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OFFERYNNAU STATUDOL  
CYMRU

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WELSH STATUTORY  
INSTRUMENTS

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**2010 Rhif 1171 (Cy.104)**

**2010 No. 1171 (W.104)**

**PLANT A PHOBL IFANC,  
CYMRU**

**CHILDREN AND YOUNG  
PERSONS, WALES**

**AMDDIFFYN OEDOLION  
HYGLWYF, CYMRU**

**PROTECTION OF  
VULNERABLE ADULTS,  
WALES**

Rheoliadau Deddf Diogelu  
Grwpiau Hyglwyf 2006  
(Gweithgarwch Rheoledig)  
(Cymru) 2010

The Safeguarding Vulnerable  
Groups Act 2006 (Controlled  
Activity) (Wales) Regulations  
2010

**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, a wnaed o dan Ddeddf Diogelu Grwpiau Hyglwyf 2006 ("y Ddeddf"), yn gwneud darpariaeth mewn perthynas â gweithgarwch rheoledig yng Nghymru. Daw'r Rheoliadau hyn i rym ar y diwrnod ar ôl y diwrnod y'u gwneir.

These Regulations, made under the Safeguarding Vulnerable Groups Act 2006 ("the Act"), make provision relating to controlled activity in Wales. The Regulations come into force on the day after the day on which they are made.

Mae rheoliad 2 yn darparu na chaiff person cyfrifol, fel y'i diffinnir yn adran 23(3) o'r Ddeddf, ganiatáu i rywun arall ymgymryd â gweithgarwch rheoledig mewn perthynas â phlant, fel y'i diffinnir yn adran 21 o'r Ddeddf, yn yr amgylchiadau a bennir yn y rheoliad hwnnw. Nid yw'r cyfyngiad hwn yn gymwys os rhoddwyd caniatâd cyn i'r Rheoliadau ddod i rym a'r caniatâd yn parhau'n weithredol ar ôl y dyddiad hwnnw.

Regulation 2 provides that a responsible person, as defined in section 23(3) of the Act, may only permit another to engage in controlled activity relating to children, as defined in section 21 of the Act, in the circumstances specified in that regulation. This restriction does not apply if permission was given before the Regulations came into force and remains in place after that date.

Mae rheoliad 3 yn gwneud darpariaeth ynglŷn â gweithgarwch rheoledig mewn perthynas ag oedolion hyglwyf, fel y'u diffinnir yn adran 22 o'r Ddeddf, mewn termau cyffelyb i'r ddarpariaeth yn rheoliad 2.

Regulation 3 makes provision in relation to controlled activity relating to vulnerable adults, as defined in section 22 of the Act, in terms similar to the provision made in regulation 2.

Addaswyd adran 113B o Ddeddf yr Heddlu 1997 gan Reoliadau Deddf Diogelu Grwpiau Hyglwyf 2006 (Gweithgarwch Rheoledig a Darpariaethau Amrywiol) 2010 (O.S. 2010/1146). Bydd yr addasiadau yn darparu ar gyfer dyroddi hysbysiad gan yr Ysgrifennydd

Section 113B of the Police Act 1997 is modified by the Safeguarding Vulnerable Groups Act 2006 (Controlled Activity and Miscellaneous Provisions) Regulations 2010 (S.I. 2010/1146). The modifications provide for the Secretary of State to issue a notification

Gwladol, i ddatgan nad yw person wedi ei wahardd o weithgarwch rheoledig mewn perthynas â phlant a/neu oedolion hyglwyf, yn hytrach na thystysgrif cofnod troseddol fanylach. Mae dyroddi hysbysiad o'r fath yn berthnasol i'r amgylchiadau a bennir yn rheoliadau 2 a 3 o'r Rheoliadau hyn. Nid yw'r addasiadau'n gymwys os yw'r gweithgarwch rheoledig yn waith mewn sefydliad addysg bellach, pan fo dyletswyddau arferol y gwaith hwnnw yn cynnwys cyswllt rheolaidd â phersonau o dan 18 mlwydd oed.

