



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2018 Rhif 391 (Cy. 68)

2018 No. 391 (W. 68)

**GOFAL CYMDEITHASOL,
CYMRU**

SOCIAL CARE, WALES

**PLANT A PHOBL IFANC,
CYMRU**

**CHILDREN AND YOUNG
PERSONS, WALES**

Rheoliadau Plant (Llety Diogel)
(Cymru) (Diwygio) 2018

The Children (Secure
Accommodation) (Wales)
(Amendment) Regulations 2018

NODYN ESBONIADOL

EXPLANATORY NOTE

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

(This note is not part of the Regulations)

Mae'r Rheoliadau hyn yn gwneud diwygiadau i Reoliadau Plant (Llety Diogel) (Cymru) 2015 ("y Rheoliadau Llety Diogel").

These Regulations make amendments to the Children (Secure Accommodation) (Wales) Regulations 2015 ("the Secure Accommodation Regulations").

Mae'r diwygiad i'r diffiniad o "llety diogel" yn rheoliad 1 o'r Rheoliadau Llety Diogel i gynnwys llety diogel yn yr Alban yn cael effaith fel bod lleoli plentyn mewn llety diogel yn yr Alban gan awdurdod lleol yng Nghymru yn ddarostyngedig i'r un mesurau diogelwch sy'n gymwys i leoliadau yng Nghymru a Lloegr. Mae'r diwygiadau hyn yn ganlyniadol i'r diwygiadau a wneir i adran 25 o Ddeddf Plant 1989 gan adran 10 o Ddeddf Plant a Gwaith Cymdeithasol 2017 a pharagraffau 1 a 2 o Atodlen 1 iddi.

The amendment to the definition of "secure accommodation" in regulation 1 of the Secure Accommodation Regulations to include secure accommodation in Scotland has effect so that placement of a child by a Welsh local authority in secure accommodation in Scotland is subject to the same safeguards which apply to placements in England and Wales. These amendments are consequential on the amendments made to section 25 of the Children Act 1989 by section 10 of, and paragraphs 1 and 2 of Schedule 1 to, the Children and Social Work Act 2017.

Caiff y diwygiad i baragraff (5) o reoliad 1 ei wneud o ganlyniad i ddwyn Rhan 1 o Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016 ("Deddf 2016") i rym. Caiff gwasanaethau llety diogel yng Nghymru eu rheoleiddio o dan Ddeddf 2016 o 2 Ebrill 2018.

The amendment to paragraph (5) of regulation 1 is consequential on the coming into force of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 ("the 2016 Act"). Secure accommodation services in Wales are regulated under the 2016 Act from 2 April 2018.

Mae'r diwygiad i reoliad 4 yn egluro pwy sy'n gallu gwneud cais am orchymyn llety diogel mewn achosion nad ydynt yn cynnwys plant sy'n derbyn gofal fel y darperir ar eu cyfer gan reoliad 16.

The amendment to regulation 4 makes clear who is able to apply for a secure accommodation order in cases which do not involve looked after children as provided for by regulation 16.

Mae'r diwygiadau i reoliadau 6 a 7 yn egluro bod y cyfnodau hwyaf a nodir yn y ddau reoliad hynny yn gymwys i orchymyn gan y llys a wneir mewn perthynas â llety diogel yng Nghymru.

Mae'r diwygiad i reoliad 8 yn ganlyniadol i'r diwygiad i'r diffiniad o "llety diogel" yn rheoliad 1 ac yn egluro bod y cyfyngiad yn gymwys mewn perthynas â lleoli plant sy'n derbyn gofal.

Mae rheoliadau 9 a 12 wedi eu gwneud o dan y pŵer a roddir gan adran 27 o Ddeddf 2016.

Mae'r diwygiad i reoliad 15 yn egluro sut y mae'r ddarpariaeth yn gweithio ar gyfer lleoliadau gan awdurdodau lleol yn Lloegr i lety diogel yng Nghymru.

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 amendments to regulations 6 and 7 clarify that the maximum periods set in those two regulations apply to an order of the court made in relation to secure accommodation in Wales.

The amendment to regulation 8 is consequential on the amendment to the definition of "secure accommodation" in regulation 1 and clarifies that the restriction applies in relation to placement of looked after children.

Regulations 9 and 12 are made under the power conferred by section 27 of 2016 Act.

The amendment to regulation 15 clarifies how the provision works for placements by English local authorities to secure accommodation in Wales.

