



Ddeddf Cyllido Gofal Plant (Cymru) 2019

2019 dccc 1

Nodiadau Esboniadol

Childcare Funding (Wales) Act 2019

2019 anaw 1

Explanatory Notes

£6.90

DEDDF CYLLIDO GOFAL PLANT (CYMRU) 2019

NODIADAU ESBONIADOL

CYFLWYNIAD

1. Mae'r Nodiadau Esboniadol hyn ar gyfer Deddf Cyllido Gofal Plant (Cymru) 2019 a basiwyd gan Gynulliad Cenedlaethol Cymru ar 12 Rhagfyr 2018 ac a gafodd y Cydsyniad Brenhinol ar 30 Ionawr 2018.
2. Fe'u lluniwyd gan Grŵp Addysg a Gwasanaethau Cyhoeddus Llywodraeth Cymru er mwyn cynorthwyo'r sawl sy'n darllen y Ddeddf.
3. Dylid darllen y Nodiadau Esboniadol ar y cyd â'r Ddeddf ond nid ydynt yn rhan ohoni. Ni fwriedir iddynt fod yn ddisgrifiad cynhwysfawr o'r Ddeddf, ac os ymddengys nad oes angen rhoi unrhyw esboniad neu sylw ar adran unigol, nis rhoddir.

TROSOLWG O'R DDEDDF

4. Mae'r Ddeddf yn gosod dyletswydd ar Weinidogion Cymru i gyllido gofal plant ar gyfer plant rhieni sy'n gweithio, cyhyd ag y bo'r plant a'r rhieni yn bodloni meini prawf cymhwysra penodol. Mae'r Ddeddf hefyd yn rhoi pŵer i Weinidogion Cymru i wneud rheoliadau er mwyn gwneud trefniadau ar gyfer sefydlu system ymgeisio a gwirio cymhwysra genedlaethol i'r cynllun cyllido gofal plant a bydd yn caniatáu i ddarpariaeth gael ei gwneud i alluogi rhannu data rhwng personau penodedig (er enghraifft, Cyllid a Thollau Ei Mawrhydi ac Adrannau eraill o Lywodraeth y DU) er mwyn hwyluso hyn.

CEFNDIR POLISI

5. Mae'r Ddeddf yn adlewyrchu ymrwymiad ym manifesto Llafur Cymru, *Gyda'n Gilydd dros Gymru (2016)*, i ddarparu 30 awr yr wythnos o addysg gynnar a gofal plant a gyllidir gan y llywodraeth i rieni sy'n gweithio a chanddynt blant cymwys sy'n dair ac yn bedair oed yng Nghymru, a hynny am hyd at 48 wythnos y flwyddyn.

RHYCHWANT TIRIOGAETHOL A CHYMHWYSO

6. Mae'r darpariaethau yn y Ddeddf yn rhychwantu Cymru a Lloegr (fel un awdurdodaeth gyfreithiol).

CHILDCARE FUNDING (WALES) ACT 2019

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes are for the Childcare Funding (Wales) Act 2019 which was passed by the National Assembly for Wales on 12 December 2018 and received Royal Assent on 30 January 2018.
2. They have been prepared by the Education and Public Services Group of the Welsh Government in order to assist the reader of the Act.
3. The Explanatory Notes should be read in conjunction with the Act but are not part of it. They are not meant to be a comprehensive description of the Act and where an individual section does not seem to require any explanation or comment, none is given.

OVERVIEW OF THE ACT

4. The Act imposes a duty on the Welsh Ministers to fund childcare for the children of working parents, as long as the children and parents meet specific eligibility criteria. The Act also gives the Welsh Ministers power to make regulations to make arrangements for the establishment of a national application and eligibility checking system for the childcare funding scheme and will permit the making of provision to allow for the sharing of data between specified persons (for example, Her Majesty's Revenue and Customs (HMRC) and other UK Government Departments) to facilitate this.

POLICY BACKGROUND

5. The Act reflects a commitment in the Welsh Labour manifesto, *Together for Wales (2016)*, to provide 30 hours per week of government funded early education and childcare to the working parents of eligible three and four year olds in Wales for up to 48 weeks per year.

