



CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

2000 Rhif 2906 (Cy. 186)

2000 No. 2906 (W. 186)

ADDYSG, CYMRU

EDUCATION, WALES

**Rheoliadau Addysg (Cyfyngu
Cyflogaeth) (Cymru)
2000**

**The Education (Restriction of
Employment) (Wales) Regulations
2000**

NODYN ESBONIADOL

EXPLANATORY NOTE

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

(This note does not form part of the Regulations)

Mae'r Rheoliadau hyn yn gwneud darpariaeth mewn perthynas â'r rhai y mae eu cyflogaeth fel athro neu athrawes, neu fel gweithiwr gyda phlant neu bersonau ifanc, wedi'i gwahardd neu wedi'i chyfyngu o dan adran 218(6) o Ddeddf Diwygio Addysg 1988. Maent yn gwneud darpariaeth hefyd sy'n ei gwneud yn ofynnol i gyflogwyr athrawon ac athrawesau gyflwyno adroddiad ar gamymddygiad i Gynulliad Cenedlaethol Cymru.

Mae rheoliad 1 yn diddymu rheoliad 10A o Reoliadau Addysg (Athrawon) 1993 a rheoliad 3(4) o Reoliadau Addysg (Athrawon) (Diwygio) 1998.

Mae Rheoliad 3 yn ei gwneud yn ofynnol i gorff llywodraethu ysgol neu sefydliad addysg bellach, i'r awdurdod addysg lleol ar gyfer yr ysgol honno neu'r sefydliad hwnnw, ac i berchennog ysgol annibynnol, gymryd camau rhesymol ymarferol i atal person y gwaherddir ei gyflogi, neu y cyfyngir ar ei gyflogi, o dan Reoliadau a wneir o dan adran 218(6) o Ddeddf Diwygio Addysg 1988, ond nad yw mewn cyflogaeth berthnasol, rhag darparu gwasanaethau mewn perthynas â'r ysgol honno neu'r sefydliad hwnnw neu mewn perthynas â'r rhai sy'n eu mynychu, a fyddai'n golygu cyswllt rheolaidd â phlant neu bersonau ifanc.

Mae rheoliad 4 yn ei gwneud yn ofynnol i gyflogydd person sy'n cael ei ddiswyddo o gyflogaeth berthnasol ar sail camymddygiad, neu sy'n ymddiswyddo o dan amgylchiadau y byddai'r cyflogydd wedi'i ddiswyddo o danynt, gyflwyno adroddiad am ffeithiau'r achos a rhoi unrhyw wybodaeth bellach am amgylchiadau'r diswyddo neu'r ymddiswyddo i Gynulliad Cenedlaethol Cymru.

These Regulations make provision with regard to services provided by those whose employment as a teacher or worker with children or young persons is prohibited or restricted under Regulations made under section 218(6) of the Education Reform Act 1988. They also make provision requiring the employers of teachers to report misconduct to the National Assembly for Wales.

Regulation 1 revokes regulation 10A of the Education (Teachers) Regulations 1993 and regulation 3(4) of the Education (Teachers) (Amendment) Regulations 1998.

Regulation 3 requires the governing body of a school or further education institution, the local education authority for that school or institution and the proprietor of an independent school to take reasonably practicable steps to prevent a person whose employment is prohibited or restricted under Regulations made under section 218(6) of the Education Reform Act 1988, but who is not in relevant employment, from providing services in relation to that school or institution or to those attending it which would involve regular contact with children or young persons.

Regulation 4 requires the employer of a person who is dismissed from relevant employment on grounds of misconduct, or who resigns in circumstances in which that person would have been so dismissed, to report the facts of the case and provide such further information as relates to the circumstances of the dismissal or resignation to the National Assembly for Wales.

