



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2015 Rhif 1497 (Cy. 169)

2015 No. 1497 (W. 169)

ADDYSG, CYMRU

EDUCATION, WALES

**Rheoliadau Addysg Uwch (Dynodi
Darparwyr Addysg Uwch) (Cymru)
2015**

**The Higher Education (Designation
of Providers of Higher Education)
(Wales) Regulations 2015**

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 darpariaeth ar gyfer dynodi darparwyr addysg uwch penodol yn sefydliadau at ddiben Deddf Addysg Uwch (Cymru) 2015 ("Deddf 2015"). Mae'r Rheoliadau hefyd yn gwneud darpariaeth ar gyfer tynnu dynodiad yn ôl ac effaith tynnu dynodiad yn ôl.

These Regulations make provision for the designation of certain providers of higher education as institutions for the purpose of the Higher Education (Wales) Act 2015 ("the 2015 Act"). The Regulations also make provision for the withdrawal of a designation and the effect of a withdrawal of designation.

Mae adran 3 o Ddeddf 2015 yn galluogi Gweinidogion Cymru i ddynodi darparwyr addysg uwch penodol yn sefydliadau o dan amgylchiadau pan na fyddai'r darparwr (oni bai am y dynodiad) yn cael ei ystyried yn sefydliad. Mae darparwr addysg uwch at ddibenion adran 3(2)(a) o Ddeddf 2015 yn un sy'n darparu addysg uwch yng Nghymru ac sy'n elusen.

Section 3 of the 2015 Act enables the Welsh Ministers to designate certain providers of higher education as institutions in circumstances where the provider would not (but for the designation) be considered to be an institution. A provider of higher education for the purposes of section 3(2)(a) of the 2015 Act is one that provides higher education in Wales and is a charity.

Mae rheoliad 2 yn darparu i gais am ddynodiad fod yn ysgrifenedig. Mae'r rheoliad hefyd yn nodi'r hyn y mae rhaid i gais ei gynnwys.

Regulation 2 provides for an application for designation to be in writing. The regulation also sets out what an application must contain.

Rhaid i gais am ddynodiad gynnwys gwybodaeth sy'n ymwneud â statws elusennol yr ymgeisydd. Pan fo'r ymgeisydd yn elusen gofrestredig, rhaid i'r cais gynnwys rhif cofrestru elusen yr ymgeisydd a manylion y rheoleiddiwr elusennau y mae'r ymgeisydd wedi cofrestru ag ef. Pan na fo ymgeisydd yn elusen gofrestredig, er enghraifft oherwydd ei fod yn elusen esempt neu eithriedig, rhaid i'r cais esbonio pam nad yw cofrestriad o'r fath yn ofynnol.

An application for designation must contain information relating to the applicant's charitable status. Where the applicant is a registered charity the application must include the applicant's charity registration number and details of the charity regulator with whom the applicant is registered. Where an applicant is not a registered charity, for example because it is an exempt or excepted charity, the application must explain why such registration is not required.

Rhaid i gais hefyd gynnwys gwybodaeth sy'n ymwneud â darparu addysg uwch yng Nghymru. Mae rheoliad 2(3) yn pennu'r materion hynny sy'n ymwneud â darparu addysg uwch yng Nghymru y mae rhaid eu cynnwys.

An application must also include information relating to the provision of higher education in Wales. Regulation 2(3) specifies those matters relating to the provision of higher education in Wales that must be included.

Mae rheoliad 3 yn ei gwneud yn ofynnol i gais gynnwys gydag ef gopi o unrhyw brospectws a gyhoeddir gan yr ymgeisydd ac sy'n ymwneud â'r ddarpariaeth o addysg uwch yng Nghymru gan yr ymgeisydd hwnnw.

Mae rheoliad 4 yn ei gwneud yn ofynnol i ymgeisydd nad yw wedi ei gofrestru â rheoleiddiwr elusennau ddarparu copi o'i ddogfen lywodraethu gyda'i gais.