Rheoliadau drafft a osodir gerbron Cynulliad Cenedlaethol Cymru o dan adran 61(3) o Ddeddf Diogelu Grwpiau Hyglwyf 2006 (fel y'i haddaswyd gan adran 56(5)(b) o'r Ddeddf honno), i'w cymeradwyo drwy benderfyniad Cynulliad Cenedlaethol Cymru.

stating that the person is not barred from regulated activity in relation to children and/or vulnerable adults, instead of an enhanced criminal record certificate. The issue of such a notification is relevant to the circumstances specified in regulations 2 and 3 of these Regulations. The modifications do not apply if the controlled activity is work in a further education institution where the normal duties of that work involve regular contact with persons aged under 18.

Draft Regulations laid before the National Assembly for Wales under section 61 (3) of the Safeguarding Vulnerable Groups Act 2006 (as modified by section 56 (5) (b) of that Act) for approval by resolution of the National Assembly for Wales.

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The Safeguarding Vulnerable  
Groups Act 2006 (Controlled  
Activity) (Wales) Regulations  
2010

*Gwnaed* 31 Mawrth 2010  
*Yn dod i rym yn unol â rheoliad 1*

*Made* 31 March 2010  
*Coming into force* in accordance with  
*regulation 1*

Mae Gweinidogion Cymru yn gwneud y Rheoliadau canlynol drwy arfer y pwerau a roddwyd gan adrannau 23(1), 56(1)(f) a 61(5) o Ddeddf Diogelu Grwpiau Hyglwyf 2006(1).

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 23(1), 56(1)(f) and 61(5) of the Safeguarding Vulnerable Groups Act 2006(1).

Gosodwyd drafft o'r Rheoliadau hyn gerbron Cynulliad Cenedlaethol Cymru ar 23 Chwefror 2010 yn unol ag adran 61(3) o'r Ddeddf honno (fel y'i haddaswyd gan adran 56(5)(b) o'r Ddeddf honno) a chymeradwywyd ef gan benderfyniad gan Gynulliad Cenedlaethol Cymru.

A draft of these Regulations was laid before the National Assembly for Wales on 23 February 2010 in accordance with section 61 (3) of that Act (as modified by section 56 (5)(b) of that Act) and approved by a resolution of the National Assembly for Wales.

#### **Enwi, cychwyn a chymhwyso**

1.–(1) Enw'r Rheoliadau hyn yw Rheoliadau Deddf Diogelu Grwpiau Hyglwyf 2006 (Gweithgarwch Rheoledig) (Cymru) 2010 a deuant i rym ar y diwrnod ar ôl y diwrnod y'u gwneir.

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

#### **Title, commencement and application**

1.–(1) The title of these Regulations is the Safeguarding Vulnerable Groups Act 2006 (Controlled Activity) (Wales) Regulations 2010 and they come into force on the day after the day on which they are made.

(2) These Regulations apply in relation to Wales.

## Yr amgylchiadau pan na chaiff person cyfrifol ganiatáu i rywun arall ymgymryd â gweithgarwch rheoledig yng Nghymru mewn perthynas â phlant

2.–(1) Ni chaiff person cyfrifol(1) ("PC") ganiatáu i rywun arall ("A") ymgymryd â gweithgarwch rheoledig mewn perthynas â phlant(2) ac eithrio yn yr amgylchiadau a bennir ym mharagraff (2) neu'r amgylchiadau a bennir ym mharagraff (3).

