OFFERYNNAU STATUDOL CYMRU

WELSH STATUTORY INSTRUMENTS

2016 Rhif 312 (Cy. 102)

2016 No. 312 (W. 102)

GOFAL CYMDEITHASOL, CYMRU

SOCIAL CARE, WALES

PLANT A PHOBL IFANC, CYMRU

CHILDREN AND YOUNG PERSONS, WALES

Rheoliadau Plant (Llety Diogel) (Cymru) (Diwygio) 2016

The Children (Secure Accommodation) (Wales) (Amendment) Regulations 2016

NODYN ESBONIADOL

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

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Plant (Llety Diogel) (Cymru) 2015 ("y Prif Reoliadau") a deuant i rym ar yr un pryd ar 6 Ebrill 2016.

Mae'r diwygiadau i reoliadau 1, 2, 9 a 12 o'r Prif Reoliadau yn gwneud newidiadau i sicrhau bod y gofynion a osodir ar awdurdodau lleol Cymreig mewn perthynas â lleoliadau mewn llety diogel yn gymwys pa un a ydynt yn lleoli plant yng Nghymru neu yn Lloegr. Mae'r diwygiadau i reoliad 1 yn diwygio'r diffiniad o "llety diogel" fel bod y geiriau, lle y'u defnyddir, yn cyfeirio at lety yng Nghymru neu yn Lloegr oni nodir i'r gwrthwyneb. Mae'r diwygiadau i reoliadau 2, 9 a 12 yn mewnosod geiriau er mwyn egluro y cyfyngir y cyfeiriadau at "llety diogel" i Gymru yn y rheoliadau hynny.

Effaith y diwygiad i reoliad 7 yw sicrhau na ellir lleoli plentyn sydd wedi ei roi ar remánd i lety awdurdod lleol ac sydd wedi ei leoli mewn llety diogel am gyfnod hwy na 28 o ddiwrnodau heb droi at y llys.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Children (Secure Accommodation) (Wales) Regulations 2015 ("the Principal Regulations") and come into force at the same time on 6 April 2016.

The amendments to regulations 1, 2, 9 and 12 of the Principal Regulations make changes to ensure that the requirements imposed on Welsh local authorities in relation to placements in secure accommodation apply regardless of whether they place children in Wales or in England. The amendments to regulation 1 amend the definition of "secure accommodation" so that where the words are used they refer to accommodation whether in Wales or England unless the contrary is indicated. The amendments to regulations 2, 9 and 12 insert words to make clear that in those regulations the references to "secure accommodation" are limited to Wales.

The effect of the amendment to regulation 7 is to ensure that a child who is remanded to local authority accommodation and who is placed in secure accommodation cannot be placed for longer than 28 days without reverting to the court.

Mae'r diwygiad i reoliad 14 yn dileu'r gwaharddiad ar awdurdodau lleol sy'n gwneud cais i'r llys am awdurdod i leoli plant 16 a 17 oed mewn llety diogel pan fo'r plant 16 a 17 oed wedi eu lletya o dan adran 76 o Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014.

Mae'r diwygiad i reoliad 15 wedi ei wneud er mwyn adlewyrchu diwygiad sydd wedi ei wneud i effaith adran 38 o Ddeddf yr Heddlu a Thystiolaeth Droseddol 1984 fel bod y rhwymedigaeth ar swyddog dalfa yn adran 38(6) i symud pobl ifanc sydd wedi eu harestio i lety awdurdod lleol bellach wedi ei hestyn i blant o dan 18 oed. Mae'r diwygiad hwn felly'n cysoni darpariaethau rheoliad 15 o'r Prif Reoliadau yn unol â hynny fel bod y trothwy is yn gymwys i bob un o'r plant hynny.

Mae'r diwygiad i reoliad 16 yn cywiro croesgyfeiriad gwallus.

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.

The amendment to regulation 14 removes the prohibition on local authorities applying to court for authority to place 16 and 17 year olds in secure accommodation where the 16 and 17 year olds are accommodated under section 76 of the Social Services and Well-being (Wales) Act 2014.

