OFFERYNNAU STATUDOL CYMRU

2016 Rhif 1144 (Cy. 275)

ADDYSG, CYMRU

Rheoliadau Cymeriad Crefyddol Ysgolion (Gweithdrefn Ddynodi) (Cymru) 2016

NODYN ESBONIADOL

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

Mae'r Rheoliadau hyn yn nodi'r weithdrefn sydd i gael ei dilyn gan Weinidogion Cymru wrth wneud gorchymyn neu orchmynion sy'n dynodi ysgolion gwirfoddol yn ysgolion sydd â chymeriad crefyddol o dan adran 69 o Ddeddf Safonau a Fframwaith Ysgolion 1998 ("Deddf 1998").

Mae dynodiad yn ysgol sydd â chymeriad crefyddol yn berthnasol at sawl diben, gan gynnwys:

(a) fel rhan o'r mecanwaith ar gyfer dyfarnu ar ffurf yr addysg grefyddol sydd i gael ei darparu o dan Atodlen 19 i Ddeddf 1998;

(b) fel rhan o'r mecanwaith ar gyfer dyfarnu ar ffurf yr addoli ar y cyd sydd i gael ei ddarparu o dan Atodlen 20 i Ddeddf 1998;

(c) fel rhan o'r mecanwaith ar gyfer dyfarnu ar faterion staffio ysgol o dan adrannau 58 i 60 o Ddeddf 1998;

(d) fel rhan o'r mecanwaith ar gyfer dyfarnu ar y meini prawf ar gyfer derbyn disgyblion i ysgolion o dan y Cod a ddyroddir o dan adran 84 o Ddeddf 1998;

(e) at ddibenion gwaredu asedau o dan baragraff 5 o Atodlen 3 i Ddeddf 1998, fel bod asedau yn gallu cael eu hailneilltuo er budd ysgolion o'r un grefydd neu o'r un enwad crefyddol; ac

(f) ar gyfer cynnwys disgrifiad o ethos yr ysgol yn yr offeryn llywodraethu o dan reoliadau a wneir o dan adran 20 o Ddeddf Addysg 2002.

WELSH STATUTORY INSTRUMENTS

2016 No. 1144 (W. 275)

EDUCATION, WALES

The Religious Character of Schools (Designation Procedure) (Wales) Regulations 2016

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the procedure to be followed by the Welsh Ministers in making an order or orders designating voluntary schools as schools which have a religious character under section 69 of the School Standards and Framework Act 1998 ("the 1998 Act").

Designation as a school which has a religious character is relevant for a number of purposes, including:

(a) as part of the mechanism for determining the form of religious education to be provided under Schedule 19 to the 1998 Act;

(b) as part of the mechanism for determining the form of collective worship to be provided under Schedule 20 to the 1998 Act;

(c) as part of the mechanism for determining school staffing matters under sections 58 to 60 of the 1998 Act;

(d) as part of the mechanism for determining the criteria for the admission of pupils to schools under the Code issued under section 84 of the 1998 Act;

(e) for the purposes of the disposition of assets under paragraph 5 of Schedule 3 to the 1998 Act, so that assets can be re-assigned for the benefit of schools of the same religion or religious denomination; and

(f) the inclusion of a description of the ethos of the school in the instrument of government under regulations made under section 20 of the Education Act 2002.

Dylid nodi nad yw adran 554 o Ddeddf Addysg 1996 (pŵer i wneud darpariaeth newydd o ran y defnydd o waddolion a ddelir neu a ddefnyddir yn gyfan gwbl neu'n rhannol ar gyfer darparu addysg grefyddol mewn ysgol, neu mewn cysylltiad â darparu addysg grefyddol mewn ysgol, yn unol â daliadau crefydd benodol neu enwad crefyddol penodol) yn gwneud unrhyw gyfeiriad at y ffaith bod gan ysgol gymeriad crefyddol.

