o'r Ddeddf honno yn ôl y digwydd.

- (d) section 90 (visiting social workers from relevant European States);
 - (e) section 90A (visiting social care managers from relevant European States);
 - (f) section 113(3) to (5) (continuing professional development).
- (3) Paragraph (2) has effect until—
- (a) in the case of a person who is registered in accordance with section 90(3) or 90A(3) of the 2016 Act, the day on which the person's name is removed from the register under section 90(6) or 90A(6) of that Act as the case may be;
 - (b) in the case of a person who is treated as being registered under section 90(4) or 90A(4) of that Act, the day on which the person's entitlement to be registered under section 90(3) or 90A(3) of the 2016 Act ceases by virtue of section 90(5) or 90A(5) of that Act as the case may be.

Dehongli darpariaethau sydd wedi eu harbed gan reoliad 17(2)

18. I'r graddau y mae'r darpariaethau a ganlyn o Ddeddf 2016 yn parhau i fod yn gymwys yn rhinwedd rheoliad 17(2), maent yn gymwys gyda'r addasiadau a ganlyn—

- (a) yn adran 90 (gweithwyr cymdeithasol sydd ar ymweliad o Wladwriaethau Ewropeaidd perthnasol)—
 - (i) mae is-adran (1) i'w darllen fel pe bai “ac eithrio'r Deyrnas Unedig” wedi ei hepgor;
 - (ii) mae is-adran (8) i'w darllen fel pe bai'r diffiniadau a ganlyn wedi eu rhoi yn lle'r diffiniadau o “person esempt” a “y Rheoliadau Systemau Cyffredinol”—

ystyr “person esempt” (“*exempt person*”) yw—

 - (a) person a oedd, yn union cyn y diwrnod ymadael, yn wladolyn o Wladwriaeth Ewropeaidd berthnasol,
 - (b) person a oedd, yn union cyn y diwrnod ymadael, yn wladolyn o'r Deyrnas Unedig ac, ar yr adeg honno, yn ceisio cael mynediad at waith cymdeithasol, neu waith fel rheolwr gofal cymdeithasol, neu'n dilyn y gwaith hwnnw, yn rhinwedd hawl UE orfodadwy, neu

Interpretation of provisions saved by regulation 17(2)

18. In so far as the following provisions of the 2016 Act continue to apply by virtue of regulation 17(2), they apply with the following modifications—

- (a) in section 90 (visiting social workers from relevant European States)—
 - (i) subsection (1) is to be read as if “other than the United Kingdom” was omitted;
 - (ii) subsection (8) is to be read as if, for the definitions of “exempt person” and “the General Systems Regulations”, there were substituted—

““exempt person” (“*person esempt*”) means—

 - (a) a person who, immediately before exit day, was a national of a relevant European State,
 - (b) a person who, immediately before exit day, was a national of the United Kingdom and, at that time, was seeking access to, or pursuing, by virtue of an enforceable EU right, social work, or work as a social care manager, or

- (c) person nad oedd, yn union cyn y diwrnod ymadael, yn wladolyn o Wladwriaeth Ewropeaidd berthnasol, ond a oedd, ar yr adeg honno, yn rhinwedd hawl UE orfodadwy, â hawlogaeth i beidio â chael ei drin, at ddibenion cael mynediad at waith cymdeithasol neu waith fel rheolwr gofal cymdeithasol a dilyn y gwaith hwnnw, yn llai ffafriol na gwladolyn o Wladwriaeth Ewropeaidd berthnasol,

ac at ddibenion y diffiniad hwn, ystyr “hawl UE orfodadwy” (“*enforceable EU right*”) yw hawl a gydnabyddir ac sydd ar gael mewn cyfraith ddomestig, yn union cyn y diwrnod ymadael, yn rhinwedd adran 2(1) o Ddeddf y Cymunedau Ewropeaidd 1972 (p. 68);”;

“ystyr “y Rheoliadau Systemau Cyffredinol” (“*the General Systems Regulations*”) yw Rheoliadau’r Undeb Ewropeaidd (Cydnabod Cymwysterau Proffesiynol) 2015 (O.S. 2015/2059)—

- (a) mewn perthynas ag unrhyw beth a wneir cyn y diwrnod ymadael, fel yr oeddent yn cael effaith ar yr adeg honno;
- (b) fel arall, fel y maent yn cael effaith (a dim ond i’r graddau y maent yn cael effaith), ar neu ar ôl y diwrnod ymadael, mewn perthynas â hawlogaeth a gododd cyn y diwrnod ymadael neu sy’n codi o ganlyniad i rywbeth a wneir cyn y diwrnod ymadael.”;
- (b) yn adran 90A (rheolwyr gofal cymdeithasol sydd ar ymweliad o Wladwriaethau Ewropeaidd perthnasol), mae is-adran (1) i’w darllen fel pe bai “ac eithrio’r Deyrnas Unedig” wedi ei hepgor.