TERRITORIAL EXTENT AND APPLICATION

6. The provisions in the Act extend to England and Wales (as one legal jurisdiction).

SYLWEBAETH AR YR ADRANNAU

Adran 1 – Cyllido gofal plant ar gyfer plant rhieni sy'n gweithio

7. Mae adran 1(1) yn ei gwneud yn ofynnol i Weinidogion Cymru ddarparu cyllid gofal plant ar gyfer plant cymhwysol rhieni sy'n gweithio. Mae adran 1(2) yn ei gwneud yn ofynnol i Weinidogion Cymru bennu mewn rheoliadau faint o ofal plant sydd i'w sicrhau yn unol â'r cyllid a ddarperir o dan adran 1(1). Mae adran 1(3) yn pennu gofynion sylfaenol penodol y mae rhaid i blentyn eu bodloni er mwyn cael gofal plant a gyllidir (gan gynnwys y gofynion bod y plentyn o dan yr oedran ysgol gorfodol, yn blentyn rhieni sy'n gweithio, ac yn blentyn sydd yng Nghymru). Mae hefyd yn caniatáu i Weinidogion Cymru osod gofynion eraill mewn rheoliadau. Caiff y gofynion hyn (is-adran (5)) ymwneud â rhiant i'r plentyn.
8. Bydd rheoliadau a wneir gan Weinidogion Cymru o dan yr adran hon yn ymhelaethu ar y gofynion hyn, er enghraifft drwy bennu pryd y mae person i'w drin fel pe bai'n gwneud gwaith am dâl, pryd y mae plentyn i'w drin fel pe bai yng Nghymru, a phryd y mae person i'w drin fel pe bai'n bartner i berson arall. Er enghraifft, caiff y rheoliadau bennu y bydd person sy'n absennol dros dro o'r gweithle o dan amgylchiadau penodol, megis cymryd absenoldeb rhiant, yn cael ei ystyried fel pe bai yn y gwaith at ddibenion penderfynu ar gymhwystra i gael cyllid.

Adran 2 – Pŵer i wneud darpariaeth ynghylch gweinyddu etc. cyllid

9. Mae'r adran hon yn rhoi'r pŵer i Weinidogion Cymru i wneud rheoliadau sy'n nodi trefniadau ar gyfer gweinyddu a gweithredu'r cynllun cyllido a sefydlir yn rhinwedd adran 1. Caiff y rheoliadau hyn gynnwys, er enghraifft, fanylion am sut y gall rhiant plentyn cymwys, neu bartner i riant plentyn cymwys, wneud cais am y cyllid, a sut yr ymgwymerir â gwiriadau cymhwystra. Mae adrannau 3 i 7 o'r Ddeddf yn cynnwys rhestr nad yw'n hollgynhwysfawr o'r math o ddarpariaeth y caniateir ei gwneud mewn rheoliadau a wneir o dan yr adran hon.

Adran 3 – Gofyniad i rieni etc. ddarparu gwybodaeth

10. Effaith yr adran hon yw y gall fod yn ofynnol i unrhyw un sy'n hawlio cyllid ar hyn o bryd, neu sy'n ei hawlio am y tro cyntaf, ac felly sy'n gorfod gwneud datganiad o dan adran 1 neu sy'n gwneud datganiad o dan yr adran honno, ddarparu gwybodaeth a dogfennau a bennir yn y rheoliadau, naill ai i Weinidogion Cymru neu i rywun (er enghraifft, gweinyddydd y cynllun) sy'n darparu gwasanaethau i Weinidogion Cymru.
11. Caiff y rheoliadau hefyd wneud darpariaeth i berson sy'n darparu gwybodaeth anwir neu gamarweiniol fod yn agored i gosb ariannol. Ystyr "anwir neu gamarweiniol" yn y cyd-destun hwn yw anwir neu gamarweiniol mewn manylyn perthnasol. Mae hyn yn golygu, yn ymarferol, na fyddai person yn agored i gosb ond os oedd yr wybodaeth anwir neu gamarweiniol a ddarparwyd wedi cael effaith ar ba un a fyddai person yn gymwys i gael y cynnig ai peidio, megis manylion am ei enillion, oedran y plentyn etc. Mae adran 3(5) yn ymdrin â'r cydberthynas rhwng cosb o dan yr adran hon, ac achos am drosedd, er enghraifft cael mantais ariannol drwy ddichell. Mae'n darparu na chaiff person sydd wedi ei euogfarnu o drosedd fod yn agored hefyd i gosb mewn cysylltiad â'r un amgylchiadau.