(2) Yr amgylchiadau yn y paragraff hwn yw—

- (a) bod yr Ysgrifennydd Gwladol wedi dyroddi i A, o dan adran 113B o Ddeddf yr Heddlu 1997(3) naill ai—
  - (i) tystysgrif cofnod troseddol fanylach sy'n cynnwys gwybodaeth addasrwydd mewn perthynas â phlant (yn yr ystyr a roddir i "suitability information relating to children" yn adran 113BA(4) o'r Ddeddf honno), neu
  - (ii) hysbysiad i'r perwyl nad yw A—
    - (aa) wedi ei wahardd o weithgarwch rheoledig mewn perthynas â phlant(5),
    - (bb) wedi ei gynnwys yn y rhestr a gedwir o dan adran 1 o Ddeddf Amddiffyn Plant 1999(6), ac
    - (cc) nad yw'n destun cyfarwyddyd a wnaed o dan adran 142 o Ddeddf Addysg 2002(7);

## Circumstances in which a responsible person must not permit another to engage in a controlled activity in Wales relating to children

2.–(1) A responsible person(1) ("RP") may only permit another ("A") to engage in a controlled activity relating to children(2) in the circumstances specified in paragraph (2) or the circumstances specified in paragraph (3).

(2) The circumstances in this paragraph are that—

- (a) the Secretary of State has issued to A under section 113B of the Police Act 1997(3) either—
  - (i) an enhanced criminal record certificate which includes suitability information relating to children (within the meaning of section 113BA(4) of that Act), or
  - (ii) a notification that A is—
    - (aa) not barred from regulated activity relating to children(5),
    - (bb) not included in the list kept under section 1 of the Protection of Children Act 1999(6), and
    - (cc) not subject to a direction made under section 142 of the Education Act 2002(7);

- 
- (1) Mae i "person cyfrifol" yr ystyr a roddir i "responsible person" gan adran 23(3) o Ddeddf Amddiffyn Grwpiau Hyglwyf 2006 ("y Ddeddf").
  - (2) Mae i "gweithgarwch rheoledig mewn perthynas â phlant" yr ystyr a roddir i "controlled activity relating to children" gan adran 21 o'r Ddeddf.
  - (3) 1997 p. 50. Mewnosodwyd adran 113B gan adran 163(2) o Ddeddf Troseddu Cyfundrefnol Difrifol a'r Heddlu (p. 15) a diwygiwyd hi gan adran 63(1) o'r Ddeddf a pharagraff 14(3) o Ran 2 o Atodlen 9 i'r Ddeddf, gan adran 378(1) o Ddeddf y Lluoedd Arfog 2006 (p. 52) a pharagraff 149 o Atodlen 16 i'r Ddeddf honno, ac erthyglau 2 a 4 o Orchymyn Deddf yr Heddlu 1997 (Cofnodion Troseddol) (Cyfathrebiadau Electronig) 2009, O.S. 2009/203.
  - (4) Mewnosodwyd adran 113BA gan adran 63(1) o'r Ddeddf a pharagraff 14(1) a (4) o Ran 2 o Atodlen 9 i'r Ddeddf, a diwygiwyd hi gan adran 170(2) o Ddeddf Addysg ac Arolygiadau 2006 (p. 40) (o ran Cymru; nid oedd y diwygiad mewn grym o ran Lloegr pan wnaed y Rheoliadau hyn). Mae adran 169 o Ddeddf Addysg a Sgiliau 2008 (p. 25) a pharagraff 12 o Ran 1 o Atodlen 1 i'r Ddeddf honno hefyd yn diwygio adran 113BA, ond nid oeddent mewn grym pan wnaed y Rheoliadau hyn.
  - (5) Mae adran 3(2) o'r Ddeddf yn pennu o dan ba amgylchiadau y caiff person ei wahardd o weithgarwch rheoledig mewn perthynas â phlant.
  - (6) 1999 p. 14. Diwygiwyd adran 1 gan adrannau 95 i 98 o Ddeddf Safonau Gofal 2000 (p. 14) a diddymwyd hi gan adran 63 o'r Ddeddf a pharagraff 8(1) a (2) o Ran 1 o Atodlen 9 i'r Ddeddf ac Atodlen 10 i'r Ddeddf, yn ddarostyngedig i'r darpariaethau trosiannol ac arbedion yn erthygl 5 o Orchymyn Deddf Diogelu Grwpiau Hyglwyf 2006 (Cychwyn Rhif 6, Darpariaethau Trosiannol ac Arbedion) 2009, O.S. 2009/2611 ("yr GRh6DTA").
  - (7) 2002 p. 32. Diddymwyd adran 142 gan adran 63 o'r Ddeddf ac Atodlen 10 i'r Ddeddf, yn ddarostyngedig i'r darpariaethau trosiannol ac arbedion yn erthygl 7 o'r GRh6DTA.