Rhybuddion System Wybodaeth y Farchnad Fewnol (IMI)

19.—(1) Mae’r rheoliad hwn yn gymwys pan—

- (a) bo person, cyn y diwrnod ymadael, yn cael hysbysiad o benderfyniad a wneir o dan reoliad 67 o Reoliadau’r Undeb Ewropeaidd (Cydnabod Cymwysterau Proffesiynol) 2015 i anfon rhybudd ynglŷn â’r person, a

- (c) a person who, immediately before exit day, was not a national of a relevant European State, but at that time was, by virtue of an enforceable EU right, entitled to be treated, for the purposes of access to and pursuit of social work or work as a social care manager, no less favourably than a national of a relevant European State,

and for the purposes of this definition, “enforceable EU right” (“*hawl UE orfodadwy*”) means a right recognised and available in domestic law, immediately before exit day, by virtue of section 2(1) of the European Communities Act 1972 (c. 68);”;

““the General Systems Regulations” (“*y Rheoliadau Systemau Cyffredinol*”) means the European Union (Recognition of Professional Qualifications) Regulations 2015 (S.I. 2015/2059)—

- (a) in relation to anything done before exit day, as they had effect at that time;
- (b) otherwise, as (and only to the extent that) they have effect, on or after exit day, in relation to an entitlement which arose before exit day or arises as a result of something done before exit day;”;
- (b) in section 90A (visiting social care managers from relevant European States), subsection (1) is to be read as if “other than the United Kingdom” was omitted.

Internal Market Information System (IMI) Alerts

19.—(1) This regulation applies where—

- (a) before exit day, a person is given notice of a decision made under regulation 67 of the European Union (Recognition of Professional Qualifications) Regulations 2015 to send an alert about the person, and

- (b) naill ai—
- (i) bo'r terfyn amser ar gyfer apelio yn erbyn y penderfyniad o dan adran 105(1)(c) o Ddeddf 2016 yn dod i ben ar neu ar ôl y diwrnod ymadael, neu
 - (ii) bo apêl yn erbyn y penderfyniad o dan yr adran honno yn cael ei gwneud, ond ni phenderfynir yn derfynol arni, cyn y diwrnod ymadael.

(2) Er gwaethaf y diwygiadau a wnaed gan Ran 1, mae'r darpariaethau a ganlyn o Ddeddf 2016 yn parhau i fod yn gymwys mewn perthynas â'r penderfyniad ar ac ar ôl y diwrnod ymadael fel yr oeddent yn gymwys cyn y diwrnod ymadael—

- (a) yn adran 66(1), y diffiniad o “y Rheoliadau Systemau Cyffredinol”;
- (b) yn adran 90(8), y diffiniad o “y Rheoliadau Systemau Cyffredinol”;
- (c) adran 105(1) (ond nid paragraffau (a) a (b) o'r is-adran honno ac yn ddarostyngedig i'r addasiad a bennir ym mharagraff (3) o'r rheoliad hwn).

(3) At ddibenion paragraff (2)(c), mae adran 105(1)(c) o Ddeddf 2016 i'w darllen fel pe bai “Rheoliadau Systemau Cyffredinol (fel yr oeddent yn cael effaith ar yr adeg y gwnaed penderfyniad GCC(1))” wedi ei roi yn lle “Rheoliadau hynny”.

(4) Wrth waredu apêl yn erbyn y penderfyniad ar neu ar ôl y diwrnod ymadael, mae gan y tribiwnlys (yn lle'r pwerau a bennir yn adran 105(5) o Ddeddf 2016) y pŵer—

- (a) i gadarnhau'r penderfyniad, neu
- (b) os yw'r tribiwnlys yn ystyried y dylai'r rhybudd gael ei dynnu'n ôl neu ei ddiwygio, i gyfarwyddo Gofal Cymdeithasol Cymru i gymryd unrhyw gamau y mae'r tribiwnlys yn meddwl eu bod yn addas i hysbysu'r Comisiwn Ewropeaidd am benderfyniad y tribiwnlys.

- (b) either—
- (i) the time limit for appeal against the decision under section 105(1)(c) of the 2016 Act expires on or after exit day, or
 - (ii) an appeal against the decision under that section is made, but not finally determined, before exit day.

(2) Despite the amendments made by Part 1, the following provisions of the 2016 Act continue to apply in relation to the decision on and after exit day as they applied before exit day—

- (a) in section 66(1), the definition of “the General Systems Regulations”;
- (b) in section 90(8), the definition of “the General Systems Regulations”;
- (c) section 105(1) (but not paragraphs (a) and (b) of that subsection and subject to the modification specified in paragraph (3) of this regulation).

(3) For the purposes of paragraph (2)(c), section 105(1)(c) of the 2016 Act is to be read as if for “those Regulations” there were substituted “the General Systems Regulations (as they had effect at the time SCW's(1) decision was made)”.

(4) In disposing of an appeal against the decision on or after exit day, the tribunal has (instead of the powers specified in section 105(5) of the 2016 Act) the power—

- (a) to confirm the decision, or
- (b) if the tribunal considers that the alert should be withdrawn or amended, to direct that Social Care Wales take such steps as the tribunal thinks fit to notify the European Commission of the tribunal's decision.

Julie Morgan

Y Dirprwy Weinidog Iechyd a Gwasanaethau
Cymdeithasol, un o Weinidogion Cymru
29 Mawrth 2019

Deputy Minister for Health and Social Services, one of
the Welsh Ministers
29 March 2019

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Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

(1) *Gweler* adran 67(3) o Ddeddf 2016 am y diffiniad o Ofal Cymdeithasol Cymru (“GCC”).

(1) *See* section 67(3) of the 2016 Act for the definition of Social Care Wales (“SCW”).

£6.90

W201904011003 04/2019

<http://www.legislation.gov.uk/id/wsi/2019/761>

ISBN 978-0-348-20412-4



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