COMMENTARY ON SECTIONS

Section 1 –Funding of childcare for children of working parents

7. Section 1(1) requires the Welsh Ministers to provide funding for childcare for qualifying children of working parents. Section 1(2) requires the Welsh Ministers to specify in regulations the amount of childcare to be secured in accordance with the funding provided under section 1(1). Section 1 (3) specifies certain fundamental requirements that a child must meet to be provided with funded childcare (including that the child is under compulsory school age, a child of working parents, and in Wales). It also provides the Welsh Ministers to impose other requirements in regulations. These requirements may (subsection (5)) relate to a parent of the child.
8. Regulations made by the Welsh Ministers under this section will flesh out these requirements, for instance by specifying when a person is to be treated as being in paid work, when a child is to be treated as being in Wales, and when a person is to be treated as being another’s partner. For example, the regulations may specify that a person who is temporarily away from the workplace in certain circumstances, such as taking parental leave, will be considered to be in work for the purposes of determining eligibility for funding.

Section 2 - Power to make provision about administration etc. of funding.

9. This section gives the Welsh Ministers the power to make regulations setting out arrangements for administering and operating the funding scheme established by virtue of section 1. These regulations may, for example, include details of how a parent, or partner of a parent, of an eligible child can apply for the funding, and how eligibility checks will be undertaken. Sections 3 to 7 of the Act contain a non-exhaustive list of the type of provision that may be made in regulations under this section.

Section 3 - Requirement for parents etc. to provide information

10. The effect of this section is that anyone who is currently claiming funding, or claiming it for the first time, and so has to make or is making a declaration under section 1, may be required to provide information and documents specified in the regulations, either to the Welsh Ministers or to someone (for instance a scheme administrator) providing services to the Welsh Ministers.
11. The regulations may also make provision for a person who provides false or misleading information to be subject to a financial penalty. “False or misleading” in this context means false or misleading in a material particular. This means, in practice, that a person would only be liable to a penalty if the false or misleading information provided was such as to have a bearing on whether or not a person would be eligible for the offer, such as details of their earnings, the age of the child etc. Section 3(5) deals with the interrelationship between a penalty under this section, and proceedings for an offence, say for obtaining a pecuniary advantage by deception. It provides that a person who has been convicted of an offence may not also be subjected to a penalty in respect of the same circumstances.

12. Mae adran 3(6) yn darparu mai uchafswm unrhyw gosb ariannol y caniateir iddi gael ei chodi mewn rheoliadau a wneir o dan adran 2 yw £3,000. Mae gan Weinidogion Cymru bŵer i ddiwygio'r uchafswm hwn mewn rheoliadau (gweler adran 11 o'r Ddeddf).