It should be noted that section 554 of the Education Act 1996 (power to make new provision as to the use of endowments held or used wholly or partly for or in connection with the provision at a school of religious education in accordance with the tenets of a particular religion or religious denomination) makes no reference to a school having a religious character.

Nid yw cymeriad crefyddol yn cael ei ennill na'i golli yn rhinwedd cael ei ddynodi neu beidio â chael ei ddynodi o dan y weithdrefn a nodir yn y Rheoliadau hyn. Mae dynodiad yn cydnabod bod gan ysgol gymeriad crefyddol eisoes fel cwestiwn o ffaith. O dan Ddeddf Safonau a Threfniadaeth Ysgolion (Cymru) 2013 rhaid i ysgol gau yn gyntaf os yw'n dymuno ennill neu newid cymeriad crefyddol.

Religious character is not acquired or lost by virtue of being designated or not designated under the procedure set out in these Regulations. Designation is the recognition of a religious character which a school already has as a question of fact. Under the School Standards and Organisation (Wales) Act 2013 a school must first close if it wishes to acquire or change religious character.

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 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.

OFFERYNNAU STATUDOL CYMRU

2016 Rhif 1144 (Cy. 275)

ADDYSG, CYMRU

Rheoliadau Cymeriad Crefyddol Ysgolion (Gweithdrefn Ddynodi) (Cymru) 2016

Gwnaed	*22 Tachwedd 2016*
Gosodwyd gerbron Cynulliad Cenedlaethol Cymru	*25 Tachwedd 2016*
Yn dod i rym	*1 Ionawr 2017*

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd i'r Ysgrifennydd Gwladol gan adrannau 69(5) a 138(7) o Ddeddf Safonau a Fframwaith Ysgolion 1998, ac sy'n arferadwy bellach ganddynt hwy(**1**), yn gwneud y Rheoliadau a ganlyn:

Enwi, cychwyn, cymhwyso a dirymu

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Cymeriad Crefyddol Ysgolion (Gweithdrefn Ddynodi) (Cymru) 2016 a deuant i rym ar 1 Ionawr 2017.

(2) Mae Rheoliadau Cymeriad Crefyddol Ysgolion (Gweithdrefn Ddynodi) 1998(**2**) wedi eu dirymu o ran Cymru.

(3) Mae rheoliad 49 o Reoliadau Ysgolion a Gynhelir Newydd (Cymru) 2005(**3**) wedi ei ddirymu.

Dehongli

2.—(1) Yn y Rheoliadau hyn—

ystyr "Deddf 1998" ("*the 1998 Act*") yw Deddf Safonau a Fframwaith Ysgolion 1998;

(**1**) 1998 p. 31. Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol o dan yr adrannau hyn i Gynulliad Cenedlaethol Cymru gan Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672) ac yna i Weinidogion Cymru o dan adran 162 o Ddeddf Llywodraeth Cymru 2006 (p. 32) a pharagraff 30 o Atodlen 11 iddi.

(**2**) O.S. 1998/2535.

(**3**) O.S. 2005/2912 (Cy. 209).

WELSH STATUTORY INSTRUMENTS

2016 No. 1144 (W. 275)

EDUCATION, WALES

The Religious Character of Schools (Designation Procedure) (Wales) Regulations 2016

Made	*22 November 2016*
Laid before the National Assembly for Wales	*25 November 2016*
Coming into force	*1 January 2017*

The Welsh Ministers in exercise of the powers conferred on the Secretary of State by sections 69(5) and 138(7) of the School Standards and Framework Act 1998, and now exercisable by them(**1**) make the following Regulations:

Title, commencement, application and revocation

1.—(1) The title of these Regulations is the Religious Character of Schools (Designation Procedure) (Wales) Regulations 2016 and they come into force on 1 January 2017.

(2) The Religious Character of Schools (Designation Procedure) Regulations 1998(**2**) are revoked in relation to Wales.

(3) Regulation 49 of the New Maintained Schools (Wales) Regulations 2005(**3**) is revoked.