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- (1) Section 23(3) of the Safeguarding Vulnerable Groups Act 2006 ("the Act") provides the meaning of a responsible person.
  - (2) Section 21 of the Act provides the meaning of controlled activity relating to children.
  - (3) 1997 c. 50. Section 113B was inserted by section 163(2) of the Serious Organised Crime and Police Act 2005 (c. 15) and amended by section 63(1) of, and paragraph 14(3) of Part 2 of Schedule 9 to, the Act, section 378(1) of, and paragraph 149 of Schedule 16 to, the Armed Forces Act 2006 (c. 52), and articles 2 and 4 of the Police Act 1997 (Criminal Records) (Electronic Communications) Order 2009, S.I. 2009/203.
  - (4) Section 113BA was inserted by section 63(1) of, and paragraph 14(1) and (4) of Part 2 of Schedule 9 to, the Act and amended by section 170(2) of the Education and Inspections Act 2006 (c. 40) (in relation to Wales; the amendment was not in force in relation to England on the making of these Regulations). Section 169 of, and paragraph 12 of Part 1 of Schedule 1 to, the Education and Skills Act 2008 (c. 25) also amend section 113BA, but were not in force on the making of these Regulations.
  - (5) Section 3(2) of the Act specifies the circumstances in which a person is barred from regulated activity relating to children.
  - (6) 1999 c. 14. Section 1 was amended by sections 95 to 98 of the Care Standards Act 2000 (c. 14) and repealed by section 63 of, paragraph 8(1) and (2) of Part 1 of Schedule 9 to, and Schedule 10 to the Act, subject to the transitional and saving provisions in article 5 of the Safeguarding Vulnerable Groups Act 2006 (Commencement No. 6, Transitional Provisions and Savings) Order 2009, S.I. 2009/2611 ("the CN6TPSO").
  - (7) 2002 c. 32. Section 142 was repealed by section 63 of, and Schedule 10 to, the Act, subject to the transitional and saving provisions in article 7 of the CN6TPSO.

- (b) bod y dystysgrif wedi ei dyroddi neu'r hysbysiad wedi ei ddyroddi o fewn y cyfnod o 90 diwrnod sy'n diweddu ar y dyddiad y mae PC yn caniatáu i A ymgymryd â gweithgarwch rheoledig mewn perthynas â phlant; ac
- (c) bod PC wedi cael copi o'r dystysgrif honno neu'r hysbysiad hwnnw, cyn caniatáu i A ymgymryd â gweithgarwch rheoledig mewn perthynas â phlant.

(3) Yr amgylchiadau yn y paragraff hwn yw fod PC, cyn caniatáu i A ymgymryd â gweithgarwch rheoledig mewn perthynas â phlant, wedi ei fodloni nad yw A—

- (a) wedi ei wahardd o weithgarwch rheoledig mewn perthynas â phlant (1),
- (b) wedi ei gynnwys yn y rhestr a gedwir o dan adran 1 o Ddeddf Amddiffyn Plant 1999, ac
- (c) nad yw'n destun cyfarwyddyd a wnaed o dan adran 142 o Ddeddf Addysg 2002.