Mae rheoliad 5 yn gwneud darpariaeth ynghylch tynnu dynodiad yn ôl. Caniateir i ddynodiad gael ei dynnu'n ôl drwy hysbysiad ysgrifenedig a roddir gan Weinidogion Cymru i'r darparwr o dan sylw. Rhaid i'r hysbysiad bennu'r rhesymau dros dynnu'r dynodiad yn ôl a'r dyddiad y tynnir y dynodiad yn ôl.

Wrth benderfynu pa un ai i dynnu dynodiad yn ôl, rhaid i Weinidogion Cymru ystyried a yw'r darparwr bellach yn peidio â dod o fewn adran 3(2) o Ddeddf 2015.

Mae rheoliad 6 yn darparu, pan fo dynodiad wedi ei dynnu'n ôl, fod y darpariaethau hynny yn Neddf 2015 a bennir yn y rheoliad (sy'n ymwneud â therfynau ffioedd, cydymffurfio â gofynion cyffredinol cynlluniau ffioedd a mynediad ac ansawdd yr addysg) i barhau er gwaethaf bod darparwr wedi peidio â chael ei drin fel pe bai'n sefydliad.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Aseidiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, lluniwyd aseiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn. Gellir cael copi oddi wrth: Yr Is-adran Addysg Uwch, Parc Cathays, Caerdydd, CF10 3NQ.

Regulation 3 requires an application to be accompanied by a copy of any prospectus published by the applicant and which relates to the provision of higher education in Wales by that applicant.

Regulation 4 requires an applicant that is not registered with a charity regulator to provide a copy of its governing document with its application.

Regulation 5 makes provision about the withdrawal of a designation. A designation may be withdrawn by notice in writing given by the Welsh Ministers to the provider in question. The notice must specify the reasons for the designation being withdrawn and the date on which the designation is withdrawn.

In deciding whether to withdraw a designation, the Welsh Ministers must take account of whether the provider no longer falls into section 3(2) of the 2015 Act.

Regulation 6 provides that where a designation is withdrawn those provisions of the 2015 Act specified in the regulation (which relate to fee limits, compliance with general requirements of fee and access plans and the quality of education) are to continue notwithstanding that a provider has ceased to be treated as an institution.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Higher Education Division, Cathays Park, Cardiff, CF10 3NQ.

2015 Rhif 1497 (Cy. 169)

2015 No. 1497 (W. 169)

ADDYSG, CYMRU

EDUCATION, WALES

**Rheoliadau Addysg Uwch (Dynodi
Darparwyr Addysg Uwch) (Cymru)
2015**

**The Higher Education (Designation
of Providers of Higher Education)
(Wales) Regulations 2015**

Gwnaed 7 Gorffennaf 2015

Made 7 July 2015

Yn dod i rym 13 Gorffennaf 2015

Coming into force 31 July 2015

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd iddynt gan adran 3(4) o Ddeddf Addysg Uwch (Cymru) 2015(1), yn gwneud y Rheoliadau a ganlyn.

The Welsh Ministers, in exercise of the powers conferred on them by section 3(4) of the Higher Education (Wales) Act 2015(1), make the following Regulations.

Yn unol ag adran 55(3) o Ddeddf Addysg Uwch (Cymru) 2015, gosodwyd drafft o'r Rheoliadau hyn gerbron Cynulliad Cenedlaethol Cymru ac fe'i cymeradwywyd ganddo drwy benderfyniad.

In accordance with section 55(3) of the Higher Education (Wales) Act 2015 a draft of these Regulations was laid before and approved by a resolution of the National Assembly for Wales.

Enwi, cychwyn, dehongli a chymhwyso

Title, commencement, interpretation and application

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Addysg Uwch (Dynodi Darparwyr Addysg Uwch) (Cymru) 2015 a deuant i rym ar 31 Gorffennaf 2015.

1.—(1) The title of these Regulations is the Higher Education (Designation of Providers of Higher Education) (Wales) Regulations 2015 and they come into force on 31 July 2015.