Adran 4 - Darparu gwybodaeth gan drydydd partion

13. Mae adran 4 o'r Ddeddf yn pennu y caiff y rheoliadau (y caniateir iddynt gael eu gwneud o dan adran 2) wneud darpariaeth i bersonau penodol a bennir yn yr adran (gweler isod) ddarparu gwybodaeth i Weinidogion Cymru neu i berson sy'n darparu gwasanaethau iddynt. Rhaid i'r wybodaeth o dan sylw gael ei phennu neu ei disgrifio yn y rheoliadau, ac ni chaniateir ymdrin â'r wybodaeth yn y ffordd hon ond os yw Gweinidogion Cymru yn ystyried ei bod yn angenrheidiol ar gyfer penderfynu ar gymhwysra i gael cyllid o dan adran 1 o'r Ddeddf.
14. Caiff y rheoliadau ganiatáu i Gyllid a Thollau Ei Mawrhydi, i adran o'r llywodraeth neu i un o Weinidogion y Goron (neu i berson sy'n darparu gwasanaethau i unrhyw un neu ragor ohonynt) ddarparu i Weinidogion Cymru (neu i berson sy'n darparu gwasanaethau i Weinidogion Cymru) unrhyw wybodaeth o'r math hwn. Serch hynny, bydd hyn yn ddarostyngedig i'r "Gweinidog priodol" gydsynio i hyn: mae ystyr "Gweinidog priodol" wedi ei nodi yn adran 4(6).
15. Caiff y rheoliadau naill ai ei gwneud yn ofynnol neu ganiatáu i awdurdod lleol, neu i berson sy'n darparu gwasanaethau i awdurdod lleol, ddarparu gwybodaeth o'r math hwn i Weinidogion Cymru neu i berson sy'n darparu gwasanaethau iddynt. (Mewn geiriau eraill, yn y cyd-destun hwn, ond nid yn y cyd-destun hwnnw a ddisgrifir ym mharagraff 15, caniateir gosod gofyniad i ddarparu gwybodaeth).

Adran 5 - Datgelu ymlaen wybodaeth sydd wedi ei datgelu yn rhinwedd adran 3 neu 4

16. Mae adran 5 yn gwneud darpariaeth ynghylch datgelu ymlaen wybodaeth sydd wedi cael ei datgelu yn rhinwedd adran 3 neu 4. Mae adran 5(3) yn ei gwneud yn ofynnol i'r Gweinidog priodol roi cydsyniad i unrhyw reoliadau sy'n cynnwys darpariaeth ynghylch datgelu ymlaen wybodaeth a ddarperir gan Gyllid a Thollau Ei Mawrhydi, un o Weinidogion y Goron, adran o'r llywodraeth neu berson sy'n darparu gwasanaethau i unrhyw un neu ragor o'r personau hyn. Mae i "Gweinidog priodol" yr un ystyr yn yr adran hon ag yn adran 4, sef y Trysorlys mewn perthynas â Chyllid a Thollau Ei Mawrhydi a'r Ysgrifennydd Gwladol ar gyfer adran o'r llywodraeth neu un o Weinidogion y Goron.
17. Mae adran 5(4) yn galluogi i unrhyw reoliadau sy'n ymwneud â datgelu ymlaen wybodaeth wneud darpariaeth ar gyfer troseddau mewn cysylltiad â datgelu ymlaen heb awdurdod wybodaeth sydd wedi cael ei rhannu at ddibenion gwneud penderfyniad am gymhwysra person i gael gofal plant a gyllidir gan y Llywodraeth.
18. Yn unol ag adran 5(5), ni all uchafswm y gosb y caniateir iddi fod yn gysylltiedig ag unrhyw drosedd sydd wedi ei chreu yn rhinwedd yr adran hon fod yn hwy na dedfryd o garchar am 2 flynedd (pa un a yw'n dod gyda dirwy ai peidio).

12. Section 3(6) provides that the maximum amount of any financial penalty that can be levied in regulations made under section 2 is £3,000. The Welsh Ministers have power to amend this maximum amount in regulations (see section 11 of the Act).

Section 4 - Provision of information by third parties

13. Section 4 of the Act specifies that the regulations (which may be made under section 2) may make provision for certain persons specified in the section (see below) to provide information to the Welsh Ministers or a person providing services to them. The information in question must be specified in the regulations, or described in them, and can only be dealt with in this way if the Welsh Ministers consider it is needed for determining eligibility for funding under section 1 of the Act.
14. The regulations may permit HMRC, a government department or a Minister of the Crown (or a person providing services to any of them) to provide the Welsh Ministers (or a person providing services to the Welsh Ministers) with any information of this kind. But this will be subject to the “appropriate Minister” consenting to this: the meaning of “appropriate Minister” is set out in section 4(6).
15. A local authority, or a person providing services to a local authority, may be either required or permitted by the regulations to provide information of this kind to the Welsh Ministers or to a person providing services to them. (In other words, in this context, but not in that described in paragraph 13 a requirement to provide information may be imposed).