Interpretation

2.—(1) In these Regulations—

"the 1998 Act" ("*Deddf 1998*") means the School Standards and Framework Act 1998;

(**1**) 1998 c. 31. The functions of the Secretary of State under these sections were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and then to the Welsh Ministers under section 162 of, and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(**2**) S.I. 1998/2535.

(**3**) S.I. 2005/2912 (W 209).

ystyr "Deddf 2013" ("*the 2013 Act*") yw Deddf Safonau a Threfniadaeth Ysgolion (Cymru) 2013(**1**);

ystyr "y grefydd berthnasol neu'r enwad crefyddol perthnasol" ("*the relevant religion or religious denomination*") yw'r grefydd neu'r enwad crefyddol y mae'n ofynnol, neu y caniateir iddi fod yn ofynnol, i addysg grefyddol gael ei darparu yn yr ysgol yn unol â'i daliadau neu ei ddaliadau, yn unol ag Atodlen 19 i Ddeddf 1998 (neu, yn ôl y digwydd, pob crefydd neu enwad crefyddol o'r fath).

(2) Yn y Rheoliadau hyn—

(a) mae cyfeiriadau at "ysgol wirfoddol" yn gyfeiriadau at ysgol o'r fath o fewn ystyr Deddf 1998 gan gynnwys ysgol newydd sydd â chorff llywodraethu dros dro ac a fydd yn ysgol o'r fath pan fydd wedi ei sefydlu; a

(b) mae cyfeiriadau at "corff llywodraethu" yn cynnwys corff llywodraethu dros dro.

Y weithdrefn ar gyfer ysgolion newydd

3.—(1) Pan fo cynigion i sefydlu ysgol wirfoddol newydd yn cael eu cymeradwyo o dan adran 50 neu 51 o Ddeddf 2013, neu pan fo'r cynigydd yn dyfarnu bod y cynigion yn cael eu gweithredu o dan adran 53 o Ddeddf 2013, rhaid i Weinidogion Cymru ei dynodi yn ysgol sydd â chymeriad crefyddol os yw'r gofynion a nodir yn y rheoliad hwn wedi eu bodloni.

(2) Rhaid bod y cynigwyr wedi gwneud cais i Weinidogion Cymru i'r ysgol gael ei dynodi yn ysgol sydd â chymeriad crefyddol ac, yn achos ysgol newydd y bwriedir iddi fod yn un o ysgolion yr Eglwys yng Nghymru(**2**), yn un o ysgolion yr Eglwys Gatholig Rufeinig(**3**) neu'n un o ysgolion Eglwys Loegr(**4**), rhaid i gais o'r fath fod wedi ei gymeradwyo gan yr awdurdod esgobaethol y bwriedir mai ef fydd yr awdurdod esgobaethol priodol pan fydd yr ysgol yn agor.

(3) Rhaid bod corff llywodraethu dros dro wedi ei gyfansoddi ar gyfer yr ysgol.

(4) Rhaid i'r cynigion a gyhoeddir o dan adran 48 o Ddeddf 2013 er mwyn sefydlu'r ysgol bennu—

(a) y bwriedir i'r ysgol fod yn ysgol sydd â chymeriad crefyddol; a

(b) y grefydd neu'r enwad crefyddol neu'r crefyddau neu'r enwadau crefyddol y bydd yr ysgol yn gysylltiedig â hwy.

(**1**) 2013 dccc 1.
(**2**) *Gweler* adran 142(1) o Ddeddf 1998.
(**3**) *Gweler* adran 142(1) o Ddeddf 1998.
(**4**) *Gweler* adran 142(1) o Ddeddf 1998.

"the 2013 Act" ("*Deddf 2013*") means the School Standards and Organisation (Wales) Act 2013(**1**);

"the relevant religion or religious denomination" ("*y grefydd berthnasol neu'r enwad crefyddol perthnasol*") means the religion or religious denomination in accordance with whose tenets religious education is, or may be, required to be provided at the school in accordance with Schedule 19 to the 1998 Act (or, as the case may be, each such religion or religious denomination).