(2) Yn y Rheoliadau hyn—

(2) In these Regulations—

- (a) ystyr “Deddf 2015” (“*the 2015 Act*”) yw Deddf Addysg Uwch (Cymru) 2015;
- (b) ystyr “rheoleiddiwr elusennau” (“*charity regulator*”) yw'r Comisiwn Elusennau, Swyddfa Rheoleiddiwr Elusennau'r Alban neu Gomisiwn Elusennau Gogledd Iwerddon;
- (c) ystyr “dogfen lywodraethu” (“*governing document*”) yw—
 - (i) yn achos darparwr addysg uwch sy'n cael ei redeg gan gwmni, memorandwm ac erthyglau cymdeithasu'r cwmni;

- (a) “the 2015 Act” (“*Deddf 2015*”) means the Higher Education (Wales) Act 2015;
- (b) “charity regulator” (“*rheoleiddiwr elusennau*”) means the Charity Commission, the Office of the Scottish Charity Regulator or the Charity Commission for Northern Ireland;
- (c) “governing document” (“*dogfen lywodraethu*”) means—
 - (i) in the case of a provider of higher education conducted by a company, the company's memorandum and articles of association;

- (ii) mewn unrhyw achos arall, dogfen sy'n darparu ar gyfer cyfansoddiad y darparwr addysg uwch a'r ffordd y caiff ei redeg.

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

Cais am ddynodiad yn sefydliad

2.—(1) Rhaid i gais gan ddarparwr addysg uwch(1) (“yr ymgeisydd”) am ddynodiad o dan adran 3(1) o Ddeddf 2015 fod yn ysgrifenedig a rhaid iddo gynnwys—

- (a) enw a phrif gyfeiriad yr ymgeisydd;
- (b) unrhyw enwau eraill y mae'r ymgeisydd yn gweithredu odanynt;
- (c) gwybodaeth, gan gynnwys y materion hynny a bennir ym mharagraffau (2) a (3), sy'n ymwneud â statws elusennol yr ymgeisydd a'i ddarpariaeth o addysg uwch yng Nghymru.

(2) Rhaid i'r wybodaeth a geir mewn cais gynnwys naill ai—

- (a) rhif cofrestru elusen yr ymgeisydd ac enw a chyfeiriad rheoleidiwr elusennau y mae'r ymgeisydd wedi ei gofrestru ag ef; neu
- (b) os nad yw'r ymgeisydd wedi ei gofrestru â rheoleidiwr elusennau, y rheswm pam nad yw'n ofynnol iddo gofrestru â rheoleidiwr elusennau.

(3) Rhaid i'r wybodaeth a geir mewn cais hefyd gynnwys—

- (a) disgrifiad o'r addysg uwch a ddarperir gan yr ymgeisydd yng Nghymru;
- (b) disgrifiad o'r dyfarniad y caniateir iddo gael ei roi i berson o ganlyniad i'r addysg uwch a ddarperir yng Nghymru gan yr ymgeisydd;
- (c) nifer y personau yng Nghymru sy'n ymgymryd â'r addysg uwch honno ar ddyddiad y cais;
- (d) yr ardal yng Nghymru lle y darperir addysg uwch;
- (e) cyfeiriad unrhyw wefan a gynhelir gan yr ymgeisydd sy'n ymwneud â'r ddarpariaeth o addysg uwch yng Nghymru gan yr ymgeisydd hwnnw.

3. Rhaid i gais o dan adran 3(1) o Ddeddf 2015 gynnwys gydag ef gopi o unrhyw brospectws a gyhoeddir gan yr ymgeisydd sy'n ymwneud â'r ddarpariaeth o addysg uwch yng Nghymru gan yr ymgeisydd hwnnw.

- (ii) in any other case a document providing for the constitution and conduct of the provider of higher education.

(3) These Regulations apply in relation to Wales.

Application for designation as an institution

2.—(1) An application by a provider of higher education(1) (“the applicant”) for designation under section 3(1) of the 2015 Act must be in writing and contain—

- (a) the applicant's name and principal address;
- (b) any other names under which the applicant operates;
- (c) information, including those matters specified in paragraphs (2) and (3), that relate to the applicant's charitable status and its provision of higher education in Wales.

(2) The information contained in an application must include either—

- (a) the applicant's charity registration number and the name and address of a charity regulator with whom the applicant is registered; or
- (b) if the applicant is not registered with a charity regulator the reason why registration with a charity regulator is not required.