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.

2018 Rhif 391 (Cy. 68)

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CYMRU**

**PLANT A PHOBL IFANC,
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**Rheoliadau Plant (Llety Diogel)
(Cymru) (Diwygio) 2018**

Gwnaed

19 Mawrth 2018

Yn dod i rym

2 Ebrill 2018

2018 No. 391 (W. 68)

SOCIAL CARE, WALES

**CHILDREN AND YOUNG
PERSONS, WALES**

**The Children (Secure
Accommodation) (Wales)
(Amendment) Regulations 2018**

Made

19 March 2018

Coming into force

2 April 2018

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir gan adrannau 87, 119(2) a (7) a 196(2) o Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014(1) a chan adrannau 27 a 187(1) o Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016(2), yn gwneud y Rheoliadau a ganlyn.

Mae Gweinidogion Cymru wedi cynnal ymgynghoriad ac wedi cyhoeddi datganiad ynghylch yr ymgynghoriad yn unol ag adran 27(4) o Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016, ac wedi gosod copi o'r datganiad gerbron Cynulliad Cenedlaethol Cymru yn unol ag adran 27(5) o'r Ddeddf honno,

Yn unol ag adran 196(6) o Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 ac adran 187(2)(f) o Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016, gosodwyd drafft o'r offeryn hwn gerbron Cynulliad Cenedlaethol Cymru ac fe'i cymeradwywyd ganddo drwy benderfyniad.

The Welsh Ministers, in exercise of the powers conferred by sections 87, 119(2) and (7) and 196(2) of the Social Services and Well-being (Wales) Act 2014(1) and by sections 27 and 187(1) of the Regulation and Inspection of Social Care (Wales) Act 2016(2), make the following Regulations.

The Welsh Ministers have carried out a consultation and published a statement about the consultation in accordance with section 27(4) of the Regulation and Inspection of Social Care (Wales) Act 2016, and have laid a copy of the statement before the National Assembly for Wales in accordance with section 27(5) of that Act.

In accordance with section 196(6) of the Social Services and Well-being (Wales) Act 2014 and section 187(2)(f) of the Regulation and Inspection of Social Care (Wales) Act 2016, a draft of this instrument was laid before and approved by a resolution of the National Assembly for Wales.

(1) 2014 decc 4.
(2) 2016 decc 2.

(1) 2014 anaw 4.
(2) 2016 anaw 2.

Enwi, cymhwyso, dehongli a chychwyn

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Plant (Llety Diogel) (Cymru) (Diwygio) 2018.

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

(3) Yn y Rheoliadau hyn, ystyr "y Rheoliadau Llety Diogel" yw Rheoliadau Plant (Llety Diogel) (Cymru) 2015(1).

(4) Daw'r Rheoliadau hyn i rym ar 2 Ebrill 2018.

Diwygiadau i'r Rheoliadau Llety Diogel

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

(2) Ym mharagraff (4) o reoliad 1 (enwi, cychwyn, cymhwyso a dehongli), yn lle'r diffiniad o "llety diogel" rhodder—

"ystyr "llety diogel" ("*secure accommodation*"), oni nodar geiriad fod ei ystyr wedi ei gyfyngu i lety yng Nghymru, yw llety a ddarperir—

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

(b) yn Lloegr at ddiben cyfyngu ar ryddid plant y mae'r meini prawf ym mharagraffau (a) neu (b) o adran 25(1) o Ddeddf Plant 1989(2) yn gymwys iddynt, neu

(c) gan wasanaeth llety diogel yn yr Alban fel y diffinnir "secure accommodation service" ym mharagraff 6 o Atodlen 12 i Ddeddf Diwygio Gwasanaethau Cyhoeddus (Yr Alban) 2010(3);".

Title, application, interpretation and commencement

1.—(1) The title of these Regulations is the Children (Secure Accommodation) (Wales) (Amendment) Regulations 2018.

(2) These Regulations apply in relation to Wales.

(3) In these Regulations, "the Secure Accommodation Regulations" means the Children (Secure Accommodation) (Wales) Regulations 2015(1).

(4) These Regulations come into force on 2 April 2018.