(2) In these Regulations—

(a) references to a "voluntary school" are references to such a school within the meaning of the 1998 Act including a new school which has a temporary governing body and which will be such a school when established; and

(b) references to a "governing body" include a temporary governing body.

Procedure for new schools

3.—(1) Where proposals to establish a new voluntary school are approved under section 50 or 51 of the 2013 Act, or where the proposer determines to implement the proposals under section 53 of the 2013 Act, the Welsh Ministers must designate it as a school which has a religious character if the requirements set out in this regulation are satisfied.

(2) The proposers must have applied to the Welsh Ministers for the school to be designated as a school which has a religious character and, in the case of a new school which is intended to be a Church in Wales school(**2**), a Roman Catholic Church school(**3**) or a Church of England school(**4**), such application must have been approved by the diocesan authority which is intended to be the appropriate diocesan authority when the school opens.

(3) A temporary governing body must have been constituted for the school.

(4) The proposals published under section 48 of the 2013 Act to establish the school must specify—

(a) that the school is intended to be a school which has a religious character; and

(b) the religion or religious denomination or religions or religious denominations with which the school is to be associated.

(**1**) 2013 anaw 1.
(**2**) *See* section 142(1) of the 1998 Act.
(**3**) *See* section 142(1) of the 1998 Act.
(**4**) *See* section 142(1) of the 1998 Act.

(5) Rhaid i delerau neu delerau arfaethedig—

(a) y weithred ymddiriedolaeth; a

(b) offeryn llywodraethu'r ysgol,

fod yn gyson â'r cynigion a gyhoeddir.

(6) Rhaid i Weinidogion Cymru fod wedi eu bodloni o ran un neu ragor o'r materion a ganlyn—

(a) bod o leiaf un aelod o gorff llywodraethu'r ysgol yn berson a benodir yn llywodraethwr sefydledig dros dro (o fewn ystyr Rheoliadau Ysgolion a Gynhelir Newydd (Cymru) 2005(**1**)) i gynrychioli buddiannau un neu ragor o grefyddau neu enwadau crefyddol;

(b) bod y fangre a ddarperir neu sydd i gael ei darparu ar gyfer yr ysgol yn cael ei dal neu i gael ei dal ar ymddiriedolaeth fel bod yr eiddo o dan sylw, os bydd yr ysgol yn cael ei therfynu, yn cael ei ddal, neu i gael ei werthu ac y cymhwysir enillion y gwerthiant, er budd un neu ragor o grefyddau neu enwadau crefyddol;

(c) bod y fangre a ddarperir neu sydd i gael ei darparu ar gyfer yr ysgol yn cael ei dal neu i gael ei dal ar ymddiriedolaeth mewn cysylltiad â—

(i) darparu addysg, neu

(ii) rhedeg sefydliad addysgol,

yn unol â daliadau un neu ragor o grefyddau neu enwadau crefyddol.

Newidiadau mewn dynodiadau a datganiadau

4.—(1) Pan fo Gweinidogion Cymru ar unrhyw adeg o'r farn—

(a) bod ysgol wedi ei dynodi'n anghywir neu nad yw wedi ei dynodi; neu

(b) bod y datganiad ynghylch y grefydd berthnasol neu'r enwad crefyddol perthnasol yn anghywir,

rhaid iddynt ddiwygio'r gorchymyn o dan sylw neu wneud gorchymyn arall fel y maent yn ystyried ei bod yn briodol.

(2) Cyn gwneud gorchymyn yn unol â pharagraff (1), rhaid i Weinidogion Cymru—

(a) ymgynghori â chorff llywodraethu ac unrhyw ymddiriedolwyr yr ysgol; a

(b) ymgynghori ag unrhyw gyrff crefyddol a nodir yn Atodlen 1 y maent yn ystyried eu bod yn briodol.