(3) The information contained in an application must also include—

- (a) a description of the higher education provided by the applicant in Wales;
- (b) a description of the award that may be conferred on a person as a result of the higher education provided in Wales by the applicant;
- (c) the number of persons in Wales undertaking that higher education as at the date of the application;
- (d) the locality in Wales where higher education is provided;
- (e) the address of any website maintained by the applicant relating to the provision of higher education in Wales by that applicant.

3. An application under section 3(1) of the 2015 Act must be accompanied by a copy of any prospectus published by the applicant that relates to the provision of higher education in Wales by that applicant.

(1) Diffinnir addysg uwch yn adran 57(1) o Ddeddf Addysg Uwch (Cymru) 2015.

(1) Higher education is defined in section 57(1) of the Higher Education (Wales) Act 2015.

4. Rhaid i gais o dan adran 3(1) o Ddeddf 2015 hefyd gynnwys gydag ef gopi o ddogfen lywodraethu'r ymgeisydd os nad yw'r ymgeisydd wedi ei gofrestru â rheoleiddiwr elusennau.

Tynnu dynodiad yn ôl

5.—(1) Caiff Gweinidogion Cymru dynnu'n ôl ddynodiad a wneir o dan adran 3(1) o Ddeddf 2015 drwy roi hysbysiad ysgrifenedig i'r darparwr addysg uwch.

(2) Rhaid i hysbysiad gynnwys—

- (a) rhesymau Gweinidogion Cymru dros dynnu'r dynodiad yn ôl; a
- (b) y dyddiad y tynnir y dynodiad yn ôl.

(3) Wrth benderfynu pa un ai i dynnu dynodiad yn ôl, rhaid i Weinidogion Cymru ystyried a yw'r darparwr bellach yn peidio â bod o fewn adran 3(2) o Ddeddf 2015.

Cymhwyso Deddf 2015 yn dilyn tynnu dynodiad yn ôl

6.—(1) Mae'r rheoliad hwn yn gymwys pan fo dynodiad o dan adran 3(1) o Ddeddf 2015 wedi ei dynnu'n ôl.

(2) Mae darparwr addysg uwch i barhau i gael ei drin fel pe bai'n sefydliad at ddibenion adrannau 10 i 12, 13, 14 a 26 o Ddeddf 2015.

4. An application under section 3(1) of the 2015 Act must also be accompanied by a copy of the applicant's governing document if the applicant is not registered with a charity regulator.

Withdrawal of designation

5.—(1) The Welsh Ministers may withdraw a designation made under section 3(1) of the 2015 Act by giving written notice to the provider of higher education.

(2) A notice must include—

- (a) the Welsh Ministers' reasons for withdrawing the designation; and
- (b) the date on which the designation is withdrawn.

(3) In determining whether to withdraw a designation the Welsh Ministers must take into account whether the provider is no longer within section 3(2) of the 2015 Act.

Application of the 2015 Act following withdrawal of designation

6.—(1) This regulation applies where a designation under section 3(1) of the 2015 Act has been withdrawn.

(2) A provider of higher education is to continue to be treated as an institution for the purposes of sections 10 to 12, 13, 14 and 26 of the 2015 Act.

Huw Lewis

Y Gweinidog Addysg a Sgiliau, un o Weinidogion Cymru
7 Gorffennaf 2015

Minister for Education and Skills, one of the Welsh Ministers
7 July 2015

©[©]Hawlfraint y Goron 2015

© Crown copyright 2015

Argraffwyd a chyhoeddwyd yn y Deyrnas Unedig gan The Stationery Office Limited o dan awdurdod ac arolygiaeth Carol Tullo, Rheolwr Gwasg Ei Mawrhydi ac Argraffydd Deddfau Seneddol y Frenhines.

Printed and Published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2015 Rhif 1497 (Cy. 169)

2015 No. 1497 (W. 169)

ADDYSG, CYMRU

EDUCATION, WALES

Rheoliadau Addysg Uwch (Dynodi
Darparwyr Addysg Uwch) (Cymru)
2015

The Higher Education (Designation
of Providers of Higher Education)
(Wales) Regulations 2015

£4.25

W2363/07/15

ON

ISBN 978-0-348-11120-0



9 780348 111200