Amendments to the Secure Accommodation Regulations

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

(2) In paragraph (4) of regulation 1 (title, commencement, interpretation and application), for the definition of "secure accommodation" substitute—

"*secure accommodation*" ("*llety diogel*"), unless the wording indicates that its meaning is restricted to accommodation in Wales, means accommodation which is provided—

(a) in Wales for the purpose of restricting the liberty of children to whom the criteria in paragraphs (a) or (b) of section 119(1) of the Act apply,

(b) in England for the purpose of restricting the liberty of children to whom the criteria in paragraphs (a) or (b) of section 25(1) of the Children Act 1989(2) apply, or

(c) by a secure accommodation service in Scotland as defined in paragraph 6 of Schedule 12 to the Public Services Reform (Scotland) Act 2010(3)."

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

(2) 1989 p. 41.

(3) Mae paragraff 6 o Atodlen 12 i Ddeddf Diwygio Gwasanaethau Cyhoeddus (Yr Alban) 2010 (dsa 8) yn diffinio "secure accommodation service" fel gwasanaeth sydd (a) yn darparu llety at ddiben cyfyngu ar ryddid plant mewn mangreodd preswyl lle y darperir gwasanaethau gofal; a (b) wedi ei gymeradwyo gan Weinidogion yr Alban at y diben hwnnw.

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

(2) 1989 c. 41.

(3) Paragraph 6 of Schedule 12 to the Public Services Reform (Scotland) Act 2010 (asp 8) defines a "secure accommodation service" as a service which (a) provides accommodation for the purpose of restricting the liberty of children in residential premises where care services are provided; and (b) is approved by the Scottish Ministers for that purpose.

(3) Yn lle paragraff (5) o reoliad 1 rhodder—

“(5) Yn y Rheoliadau hyn mae cyfeiriadau at gofrestru gwasanaeth llety diogel yng Nghymru neu at berson sydd wedi ei gofrestru mewn cysylltiad â gwasanaeth o’r fath yn rheoliadau 8, 9 a 12 yn gyfeiriadau at gofrestru o dan Ran 1 o Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016(1).”

(4) Yn rheoliad 4 (ceisiadau i’r llys), yn lle paragraff (2) rhodder—

“(2) Ond pan fo rheoliad 16(1)(a) o’r Rheoliadau hyn yn gymwys i addasu adran 119 o’r Ddeddf gan wneud yr adran honno yn gymwys mewn perthynas â phlant, ac eithrio rhai sy’n derbyn gofal gan awdurdod lleol, y mae llety yn cael ei ddarparu iddynt neu’n cael ei drefnu ar eu cyfer gan Fwrdd Iechyd Lleol, Ymddiriedolaeth Gwasanaeth Iechyd Gwladol neu awdurdod lleol wrth arfer swyddogaethau addysg, yna ni chaniateir ceisiadau i lys ond gan y Bwrdd Iechyd Lleol neu’r Ymddiriedolaeth Gwasanaeth Iechyd Gwladol sy’n darparu neu’n trefnu’r llety, neu gan yr awdurdod lleol sy’n trefnu’r llety.

(3) Pan fo rheoliad 16(1)(b) o’r Rheoliadau hyn yn gymwys i addasu adran 119 o’r Ddeddf gan wneud yr adran honno yn gymwys mewn perthynas â phlant, ac eithrio rhai sy’n derbyn gofal gan awdurdod lleol, y mae llety yn cael ei ddarparu iddynt mewn ysbyty annibynnol neu gartref gofal, yna ni chaniateir ceisiadau i lys ond gan yr ysbyty annibynnol neu’r cartref gofal sy’n darparu’r llety.”

(5) Yn rheoliad 6 (cyfnodau hwyaf awdurdodiad gan y llys)—

(a) ym mharagraff (1)—

(i) ar ôl “baragraff (2)” mewnosoder “o’r rheoliad hwn a rheoliad 7”;

(ii) ar ôl “llety diogel” mewnosoder “yng Nghymru”; a

(b) ym mharagraff (2) ar ôl “llety diogel” mewnosoder “yng Nghymru”.

(6) Ym mharagraff (1) o reoliad 7 (cyfnod hwyaf awdurdodiad ar gyfer plant sydd ar remánd), ar ôl “llety diogel” mewnosoder “yng Nghymru”.

(7) Yn lle rheoliad 8 (lleoliad mewn cartref plant sydd wedi ei gofrestru), rhodder—

(3) For paragraph (5) of regulation 1 substitute—

“(5) In these Regulations references to the registration of a secure accommodation service in Wales, or a person who is registered in respect of such a service in regulations 8, 9 and 12 are references to registration under Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016(1).”