Section 5 – Onward disclosure of information disclosed by virtue of section 3 or 4

16. Section 5 makes provision about the onward disclosure of information that has been disclosed by virtue of section 3 or 4. Section 5(3) requires the appropriate Minister to give consent to any regulations which contain provision about the onward disclosure of information provided by HMRC, a Minister of the Crown, a government department or a person providing services to any of these persons. “Appropriate Minister” has the same meaning in this section as in section 4, namely the Treasury in relation to HMRC and the Secretary of State for a government department or a Minister of the Crown.
17. Section 5(4) enables any regulations relating to the onward disclosure of information to make provision for criminal offences in connection with the unauthorised onward disclosure of information that has been shared for the purposes of making a decision about a person’s eligibility to receive Government-funded childcare.
18. In accordance with section 5(5) the maximum penalty which may attach to any criminal offence created by virtue of this section cannot exceed a 2 year prison sentence (whether or not accompanied with a fine).

Adran 6 – Adolygu penderfyniadau ac apelau i'r Tribiwnlys Haen Gyntaf

19. Mae adran 6 o'r Ddeddf yn pennu y caiff rheoliadau y caniateir iddynt gael eu gwneud o dan adran 2 wneud darpariaeth ynghylch yr hyn sy'n digwydd pan fo person am herio penderfyniad am ei gymhwystra i gael cyllid. Caiff y rheoliadau wneud darpariaeth ynghylch adolygiadau o benderfyniadau ac ar gyfer apelau i'r Tribiwnlys Haen Gyntaf. Os yw rheoliadau yn cael eu gwneud o dan adran 2 o'r Ddeddf sy'n gwneud darpariaeth ynghylch gosod cosbau ariannol (yn rhinwedd adran 3) yna mae adran 6(2) yn ei gwneud yn ofynnol iddynt hefyd wneud darpariaeth er mwyn galluogi person i herio gosod y gosb ariannol neu ei swm.

Adran 7 – Pŵer i roi swyddogaethau i Awdurdodau Lleol

20. Mae adran 7 yn rhoi'r pŵer i Weinidogion Cymru i wneud darpariaeth yn y rheoliadau y caniateir iddynt gael eu gwneud o dan adran 2 i roi pwerau neu i osod rhwymedigaethau ar Awdurdodau Lleol mewn cysylltiad â chyllid o dan adran 1. Caiff y rheoliadau hefyd wneud darpariaeth sy'n ei gwneud yn ofynnol i Awdurdodau Lleol roi sylw i unrhyw ganllawiau a ddyroddir gan Weinidogion Cymru i gefnogi gweinyddu a gweithredu'r cynllun cyllido.

Adran 8 – Dyletswydd i lunio a chyhoeddi adroddiad ar effaith y Ddeddf hon

21. Mae adran 8 yn ei gwneud yn ofynnol i Weinidogion Cymru lunio a chyhoeddi adroddiad ar effaith y Ddeddf ac ar weithredu unrhyw drefniadau a wneir at ddibenion adran 1 o'r Ddeddf. Rhaid i'r adroddiad gael ei lunio a'i gyhoeddi cyn gynted ag y bo'n ymarferol ar ôl diwedd y cyfnod o bum mlynedd sy'n dechrau â'r diwrnod y daw adran 1 i rym.