(**1**) O.S. 2005/2912 (Cy. 209).

(5) The terms or the proposed terms of—

(a) the trust deed; and

(b) the instrument of government for the school,

must be consistent with the published proposals.

(6) The Welsh Ministers must be satisfied as to one or more of the following matters—

(a) at least one member of the governing body of the school is a person appointed as a temporary foundation governor (within the meaning of the New Maintained Schools (Wales) Regulations 2005(**1**)) to represent the interests of one or more religions or religious denominations;

(b) the premises provided or to be provided for the school are or are to be held on trust so that, in the event of the discontinuance of the school, the property concerned is held for, or is to be sold and the proceeds of sale applied for, the benefit of one or more religions or religious denominations;

(c) the premises provided or to be provided for the school are or are to be held on trust in connection with—

(i) the provision of education, or

(ii) the conduct of an educational institution,

in accordance with the tenets of one or more religions or religious denominations.

Changes in designations and statements

4.—(1) Where the Welsh Ministers are at any time of the opinion—

(a) that a school has been incorrectly designated or not designated; or

(b) that the statement as to the relevant religion or religious denomination is incorrect

they must amend the order in question or make another order as they consider appropriate.

(2) Before making an order in accordance with paragraph (1) the Welsh Ministers must consult—

(a) the governing body and any trustees of the school; and

(b) such religious bodies set out in Schedule 1 as they consider appropriate.

(**1**) S.I. 2005/2912 (W. 209).

(3) I'r graddau y mae Gweinidogion Cymru yn gwneud gorchymyn o dan adran 69(3) o Ddeddf 1998—

(a) nad yw'n newid dynodiad ysgol, na'r datganiad o ran y grefydd berthnasol neu'r enwad crefyddol perthnasol mewn perthynas â'r ysgol honno, a wnaed mewn gorchymyn blaenorol (ac eithrio dynodiad neu ddatganiad dros dro); neu

(b) sy'n dileu cofnod ynghylch terfynu'r ysgol,

nid oes angen iddynt ymgymryd ag unrhyw ymgynghori mewn perthynas â'r dynodiad penodol hwnnw na'r datganiad penodol hwnnw cyn gwneud gorchymyn o'r fath.

(3) In so far as the Welsh Ministers make an order under section 69(3) of the 1998 Act which—

(a) does not change the designation of a school, or the statement as to the relevant religion or religious denomination in relation to that school, made in a previous order (other than a provisional designation or statement); or

(b) removes an entry on the discontinuance of the school,

they need undertake no consultation in relation to that particular designation or statement before making such an order.

Y dull o ymgynghori â chyrff llywodraethu ac ymddiriedolwyr

5.—(1) Pan fo'r Rheoliadau hyn yn ei gwneud yn ofynnol i Weinidogion Cymru ymgynghori â'r corff llywodraethu ac unrhyw ymddiriedolwyr yr ysgol, rhaid iddynt wneud hynny drwy anfon dau gopi o'r ddogfen ymgynghori (un ar gyfer y corff llywodraethu ac un ar gyfer yr ymddiriedolwyr) i'r ysgol.

(2) Rhaid i gorff llywodraethu ysgol beidio â dirprwyo i bwyllgor o'r corff llywodraethu nac i gadeirydd y corff llywodraethu unrhyw benderfyniad mewn perthynas â'i ymateb i ymgynghoriad y cyfeirir ato ym mharagraff (1) a rhaid i unrhyw ymateb o'r fath ddangos mai dyna ymateb pob aelod o'r corff llywodraethu, neu'r mwyafrif o'r aelodau, ac nad oes unrhyw benderfyniad mewn perthynas â'r ymateb hwnnw wedi ei ddirprwyo.

Manner of consultation with governing bodies and trustees

5.—(1) Where these Regulations require the Welsh Ministers to consult the governing body and any trustees of the school, they must do so by sending two copies of the consultation document (one for the governing body and one for the trustees) to the school.