2000 Rhif 2906 (Cy. 186)**2000 No. 2906 (W. 186)****ADDYSG, CYMRU****EDUCATION, WALES****Rheoliadau Addysg (Cyfyngu
Cyflogaeth) (Cymru)
2000****The Education (Restriction of
Employment) (Wales) Regulations
2000***Wedi'u gwneud* 26 Hydref 2000*Made* 26th October 2000*Yn dod i rym* 1 Tachwedd 2000*Coming into force* 1st November 2000

Mae Cynulliad Cenedlaethol Cymru yn gwneud y Rheoliadau canlynol drwy arfer y pwerau a roddwyd i'r Ysgrifennydd Gwladol gan adrannau 218(6A) a (6B) a 232(5) a (6) o Ddeddf Diwygio Addysg 1988(a) ac adrannau 15 a 42(6) a (7) o Ddeddf Addysgu ac Addysg Uwch 1998(b) sydd bellach wedi'u breinio yng Nghynulliad Cenedlaethol Cymru(c).

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred on the Secretary of State by sections 218(6A) and (6B) and 232(5) and (6) of the Education Reform Act 1988(a) and sections 15 and 42(6) and (7) of the Teaching and Higher Education Act 1998(b) and now vested in the National Assembly for Wales(c).

Enwi, cychwyn, cymhwyso a diddymu**Citation, commencement, application and revocation**

1.-(1) Enw'r Rheoliadau hyn yw Rheoliadau Addysg (Cyfyngu Cyflogaeth) (Cymru) 2000 a deuant i rym ar 1 Tachwedd 2000

1.-(1) These Regulations may be cited as the Education (Restriction of Employment) (Wales) Regulations 2000 and shall come into force on 1st November 2000

(2) Mae'r Rheoliadau hyn yn gymwys i Gymru.

(2) These Regulations apply to Wales.

(3) Mae rheoliad 10A o Reoliadau Addysg (Athrawon) 1993(ch) a rheoliad 3(4) o Reoliadau Addysg (Athrawon) (Diwygio) 1998(d) wedi'u diddymu.

(3) Regulation 10A of the Education (Teachers) Regulations 1993(d) and regulation 3(4) of the Education (Teachers) (Amendment) Regulations 1998 (e) are revoked.

Dehongli**Interpretation**

2.-(1) Ac eithrio lle mae'r cyd-destun yn mynnu fel arall, yn y Rheoliadau hyn –

2.-(1) Except where the context otherwise requires, in these Regulations-

(a) mae i "addysg bellach" yr ystyr a roddir i "further education" gan adran 2(3) a (5) o Ddeddf Addysg 1996(dd);

(a) "further education" ("addysg bellach") has the meaning given to it by section 2(3) and (5) of the Education Act 1996(f);

(a) 1988 p.40. Mewnosodwyd is-adrannau (6A) a (6B) gan adran 49(2) o Ddeddf Addysg 1997 (p.44) a diwygiwyd is-adran (6A) gan adran 5(3) o Ddeddf Amddiffyn Plant 1999 (p.14).

(a) 1988 c. 40. Subsections (6A) and (6B) were inserted by section 49(2) of the Education Act 1997 (c.44) and subsection (6A) is amended by section 5(3) of the Protection of Children Act 1999 (c.14).

(b) 1998 p.30. Diwygiwyd adran 15 gan adran 5(4) o Ddeddf Amddiffyn Plant 1999.

(b) 1998 c. 30. Section 15 is amended by section 5(4) of the Protection of Children Act 1999.

(c) Gweler Gorchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999, O.S. 1999/672.

(c) See the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672.

(ch) O.S. 1993/543. Diddymwyd pob darpariaeth arall yn y Rheoliadau hynny, gydag eithriadau, gan O.S. 2000/2419.

(d) S.I. 1993/543. All other provisions of these Regulations were revoked, subject to savings, by S.I. 2000/2419.

(d) O.S. 1998/1584. Diddymwyd pob darpariaeth arall yn y Rheoliadau hynny, gydag eithriadau, gan O.S. 2000/2419.

(e) S.I. 1998/1584. All other provisions of these Regulations were revoked, subject to savings, by S.I. 2000/2419.

(dd) 1996 p.56.