Adran 9 – Diwygiad canlyniadol i Ddeddf y Comisiynwyr Cyllid a Thollau 2005

22. Mae adran 9 o'r Ddeddf yn cynnwys diwygiad i adran 18 o Ddeddf y Comisiynwyr Cyllid a Thollau 2005 ("Deddf 2005") sy'n gwneud darpariaeth ynghylch dyletswydd cyfrinachedd Cyllid a Thollau Ei Mawrhydi. Mae adran 18 o Ddeddf 2005 yn nodi'r cod cyfrinachedd ar gyfer Cyllid a Thollau Ei Mawrhydi a'i swyddogion mewn perthynas â'r wybodaeth a gedwir gan Gyllid a Thollau Ei Mawrhydi mewn cysylltiad ag un o swyddogaethau Cyllid a Thollau Ei Mawrhydi ac yn pennu'r amgylchiadau pan all datgeliadau gael eu gwneud.
23. Bydd y diwygiad i Ddeddf 2005 yn mewnosod paragraff newydd yn adran 18(2) o'r Ddeddf honno a fydd yn galluogi Cyllid a Thollau Ei Mawrhydi i ddatgelu gwybodaeth sy'n ofynnol at ddibenion unrhyw reoliadau a wneir o dan y Ddeddf hon i Weinidogion Cymru (neu i berson sy'n darparu gwasanaethau i Weinidogion Cymru).
24. Mae Deddf 2005 yn ffurfio rhan o'r gyfraith yn nhair awdurdodaeth gyfreithiol y Deyrnas Unedig: sef Cymru a Lloegr; yr Alban; a Gogledd Iwerddon (gweler adran 56 o Ddeddf 2005 am y ddarpariaeth sy'n pennu rychwant y Ddeddf ledled y DU).
25. Mae adran 108A(2)(b) o Ddeddf Llywodraeth Cymru 2006, sy'n nodi'r rheolau sy'n llywodraethu terfynau cymhwysedd deddfwriaethol y Cynulliad Cenedlaethol, yn cyfyngu ar rychwant Deddfau'r Cynulliad, gan gynnwys diwygiadau i ddeddfwriaeth arall a wneir gan y Ddeddfau hynny, i awdurdodaeth Cymru a Lloegr.

Section 6 - Reviews of determinations and appeals to the First-tier Tribunal

19. Section 6 of the Act specifies that regulations which may be made under section 2 may make provision about what happens when a person wants to challenge a determination about their eligibility for funding. The regulations may make provision about reviews of decisions and for appeals to the First-Tier Tribunal. If regulations are made under section 2 of the Act which make provision about the imposition of financial penalties (by virtue of section 3) then section 6(2) requires that they must also make provision to enable a person to challenge the imposition or the amount of any financial penalty imposed.

Section 7 - Power to confer functions on local authorities

20. Section 7 gives the Welsh Ministers the power to make provision in the regulations that may be made under section 2 to confer powers or impose obligations on Local Authorities in connection with funding under section 1. The regulations may also make provision which requires Local Authorities to have regard to any guidance issued by the Welsh Ministers to support the administration and operation of the funding scheme.

Section 8 - Duty to prepare and publish report on the effect of Act

21. Section 8 requires the Welsh Ministers to prepare and publish a report on the effect of the Act and on the operation of any arrangements made for the purposes of section 1 of the Act. The report must be prepared and published as soon as practicable after the end of five years beginning with the day on which section 1 comes into force.

Section 9 - Consequential amendment to the Commissioners for Revenue and Customs Act 2005

22. Section 9 of the Act contains an amendment to section 18 of the Commissioners for Revenue and Customs Act 2005 ("the 2005 Act") which makes provision about HMRC's duty of confidentiality. Section 18 of the 2005 Act lays down the code of confidentiality for HMRC and its officials in relation to the information held by HMRC in connection with a function of HMRC and specifies the circumstances in which disclosures can be made.
23. The amendment to the 2005 Act will insert a new paragraph into section 18(2) of that Act which will enable HMRC to disclose information which is required for the purposes of any regulations made under this Act to the Welsh Ministers (or to a person providing services to the Welsh Ministers).
24. The 2005 Act forms part of the law of the United Kingdom's three legal jurisdictions: that of England and Wales; that of Scotland; and that of Northern Ireland (see section 56 of the 2005 Act for the provision specifying the Act's UK-wide extent).
25. Section 108A(2)(b) of the Government of Wales Act 2006, which sets out the rules governing the limits of the National Assembly's legislative competence, restricts the extent of Assembly Acts, including amendments to other legislation made by those Acts, to the jurisdiction of England and Wales.