(4) In regulation 4 (applications to court), for paragraph (2) substitute—

“(2) But where regulation 16(1)(a) of these Regulations applies to modify section 119 of the Act so that it applies in relation to children, other than those being looked after by a local authority, who are being provided with accommodation provided or arranged by a Local Health Board, National Health Service Trust or a local authority in the exercise of education functions, then applications to court can only be made by the Local Health Board or the National Health Service Trust which is providing or arranging the accommodation or by the local authority which is arranging the accommodation.

(3) Where regulation 16(1)(b) of these Regulations applies to modify section 119 of the Act so that it applies in relation to children, other than those being looked after by a local authority, who are being provided with accommodation in an independent hospital or a care home, then applications to court can only be made by the independent hospital or care home which is providing the accommodation.”

(5) In regulation 6 (maximum period of authorisation by the court)—

(a) in paragraph (1)—

(i) after “paragraph (2)” insert “of this regulation and regulation 7”;

(ii) after “secure accommodation” insert “in Wales”; and

(b) in paragraph (2) after “secure accommodation” insert “in Wales”.

(6) In paragraph (1) of regulation 7 (maximum period of authorisation for remanded children), after “secure accommodation” insert “in Wales”.

(7) For regulation 8 (placement in a children’s home which is registered) substitute—

“8. Ni chaiff awdurdod lleol ond lleoli plentyn sy’n derbyn gofal mewn llety diogel—

- (a) a ddarperir yng Nghymru gan wasanaeth llety diogel y mae’r darparwr wedi ei gofrestru mewn cysylltiad ag ef,
- (b) mewn cartref yn Lloegr sydd wedi ei gofrestru o dan Ran 2 o Ddeddf Safonau Gofal 2000 fel cartref plant sy’n darparu llety at ddiben cyfyngu ar ryddid, neu
- (c) a ddarperir gan wasanaeth llety diogel yn yr Alban.”

(8) Yn lle pennawd rheoliad 8 rhodder “Lleoli mewn lleoliad rheoleiddiedig”.

(9) Yn lle rheoliad 9 (dyletswydd i roi gwybodaeth am leoliad mewn llety diogel) rhodder—

“9.—(1) Pan leolir plentyn mewn llety diogel mewn mangre yng Nghymru lle y darperir gwasanaeth llety diogel gan berson ac eithrio’r awdurdod lleol sy’n gofalu am y plentyn, rhaid i’r person sydd wedi ei gofrestru mewn cysylltiad â’r gwasanaeth hwnnw hysbysu’r awdurdod lleol neu’r awdurdod lleol yn Lloegr sy’n gofalu am y plentyn fod y plentyn wedi ei leoli yno o fewn 12 awr i’r lleoliad ddechrau.

(2) Rhaid i’r awdurdod lleol neu’r awdurdod lleol yn Lloegr sy’n gofalu am y plentyn gadarnhau wedyn wrth y person cofrestredig—

- (a) ei awdurdodiad i gadw’r plentyn mewn llety diogel;
- (b) cyfnod yr awdurdodiad;
- (c) manylion unrhyw orchymyn a wneir gan lys sy’n awdurdodi’r lleoliad.”

(10) Yn lle rheoliad 12 (cofnodion sydd i’w cadw mewn perthynas â phlentyn mewn llety diogel mewn cartref plant) rhodder—

“12. Pan leolir plentyn mewn llety diogel mewn mangre yng Nghymru lle y darperir gwasanaeth llety diogel, rhaid i’r personau sydd wedi eu cofrestru i ddarparu gwasanaeth llety diogel mewn cysylltiad â’r fangre honno gynnal cofnod ar gyfer y plentyn hwnnw, sy’n cynnwys y canlynol—

- (a) enw, dyddiad geni a rhyw y plentyn hwnnw;
- (b) manylion y gorchymyn gofal neu ddarpariaethau statudol eraill y lleolir y plentyn yn y fangre y darperir gwasanaeth llety diogel ynddi yn ei rinwedd neu yn eu rhinwedd;

“8. A local authority may only place a looked after child in secure accommodation—

- (a) provided in Wales by a secure accommodation service in respect of which the provider is registered,
- (b) in a home in England which is registered under Part 2 of the Care Standards Act 2000 as a children’s home providing accommodation for the purpose of restricting liberty, or
- (c) provided by a secure accommodation service in Scotland.”