(f) 1996 c.56.

(b) ystyr “addysg uwch” (“*higher education*”) yw addysg a ddarperir drwy gyfrwng cwrs o unrhyw ddisgrifiad a grybwyllir yn Atodlen 6 i Ddeddf Diwygio Addysg 1988;

(c) ystyr “gweithiwr gyda phlant neu bersonau ifanc” (“*worker with children or young persons*”) yw person a gyflogir –

- (i) gan awdurdod addysg lleol, neu
- (ii) gan gorff llywodraethu ysgol neu sefydliad sy’n dod o fewn adran 218(10) neu (11) o Ddeddf Diwygio Addysg 1988(a);

mewn gwaith, heblaw fel athro neu athrawes, sy’n dod â’r person hwnnw i gyswllt yn rheolaidd â phersonau ifanc sydd heb gyrraedd 19 mlwydd oed.

(ch) ystyr “sefydliad addysg bellach” (“*further education institution*”) yw sefydliad, nad yw’n ysgol, sy’n darparu addysg bellach (p’un a yw’n darparu addysg uwch hefyd neu beidio) ac sydd naill ai –

(i) yn cael ei gynnal gan awdurdod addysg lleol; neu

(ii) yn sefydliad yn y sector addysg bellach (o fewn ystyr adran 91(3) o Ddeddf Addysg Bellach ac Uwch 1992(b));

(d) ystyr “ysgol” (“*school*”) yw ysgol a gynhelir gan awdurdod addysg lleol, neu ysgol arbennig(c) nad yw’n cael ei chynnal felly.

(2) Mae unrhyw gyfeiriad yn y Rheoliadau hyn at gyflogaeth berthnasol yn gyfeiriad at gyflogaeth –

(a) gan awdurdod addysg lleol fel athro neu athrawes (p’un ai mewn ysgol neu sefydliad addysg bellach neu beidio) neu fel gweithiwr gyda phlant neu bersonau ifanc;

(b) gan unrhyw gorff arall, fel athro neu athrawes mewn ysgol neu sefydliad addysg bellach;

(c) gan gorff llywodraethu ysgol neu sefydliad addysg bellach fel gweithiwr gyda phlant neu bersonau ifanc;

(ch) gan berchennog ysgol annibynnol, fel athro neu athrawes neu fel gweithiwr gyda phlant neu bersonau ifanc; a

(d) mewn ysgol annibynnol, fel athro neu athrawes neu fel gweithiwr gyda phlant neu bersonau

(b) “further education institution” (“*sefydliad addysg bellach*”) means an institution, not being a school, which provides further education (whether or not it also provides higher education) and either-

(i) is maintained by a local education authority; or

(ii) is an institution within the further education sector (within the meaning of section 91(3) of the Further and Higher Education Act 1992(a));

(c) “higher education” (“*addysg uwch*”) means education provided by means of a course of any description mentioned in Schedule 6 to the Education Reform Act 1988;

(d) “school” (“*ysgol*”) means a school maintained by a local education authority, or a special school(b) not so maintained;

(e) “worker with children or young persons” (“*gweithiwr gyda phlant neu bersonau ifanc*”) means a person, employed –

(i) by a local education authority, or

(ii) by the governing body of a school or institution falling within section 218(10) or (11) of the Education Reform Act 1988(c),

in work, otherwise than as a teacher, which brings that person regularly into contact with persons who have not attained the age of 19 years.

(2) Any reference in these Regulations to relevant employment is a reference to employment-

(a) by a local education authority, as a teacher (whether or not at a school or further education institution) or as a worker with children or young persons;

(b) by any other body, as a teacher at a school or further education institution;

(c) by the governing body of a school or further education institution as a worker with children or young persons;

(d) by the proprietor of an independent school, as a teacher or worker with children or young persons; and

(e) at an independent school, as a teacher or worker with children or young persons.

(a) Diwygiwyd adran 218(10) ac (11) gan adran 93 o Ddeddf Addysg Bellach ac Uwch 1992 (p.13), a pharagraff 49 o Atodlen 8 ac Atodlen 9 iddi.