26. Mae hyn yn golygu y bydd gan y diwygiad i adran 18 o Ddeddf 2005 rychwant mwy cyfyngedig na'r darpariaethau hynny yn Neddf 2005 sy'n rychwantu'r DU gyfan. Felly bydd adran 18 o Ddeddf 2005, i'r graddau y mae'n rychwantu awdurdodaethau'r Alban a Gogledd Iwerddon, yn bodoli heb y diwygiad a gynhwysir yn adran 9 o'r Ddeddf. Ond bydd y diwygiad yn cael effaith at ddibenion awdurdodaeth Cymru a Lloegr.

Adran 11 - Pŵer i newid swm y gosb ariannol ar gyfer darparu gwybodaeth anwir neu gamarweiniol

27. Mae'r adran hon yn rhoi pŵer i Weinidogion Cymru i wneud rheoliadau sy'n amrywio uchafswm y gosb o £3,000 a bennir yn adran 3(6) (cosb am ddarparu gwybodaeth anwir neu gamarweiniol) drwy wneud diwygiad i'r adran honno.

Adran 12 - Darpariaeth atodol ynghylch rheoliadau o dan y Ddeddf hon

28. Mae'r adran hon yn esbonio bod pwerau i wneud rheoliadau o dan y Ddeddf i'w harfer drwy offeryn statudol (sy'n golygu bod gofynion gweithdrefnol penodol a gofynion eraill a gynhwysir yn Neddf Offerynnau Statudol 1946 yn gymwys mewn perthynas â rheoliadau a wneir o dan y Ddeddf) ac yn pennu y bydd y weithdrefn gadarnhaol yn gymwys i bob defnydd o'r pwerau i wneud rheoliadau. Mae hyn yn golygu bod unrhyw reoliadau a wneir o dan y Ddeddf yn ddarostyngedig i gymeradwyaeth ddatganedig gan Gynulliad Cenedlaethol Cymru.
29. Mae adran 12 hefyd yn ei gwneud yn glir y caiff unrhyw reoliadau a wneir o dan y Ddeddf roi disgresiwn i unrhyw berson. Mae angen y pŵer i roi disgresiwn er mwyn rhoi hyblygrwydd i Weinidogion Cymru o ran y trefniadau gweithredol sydd i'w gwneud ar gyfer gweinyddu unrhyw gyllid a ddarperir yn unol ag adran 1, er enghraifft, wrth wneud penderfyniad o ran pa un ai i osod cosb am ddarparu gwybodaeth anwir neu gamarweiniol a ddarperir gan berson mewn cysylltiad â'i gais am gyllid. Rhaid i berson sy'n arfer disgresiwn o dan amgylchiadau o'r fath arfer barn resymol er mwyn penderfynu pa un ai i osod cosb ai peidio ac, os gosodir cosb, swm y gosb honno.
30. Caiff unrhyw reoliadau a wneir o dan y Ddeddf hefyd wneud darpariaeth wahanol at ddibenion gwahanol, a gwneud darpariaeth ganlyniadol, gysylltiedig, atodol, ddarfodol, drosiannol neu arbed.

Adran 13 - Dod i rym

31. Mae adran 13(1) yn nodi darpariaethau'r Ddeddf a fydd yn dod i rym un diwrnod ar ôl i'r Ddeddf gael y Cydsyniad Brenhinol.
32. Bydd unrhyw adrannau o'r Ddeddf nas crybwyllir yn is-adran (1) yn dod i rym ar ddiwrnod a bennir mewn gorchymyn (neu orchmynion) cychwyn a wneir gan Weinidogion Cymru yn unol ag is-adran (2). Mae gan Weinidogion Cymru bŵer i bennu dyddiadau cychwyn gwahanol a chânt gychwyn darpariaethau at ddibenion gwahanol neu mewn perthynas ag ardaloedd penodedig.

26. This means that the amendment to section 18 of the 2005 Act will have a more limited extent than those provisions of the 2005 Act which extend across the UK. So section 18 of the 2005 Act, as it extends to the jurisdictions of Scotland and Northern Ireland, will exist without the amendment contained in section 9 of the Act. But the amendment will have effect for the purposes of the jurisdiction of England and Wales.