(2) The governing body of a school must not delegate to a committee of the governing body or to the chair of the governing body any decision in relation to their response to a consultation referred to in paragraph (1) and any such response must indicate that it is the response of all, or the majority, of the members of the governing body and that no decision in relation to that response has been delegated.

Diwygiadau canlyniadol

6. Mae'r diwygiadau canlyniadol a nodir yn Atodlen 2 yn cael effaith.

Consequential amendments

6. The consequential amendments set out in Schedule 2 have effect.

Kirsty Williams

Ysgrifennydd y Cabinet dros Addysg, un o Weinidogion Cymru
22 Tachwedd 2016

Cabinet Secretary for Education, one of the Welsh Ministers
22 November 2016

ATODLEN 1 Rheoliad 4(2)

Cyrff Crefyddol

Yr Eglwys yng Nghymru

Gwasanaeth Addysg yr Eglwys Gatholig

Bwrdd Addysg Synod Cyffredinol Eglwys Loegr

Yr Eglwys Fethodistaidd

Cyngor Ffederal yr Eglwysi Rhyddion

Eglwys Adfentaidd y Seithfed Dydd

Bwrdd Dirprwyon Iddewon Prydain

Cymdeithas yr Ysgolion Mwslimaidd

SCHEDULE 1 Regulation 4(2)

Religious Bodies

The Church in Wales

The Catholic Education Service

The Church of England General Synod Board of Education

The Methodist Church

The Free Church Federal Council

The Seventh-Day Adventist Church

The Board of Deputies of British Jews

The Association of Muslim Schools

ATODLEN 2 Rheoliad 6

Diwygiadau Canlyniadol

Rheoliadau Llywodraethu Ysgolion a Gynhelir (Cymru) 2005

1. Yn rheoliad 50(1) o Reoliadau Llywodraethu Ysgolion a Gynhelir (Cymru) 2005(**1**) yn lle "rheoliad 3(2) o Reoliadau Cymeriad Crefyddol Ysgolion (Gweithdrefn Ddynodi) 1998" rhodder "rheoliad 5(2) o Reoliadau Cymeriad Crefyddol Ysgolion (Gweithdrefn Ddynodi) (Cymru) 2016".

Rheoliadau Ffedereiddio Ysgolion a Gynhelir (Cymru) 2014

2. Yn rheoliad 62(1) o Reoliadau Ffedereiddio Ysgolion a Gynhelir (Cymru) 2014(**2**) yn lle "rheoliad 3(2) o Reoliadau Cymeriad Crefyddol Ysgolion (Gweithdrefn Ddynodi) 1998" rhodder "rheoliad 5(2) o Reoliadau Cymeriad Crefyddol Ysgolion (Gweithdrefn Ddynodi) (Cymru) 2016".

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(**1**) O.S. 2005/2914 (Cy. 211).
(**2**) O.S. 2014/1132 (Cy. 111).

SCHEDULE 2 Regulation 6

Consequential Amendments

Government of Maintained Schools (Wales) Regulations 2005

1. In regulation 50(1) of the Government of Maintained Schools (Wales) Regulations 2005(**1**) for "regulation 3(2) of the Religious Character of Schools (Designation Procedure) Regulations 1998" substitute "regulation 5(2) of the Religious Character of Schools (Designation Procedure) (Wales) Regulations 2016".

Federation of Maintained Schools (Wales) Regulations 2014

2. In regulation 62(1) of the Federation of Maintained Schools (Wales) Regulations 2014(**2**) for "regulation 3(2) of the Religious Character of Schools (Designation Procedure) Regulations 1998" substitute "regulation 5(2) of the Religious Character of Schools (Designation Procedure) (Wales) Regulations 2016".

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(**1**) S.I. 2005/2914 (W. 211).
(**2**) S.I. 2014/1132 (W. 111).

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