(b) 1992 p.13.

(c) Ar gyfer ystyr “ysgol arbennig” gweler adrannau 6(2) a 337 o Ddeddf Addysg 1996, fel y’u diwygiwyd yn ôl eu trefn gan baragraffau 60 a 80 o Atodlen 30 i Ddeddf Safonau a Fframwaith 1998.

(a) 1992 c.13.

(b) For the definition of “special school” see sections 6(2) and 337 of the Education Act 1996, as amended by, respectively, paragraphs 60 and 80 of Schedule 30 to the School Standards and Framework Act 1998.

(c) Section 218(10) and (11) is amended by section 93 of, and paragraph 49 of Schedule 8 and Schedule 9 to, the Further and Higher Education Act 1992.

ifanc.

(3) At ddibenion y Rheoliadau hyn, mae cyflogaeth yn cynnwys ymglymu person i ddarparu ei wasanaethau fel athro neu athrawes heblaw o dan gontract cyflogaeth a dehonglir cyfeiriadau at gyflogaeth neu gyflogaeth berthnasol yn unol â hynny.

Cyfngu darparu gwasanaethau

3.-(1) Yn ddarostyngedig i baragraff (3), mae paragraff (2) yn gymwys mewn perthynas â pherson y gwaherddir ei gyflogi, neu y cyfyngir ar ei gyflogi, ar unrhyw un o'r seiliau a grybwyllir yn is-adran (6ZA)(a) i (d) o adran 218 o Ddeddf Diwygio Addysg 1988(a), o dan reoliadau a wnaed o dan is-adran (6) o'r adran honno(b).

(2) Rhaid i gorff llywodraethu ysgol neu sefydliad addysg bellach, yr awdurdod addysg lleol i'r graddau y mae'n ymwneud â'r ysgol honno neu'r sefydliad hwnnw, a pherchennog ysgol annibynnol, gymryd unrhyw gamau sy'n rhesymol ymarferol i atal person nad yw'n cael ei gyflogi ganddynt mewn cyflogaeth berthnasol rhag darparu gwasanaethau mewn perthynas â'r ysgol neu'r sefydliad neu mewn perthynas â phersonau sy'n eu mynychu –

- (i) sy'n cael eu darparu drwy ba gyfrwng bynnag a ph'un a ydynt o dan gontract neu fel arall; a
- (ii) a fyddai'n dod â'r person hwnnw a fyddai'n eu darparu i gyswllt yn rheolaidd â phersonau sydd heb gyrraedd 19 mlwydd oed.

(3) Mae paragraff (2) ond yn gymwys mewn perthynas â pherson y mae ei gyflogaeth neu ei gyflogaeth bellach wedi'i chyfyngu (o'i gyferbynnu â'i gwahardd) os y byddai caniatáu i'r person ddarparu'r gwasanaethau a grybwyllir yn y paragraff hwnnw, pe bai'n cael ei gyflogi gan gorff llywodraethu o'r fath neu awdurdod addysg lleol neu gan berchennog ysgol annibynnol mewn cyflogaeth berthnasol, yn groes i delerau'r cyfyngiad.

Adroddiadau ar gamymddygiad

4.-(1) Os yw person –

- (a) wedi ei ddiswyddo o gyflogaeth berthnasol ar sail camymddygiad (p'un a gaiff ei gollfarnu am dramgwydd troseddol neu beidio), neu
- (b) wedi ymddiswyddo o dan amgylchiadau y byddai cyflogydd y person wedi'i ddiswyddo neu wedi ystyried ei ddiswyddo o danynt ar y

(3) For the purposes of these Regulations, employment includes the engagement of a person to provide his or her services as a teacher otherwise than under a contract of employment and references to employment or relevant employment shall be construed accordingly.