(4) Nid yw paragraff (1) yn gymwys mewn perthynas ag unrhyw gyfnod di-dor pan fo PC yn caniatáu i A ymgymryd â gweithgarwch rheoledig mewn perthynas â phlant—

- (a) os rhoddwyd y caniatâd cyn i'r Rheoliadau hyn ddod i rym, a
- (b) os yw'r caniatâd yn parhau i gael effaith wedi i'r Rheoliadau hyn ddod i rym.

### **Yr amgylchiadau pan na chaiff person cyfrifol ganiatáu i rywun arall ymgymryd â gweithgarwch rheoledig yng Nghymru mewn perthynas ag oedolion hyglwyf**

3.—(1) Ni chaiff person cyfrifol ("PC") ganiatáu i rywun arall ("A") ymgymryd â gweithgarwch rheoledig mewn perthynas ag oedolion hyglwyf(2) ac eithrio yn yr amgylchiadau a bennir ym mharagraff (2) neu'r amgylchiadau a bennir ym mharagraff (3).

(2) Yr amgylchiadau yn y paragraff hwn yw—

- (a) bod yr Ysgrifennydd Gwladol wedi dyroddi i A, o dan adran 113B o Ddeddf yr Heddlu 1997—
  - (i) tystysgrif cofnod troseddol fanylach sy'n cynnwys gwybodaeth addasrwydd mewn perthynas ag oedolion hyglwyf (yn yr ystyr a roddir i "suitability information relating to vulnerable adults" yn adran 113BB(3) o'r Ddeddf honno), neu

- (b) the certificate or notification was issued within the period of 90 days ending on the date on which RP permits A to engage in a controlled activity relating to children; and
- (c) RP received a copy of that certificate or notification before permitting A to engage in controlled activity relating to children.

(3) The circumstances in this paragraph are that RP is satisfied, before permitting A to engage in controlled activity relating to children, that A is—

- (a) not barred from regulated activity relating to children(1),
- (b) not included in the list kept under section 1 of the Protection from Children Act 1999, and
- (c) not subject to a direction made under section 142 of the Education Act 2002.

(4) Paragraph (1) does not apply in relation to any continuous period in which A is permitted by RP to engage in a controlled activity relating to children if—

- (a) the permission was given before these Regulations came into force, and
- (b) the permission continues to have effect after these Regulations came into force.

### **Circumstances in which a responsible person must not permit another to engage in controlled activity in Wales relating to vulnerable adults**

3.—(1) A responsible person ("RP") may only permit another ("A") to engage in a controlled activity relating to vulnerable adults(2) in the circumstances specified in paragraph (2) or the circumstances specified in paragraph (3).

(2) The circumstances in this paragraph are that—

- (a) the Secretary of State has issued to A under section 113B of the Police Act 1997 either—
  - (i) an enhanced criminal record certificate which includes suitability information relating to vulnerable adults (within the meaning of section 113BB(3) of that Act), or

(1) Mae adran 3(2) o'r Ddeddf yn pennu o dan ba amgylchiadau y caiff person ei wahardd o weithgarwch rheoledig mewn perthynas â phlant.

(2) Mae i "gweithgarwch rheoledig mewn perthynas ag oedolion hyglwyf" yr ystyr a roddir i "controlled activity relating to vulnerable adults" gan adran 22 o'r Ddeddf.

(3) Mewnosodwyd adran 113BB gan adran 63(1) o'r Ddeddf a pharagraff 14(1) a (4) o Ran 2 o Atodlen 9 i'r Ddeddf.

(1) Section 3(2) of the Act specifies the circumstances in which a person is barred from regulated activity relating to children.

(2) Section 22 of the Act provides the meaning of controlled activity relating to vulnerable adults.

(3) Section 113BB was inserted by section 63(1) of, and paragraph 14(1) and (4) of Part 2 of Schedule 9 to, the Act.