The amendment to regulation 15 is made to reflect an amendment made to the effect of section 38 of the Police and Criminal Evidence Act 1984 so that the obligation on a custody officer in section 38(6) to move arrested juveniles to local authority accommodation has now been extended to children under 18 years of age. This amendment therefore aligns the provisions of regulation 15 of the Principal Regulations accordingly so that the lower threshold applies to all such children.

The amendment to regulation 16 corrects an erroneous cross reference.

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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PLANT A PHOBL IFANC, CYMRU

Rheoliadau Plant (Llety Diogel) (Cymru) (Diwygio) 2016

Gwnaed *3 Mawrth 2016*

Yn dod i rym yn unol â rheoliad 1(2)

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd gan adran 22(8)(b) ac adran 118(7) o Ddeddf Safonau Gofal 2000(**1**), adrannau 87, 119(2) a (7) a 196(2) o Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014(**2**), yn gwneud y Rheoliadau a ganlyn.

Yn unol ag adran 196(6) o Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014, gosodwyd drafft o'r offeryn hwn gerbron Cynulliad Cenedlaethol Cymru ac fe'i cymeradwywyd ganddo drwy benderfyniad.

(**1**) 2000 p. 14. Mae adran 22 yn rhoi'r pŵer i wneud rheoliadau i'r "appropriate Minister". Mae adran 121(1) yn diffinio hyn i olygu, o ran Cymru, Gynulliad Cenedlaethol Cymru. Trosglwyddwyd swyddogaethau Cynulliad Cenedlaethol Cymru i Weinidogion Cymru gan adran 162 o Ddeddf Llywodraeth Cymru 2006 a pharagraff 30 o Atodlen 11 iddi. Mae adran 22(9) o Ddeddf Safonau Gofal 2000 yn ei gwneud yn ofynnol i reoliadau, pan y'u gwneir o dan adran 22, fod yn ddarostyngedig i ymgynghoriad ac eithrio wrth ddiwygio rheoliadau nad ydynt, ym marn Gweinidogion Cymru, yn achosi unrhyw newid sylweddol yn y rheoliadau sy'n cael eu diwygio. Gan nad yw'r diwygiadau sydd wedi eu gwneud yn achosi newidiadau sylweddol, nid yw Gweinidogion Cymru wedi ymgynghori ar y rheoliadau hyn.

(**2**) 2014 dccc 4.

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SOCIAL CARE, WALES

CHILDREN AND YOUNG PERSONS, WALES

The Children (Secure Accommodation) (Wales) (Amendment) Regulations 2016

Made *3 March 2016*

Coming into force in accordance with regulation 1(2)

The Welsh Ministers, in exercise of the powers conferred by section 22(8)(b) and section 118(7) of the Care Standards Act 2000(**1**), sections 87, 119(2) and (7) and 196(2) of the Social Services and Well-being (Wales) Act 2014(**2**) make the following Regulations.

In accordance with section 196(6) of the Social Services and Well-being (Wales) Act 2014, a draft of this instrument was laid before and approved by a resolution of the National Assembly for Wales.

(**1**) 2000 c.14. Section 22 confers the regulation-making power on "the appropriate Minister". Section 121(1) defines this to mean, in relation to Wales, the National Assembly for Wales. The functions of the National Assembly for Wales were transferred to the Welsh Ministers by section 162 and paragraph 30 of Schedule 11 of the Government of Wales Act 2006. Section 22(9) of the Care Standards Act 2000 requires that where regulations are made under section 22 they are subject to consultation except for amending regulations which do not, in the opinion of the Welsh Ministers effect any substantial change in the regulations being amended. As the amendments made do not effect substantial changes, the Welsh Ministers have not consulted on these regulations.

(**2**) 2014 anaw 4.

Enwi, cychwyn a chymhwyso

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Plant (Llety Diogel) (Cymru) (Diwygio) 2016.

(2) Daw'r Rheoliadau hyn i rym ar 6 Ebrill 2016 yn union ar ôl i Reoliadau Plant (Llety Diogel) (Cymru) 2015 ddod i rym(**1**).