Restriction on provision of services

3.-(1) Subject to paragraph (3), paragraph (2) applies in relation to a person whose employment or further employment is on any of the grounds mentioned in subsection (6ZA)(a) to (d) of section 218 of the Education Reform Act 1988 (a), prohibited or restricted under regulations made under subsection (6) of that section(b).

(2) The governing body of a school or further education institution, the local education authority so far as it relates to that school or institution and the proprietor of an independent school shall take such steps as are reasonably practicable to prevent a person to whom this paragraph applies who is not employed by them in relevant employment from providing services in relation to the school or institution or persons attending it which –

- (i) are provided by whatever means and whether under contract or otherwise; and
- (ii) would bring that person providing them regularly into contact with persons who have not attained the age of 19 years.

(3) Paragraph (2) only applies in relation to a person whose employment or further employment has been restricted (as distinct from prohibited) if it would be contrary to the terms of the restriction to allow him or her to provide such services as are mentioned in that paragraph if he or she were to be employed by such a governing body or by a local education authority or the proprietor of an independent school in relevant employment.

Misconduct reports

4.-(1) Where a person-

- (a) is dismissed from relevant employment on the grounds of misconduct (whether or not he or she is convicted of a criminal offence), or
- (b) has resigned in circumstances where the person's employer would have dismissed or considered dismissing him or her on those

(a) Mewnsoodwyd adran 218(6ZA) gan adran 5(2) o Ddeddf Amddiffyn Plant 1999.

(b) Adeg gwneud y Rheoliadau hyn, Rheoliadau Addysg (Cyfyngu Cyflogaeth) 2000 (O.S. 2000/2419), sy'n gymwys i Gymru a Lloegr, oedd y Rheoliadau a oedd mewn grym o dan adran 218(6) o Ddeddf Diwygio Addysg 1988.

(a) Section 218(6ZA) is inserted by section 5(2) of the Protection of Children Act 1999.

(b) At the time of making these Regulations, the regulations in force under section 218(6) of the Education Reform Act 1988 were the Education (Restriction of Employment) Regulations 2000 (S.I. 2000/2419) which apply to both England and Wales.

sail honno pe na bai wedi ymddiswyddo,

rhaid i'r cyflogydd gyflwyno adroddiad am ffeithiau'r achos a rhoi unrhyw wybodaeth bellach am yr amgylchiadau a arweiniodd at y diswyddo neu'r ymddiswyddo, ac sydd ym meddiant neu o dan reolaeth y cyflogydd, i Gynulliad Cenedlaethol Cymru.

(2) Ym mharagraff (1), mae'r cyfeiriad at "ddiswyddo o gyflogaeth berthnasol" yn cynnwys camau gan awdurdod addysg lleol neu gorff llywodraethu ysgol neu sefydliad addysg bellach i derfynu ymglymiad person i ddarparu gwasanaethau fel athro neu athrawes mewn cyflogaeth berthnasol heblaw o dan gontract cyflogaeth a dehonglir cyfeiriadau at "ddiswyddo" yn unol â hynny ac mae'r cyfeiriad at "ymddiswyddo" yn cynnwys camau gan berson i derfynu ymglymiad o'r fath.

Llofnodwyd ar ran Cynulliad Cenedlaethol Cymru o dan adran 66(1) o Ddeddf Llywodraeth Cymru 1998(a).

26 Hydref 2000

Llywydd Cynulliad Cenedlaethol Cymru

grounds had he or she not resigned,

the employer shall report the facts of the case and provide such further information in the employer's possession or control as relates to the circumstances giving rise to the dismissal or resignation to the National Assembly for Wales.

(2) In paragraph (1), the reference to "dismissed from relevant employment" includes the termination by the local education authority or the governing body of a school or further education institution of a person's engagement to provide services as a teacher in relevant employment otherwise than under a contract of employment and references to "dismissed" or "dismissing" shall be construed accordingly and the reference to "resignation" includes the termination by a person of such an engagement.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(a).

26th October 2000

The Presiding Officer of the National Assembly for
Wales

D. Elis Thomas

(a) 1998 p.38.

(a) 1998 c. 38.

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