- (ii) hysbysiad i'r perwyl nad yw A –
- (aa) wedi ei wahardd o weithgarwch rheoledig mewn perthynas ag oedolion hyglwyf(1), a
- (bb) nad yw wedi ei gynnwys yn y rhestr a gedwir o dan adran 81 o Ddeddf Safonau Gofal 2000(2);
- (b) bod y dystysgrif wedi ei dyroddi, neu'r hysbysiad wedi ei ddyroddi o fewn y cyfnod o 90 diwrnod sy'n diweddu ar y dyddiad y mae PC yn caniatáu i A ymgymryd â gweithgarwch rheoledig mewn perthynas ag oedolion hyglwyf; ac
- (c) bod PC wedi cael copi o'r dystysgrif honno neu'r hysbysiad hwnnw cyn caniatáu i A ymgymryd â gweithgarwch rheoledig mewn perthynas ag oedolion hyglwyf.
- (3) Yr amgylchiadau yn y paragraff hwn yw fod PC, cyn caniatáu i A ymgymryd â gweithgarwch rheoledig mewn perthynas ag oedolion hyglwyf, wedi ei fodloni nad yw A –
- (a) wedi ei wahardd o weithgarwch rheoledig mewn perthynas ag oedolion hyglwyf, a
- (b) nad yw wedi ei gynnwys yn y rhestr a gedwir o dan adran 81 o Ddeddf Safonau Gofal 2000.
- (4) Nid yw paragraff (1) yn gymwys mewn perthynas ag unrhyw gyfnod di-dor pan fo PC yn caniatáu i A ymgymryd â gweithgarwch rheoledig mewn perthynas ag oedolion hyglwyf –
- (a) os rhoddwyd y caniatâd cyn i'r Rheoliadau hyn ddod i rym, a
- (b) os yw'r caniatâd yn parhau i gael effaith wedi i'r Rheoliadau hyn ddod i rym.

- (ii) a notification that A is –
- (aa) not barred from regulated activity relating to vulnerable adults(1), and
- (bb) not included in the list kept under section 81 of the Care Standards Act 2000(2);
- (b) the certificate or notification was issued within the period of 90 days ending on the date on which RP permits A to engage in a controlled activity relating to vulnerable adults; and
- (c) RP received a copy of that certificate or notification before permitting A to engage in controlled activity relating to vulnerable adults.
- (3) The circumstances in this paragraph are that RP is satisfied, before permitting A to engage in controlled activity relating to vulnerable adults, that A is –
- (a) not barred from regulated activity relating to vulnerable adults, and
- (b) not included in the list kept under section 81 of the Care Standards Act 2000.
- (4) Paragraph (1) does not apply in relation to any continuous period in which A is permitted by RP to engage in a controlled activity relating to vulnerable adults if –
- (a) the permission was given before these Regulations came into force, and
- (b) the permission continues to have effect after these Regulations came into force.

*Edwina Hart*

Y Gweinidog dros Iechyd a Gwasanaethau Cymdeithasol, un o Weinidogion Cymru

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

31 Mawrth 2010

31 March 2010

(1) Mae adran 3(3) o'r Ddeddf yn pennu o dan ba amgylchiadau y caiff person ei wahardd o weithgarwch rheoledig mewn perthynas ag oedolion hyglwyf.

(2) Diddymwyd adran 81 gan adran 63 o'r Ddeddf a pharagraff 9 o Ran 1 o Atodlen 9 i'r Ddeddf ac Atodlen 10 i'r Ddeddf, yn ddarostyngedig i'r darpariaethau trosiannol ac arbedion yn erthygl 6 o'r GRh6DTA.

(1) Section 3(3) of the Act specifies when a person is barred from regulated activity relating to vulnerable adults.

(2) Section 81 was repealed by section 63 of, paragraph 9 in Part 1 of Schedule 9 to, and Schedule 10 to, the Act, subject to the transitional and saving provisions in article 6 of the CN6TPSO.

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**2010 Rhif 1171 (Cy.104)**

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