Section 11 - Power to change amount of financial penalty for provision of false or misleading information

27. This section confers a power on the Welsh Ministers to make regulations varying the maximum penalty of £3,000 specified in section 3(6) (penalty for providing false or misleading information) by making an amendment to that section.

Section 12 - Supplementary provision about regulations under this Act

28. This section explains that powers to make regulations under the Act are to be exercised by statutory instrument (which means that certain procedural and other requirements contained in the Statutory Instruments Act 1946 apply in relation to regulations made under the Act) and specifies that the affirmative procedure will apply to each use of the regulation-making powers. This means that any regulations made under the Act are subject to the express approval of the National Assembly for Wales.
29. Section 12 also makes it clear that any regulations made under the Act may confer a discretion on any person. The power to confer a discretion is necessary in order to give the Welsh Ministers flexibility in the operational arrangements to be made for administering any funding provided in accordance with section 1, for example, when making a decision whether to impose a penalty for the provision of false or misleading information provided by a person in connection with their application for funding. A person exercising a discretion in such circumstances must exercise reasonable judgement in order to determine whether or not to impose a penalty and, if a penalty is imposed, the amount of that penalty.
30. Any regulations made under the Act may also make different provision for different purposes, make consequential, incidental, supplementary, transitory, transitional or saving provision.

Section 13 - Coming into force

31. Section 13(1) sets out the provisions of the Act that will come into force one day after the Act receives Royal Assent.
32. Any sections of the Act that are not mentioned in subsection (1) will come into force on a day specified in a commencement order (or orders) made by the Welsh Ministers in accordance with subsection (2). The Welsh Ministers have power to specify different commencement dates and may commence provisions for different purposes or in relation to specified areas.

Adran 14 - Enw byr

33. Mae'r adran hon yn datgan mai enw byr y Ddeddf hon fydd Deddf Cyllido Gofal Plant (Cymru) 2019.

COFNOD Y TRAFODION YNG NGHYNULLIAD CENEDLAETHOL CYMRU

34. Mae'r tabl a ganlyn yn nodi'r dyddiadau ar gyfer pob cyfnod o hynt y Ddeddf drwy Gynulliad Cenedlaethol Cymru. Gellir cael Cofnod y Trafodion a rhagor o wybodaeth am hynt y Ddeddf hon ar wefan Cynulliad Cenedlaethol Cymru ar:

<http://www.senedd.cynulliad.cymru/mgIssueHistoryHome.aspx?IIId=21394&Opt=0>

Cyfnod	Dyddiad
Cyflwynwyd	16 Ebrill 2018
Cyfnod 1 - Dadl	17 Gorffennaf 2018
Cyfnod 2 - Pwyllgor Craffu - ystyried y gwelliannau	18 Hydref 2018
Cyfnod 3 Cyfarfod Llawn - ystyried y gwelliannau	5 Rhagfyr 2018
Cyfnod 4 Cymeradwywyd gan y Cynulliad	12 Rhagfyr 2018
Y Cydsyniad Brenhinol	30 Ionawr 2019

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Section 14 - Short title

33. This section states that the short title of this Act will be the Childcare Funding (Wales) Act 2019.

RECORD OF PROCEEDINGS IN NATIONAL ASSEMBLY FOR WALES

34. The following table sets out the dates for each stage of the Act's passage through the National Assembly for Wales. The Record of Proceedings and further information on the passage of this Act can be found on the National Assembly for Wales' website at: <http://www.senedd.assembly.wales/mgIssueHistoryHome.aspx?Id=21394&Opt=0>

Stage	Date
Introduced	16 April 2018
Stage 1 - Debate	17 July 2018
Stage 2 - Scrutiny Committee - consideration of amendments	18 October 2018
Stage 3 Plenary - consideration of amendments	5 December 2018
Stage 4 Approved by the Assembly	12 December 2018
Royal Assent	30 January 2019

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TSO
Blwch Post 29, Norwich, NR3 1GN
Archebionf ffôn/ Ymholiadau cyffredinol 0333 202 5070
Archebion ffacs: 0333 202 5080
E-bost: customer.services@tso.co.uk
Ffôn Testun: 0333 202 5077

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