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

Diwygio Rheoliadau Plant (Llety Diogel) (Cymru) 2015

2.—(1) Mae Rheoliadau Plant (Llety Diogel) (Cymru) 2015 wedi eu diwygio yn unol â'r darpariaethau a ganlyn o'r rheoliad hwn.

(2) Yn rheoliad 1, yn lle'r diffiniad o "llety diogel" rhodder y paragraff a ganlyn—

"ystyr "llety diogel" ("*secure accommodation*") yw llety—

(a) a ddarperir at ddiben cyfyngu ar ryddid plant y mae'r meini prawf ym mharagraffau (a) a (b) o adran 119(1) yn gymwys iddynt, a

(b) sydd yng Nghymru neu Loegr oni nodir i'r gwrthwyneb;".

(3) Ym mharagraff (1) o reoliad 2—

(a) ar ôl y geiriau "awdurdod lleol" mewnosoder "neu awdurdod lleol yn Lloegr"; a

(b) ar ôl y geiriau "llety diogel" mewnosoder "yng Nghymru".

(4) Yn rheoliad 7, ar ôl paragraff (2) mewnosoder y paragraff a ganlyn—

"(3) Rhaid i unrhyw awdurdodiad mewn cysylltiad â phlentyn o'r fath beidio â bod yn hwy nag 28 o ddiwrnodau ar unrhyw un achlysur heb awdurdodiad pellach.".

(5) Ym mharagraff (1) o reoliad 9, ar ôl y geiriau "cartref plant" mewnosoder "yng Nghymru".

(6) Yn rheoliad 12—

(a) ar ôl y geiriau "cartref plant" mewnosoder "yng Nghymru",

(b) ym mharagraff (c), ar ôl y geiriau "awdurdod lleol" mewnosoder "neu'r awdurdod lleol yn Lloegr".

(7) Yn rheoliad 14, hepgorer paragraff (c).

(8) Ym mharagraff (1) o reoliad 15, yn lle "ac 16" rhodder "a 17".

(**1**) O.S. 2015/1988 (Cy. 298).

Title, commencement and application

1.—(1) The title of these Regulations is the Children (Secure Accommodation) (Wales) (Amendment) Regulations 2016.

(2) These Regulations come into force on 6 April 2016 immediately after the coming into force of The Children (Secure Accommodation) (Wales) Regulations 2015(**1**).

(3) These Regulations apply in relation to Wales.

Amendment of the Children (Secure Accommodation) (Wales) Regulations 2015

2.—(1) The Children (Secure Accommodation) (Wales) Regulations 2015 are amended in accordance with the following provisions of this regulation.

(2) In regulation 1, for the definition of "secure accommodation" substitute the following paragraph—

""secure accommodation" ("*llety diogel*") means accommodation—

(a) which is provided for the purpose of restricting the liberty of children to whom the criteria in paragraphs (a) and (b) of section 119(1) apply, and

(b) which is situated in either Wales or England unless the contrary is indicated.".

(3) In paragraph (1) of regulation 2—

(a) after the words "local authority" insert "or a local authority in England"; and

(b) after the words "secure accommodation" insert "in Wales".

(4) In regulation 7, after paragraph (2) insert the following paragraph—

"(3) Any authorisation in respect of such a child must not exceed 28 days on any one occasion without further authorisation.".

(5) In paragraph (1) of regulation 9, after the words "children's home" insert "in Wales".

(6) In regulation 12—

(a) after the words "children's home" insert "in Wales",

(b) in paragraph (c), after the words "local authority" insert "or local authority in England".

(7) In regulation 14, omit paragraph (c).

(8) In paragraph (1) of regulation 15, for "16" substitute "17".

(**1**) S.I. 2015/1988 (W.298)

(9) Ym mharagraff (1) o reoliad 16, yn lle "reoliad 7" rhodder "reoliad 14".

(9) In paragraph (1) of regulation 16, for "regulation 7" substitute "regulation 14".

Mark Drakeford

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol, un o Weinidogion Cymru

3 Mawrth 2016

Minister for Health and Social Services, one of the Welsh Ministers

3 March 2016

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