(8) For the heading of regulation 8 substitute “Placement in a regulated setting”.

(9) For regulation 9 (duty to give information of placement in secure accommodation) substitute—

“9.—(1) Where a child is placed in secure accommodation in premises in Wales at which a secure accommodation service is provided by a person other than the local authority which is looking after the child, the person registered in respect of that service must inform the local authority or local authority in England which is looking after the child that the child has been placed there within 12 hours of the placement beginning.

(2) The local authority or local authority in England looking after the child must then confirm to the registered person—

- (a) its authorisation for the child to be held in secure accommodation;
- (b) the period of authorisation;
- (c) details of any order made by a court authorising the placement.”

(10) For regulation 12 (records to be kept in respect of a child in secure accommodation in a children’s home) substitute—

“12. When a child is placed in secure accommodation in premises in Wales at which a secure accommodation service is provided the persons who are registered to provide a secure accommodation service in respect of those premises must maintain a record for that child which includes—

- (a) the name, date of birth and sex of that child;
- (b) details of the care order or other statutory provisions by virtue of which the child is placed in the premises at which a secure accommodation service is provided;

- (c) manylion yr awdurdod lleol neu'r awdurdod lleol yn Lloegr sy'n lleoli'r plentyn ac enw'r swyddog awdurdodi;
- (d) dyddiad ac amser dechrau'r lleoliad mewn llety diogel;
- (e) y rheswm dros y lleoliad;
- (f) cyfeiriad y man lle'r oedd y plentyn yn byw cyn y lleoliad;
- (g) enwau a manylion perthnasol y personau a hysbysir yn rhinwedd rheoliad 5 ynghylch lleoliad y plentyn;
- (h) manylion unrhyw orchmynion llys a wneir mewn cysylltiad â'r plentyn o dan adran 119 o'r Ddeddf;
- (i) manylion adolygiadau a gynhelir o dan reoliad 11;
- (j) dyddiad ac amser unrhyw gyfnodau pan yw'r plentyn o dan glo ar ei ben ei hun mewn unrhyw ystafell ac eithrio ei ystafell wely yn ystod oriau gwely arferol, enw'r person sy'n awdurdodi gweithredu felly, y rheswm dros wneud hynny, a'r dyddiad a'r amser y mae'r plentyn yn peidio â bod o dan glo yn yr ystafell honno;
- (k) dyddiad ac amser rhyddhau'r plentyn o'r llety diogel a chyfeiriad y plentyn ar ôl ei ryddhau o'r llety diogel."

- (c) details of the local authority or local authority in England placing the child and the name of the authorising officer;
- (d) the date and time of the start of the placement in secure accommodation;
- (e) the reason for the placement;
- (f) the address of the place where the child was living before the placement;
- (g) the names and relevant details of the persons informed by virtue of regulation 5 of the child's placement;
- (h) details of any court orders made in respect of the child under section 119 of the Act;
- (i) details of reviews undertaken under regulation 11;
- (j) the date and time of any periods when the child is locked on his own in any room other than his bedroom during normal bedtime hours, the name of the person authorising this action, the reason for it and the date on which and time at which the child ceased to be locked in that room;
- (k) the date and time of the child's discharge and the child's address following discharge from secure accommodation."

(11) Ym mhennawd rheoliad 12, yn lle "cartref plant" rhodder "lleoliad rheoleiddiedig".

(11) In the heading of regulation 12, for "children's home" substitute "regulated setting".

(12) Ym mharagraff (1) o reoliad 15 (plant dan gadwad y mae adran 119 yn gymwys iddynt gydag addasiadau: plant dan gadwad o dan Ddeddf yr Heddlu a Thystiolaeth Droseddol 1984), ar ôl "awdurdod lleol" mewnosoder "neu awdurdod lleol yn Lloegr".

(12) In paragraph (1) of regulation 15 (detained children to whom section 119 applies subject to modifications: children detained under the Police and Criminal Evidence Act 1984), after "local authority" insert "or local authority in England".

Huw Irranca-Davies

Y Gweinidog Gofal Cymdeithasol a Phlant, o dan awdurdod Ysgrifennydd y Cabinet dros Gymunedau a Phlant, un o Weinidogion Cymru

Minister for Children and Social Care under authority of the Cabinet Secretary for Communities and Children, one of the Welsh Ministers

19 Mawrth 2018

19 March 2018

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