



Mesur Gwneud Iawn am Gamweddau'r GIG (Cymru) 2008

2008 mccc 1

NHS Redress (Wales) Measure 2008

2008 nawm 1

Lluniwyd Nodiadau Esboniadol yn gymorth i ddeall y Mesur hwn ac maent ar gael ar wahân.

Explanatory Notes have been produced to assist in the understanding of this Measure and are available separately.

£3.50



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MESUR gan Gynulliad Cenedlaethol Cymru i wneud darpariaeth ynglŷn â threfniadau ar gyfer gwneud iawn mewn perthynas ag atebolrwydd mewn camwedd mewn cysylltiad â gwasanaethau a ddarperir fel rhan o'r gwasanaeth iechyd yng Nghymru; ac at ddibenion cysylltiedig.

Mae'r Mesur hwn, a basiwyd gan Gynulliad Cenedlaethol Cymru ar 6 Mai 2008 ac a gymeradwywyd gan Ei Mawrhydi yn ei Chyngor ar 9 Gorffennaf 2008, yn deddfu'r darpariaethau a ganlyn: –

- 1 Pŵer Gweinidogion Cymru i wneud rheoliadau ar gyfer iawn am gamweddau'r GIG**
- (1) Caiff Gweinidogion Cymru wneud darpariaeth drwy gyfrwng rheoliadau at ddiben galluogi darparu iawn heb godi achos sifil o dan amgylchiadau pan fydd yr adran hon yn gymwys.
 - (2) Mae'r adran hon yn gymwys pan fo atebolrwydd cymwys mewn camwedd o dan gyfraith Cymru a Lloegr ar ran corff neu berson a grybwyllir yn is-adran (3) yn codi mewn cysylltiad â darparu gwasanaethau cymwys yng Nghymru neu yn rhywle arall fel rhan o'r gwasanaeth iechyd yng Nghymru.
 - (3) Y cyrff neu'r personau y cyfeirir atynt yn is-adran (2) yw –
 - (a) Ymddiriedolaeth GIG yng Nghymru;
 - (b) Bwrdd Iechyd Lleol;
 - (c) Awdurdod Iechyd Arbennig;
 - (d) Gweinidogion Cymru;
 - (e) corff neu berson sy'n darparu, neu'n trefnu ar gyfer darparu, gwasanaethau y mae eu darparu yn destun trefniadau gyda chorff neu berson a grybwyllir ym mharagraff (a) i (d).



NHS Redress (Wales) Measure 2008

2008 nawm 1

A MEASURE of the National Assembly for Wales to make provision about arrangements for redress in relation to liability in tort in connection with services provided as part of the health service in Wales; and for connected purposes.

This Measure, passed by the National Assembly for Wales on 6 May 2008 and approved by Her Majesty in Council on 9 July 2008, enacts the following provisions:—

1 Power of Welsh Ministers to make regulations in respect of NHS redress

- (1) The Welsh Ministers may make provision by regulations for the purpose of enabling redress to be provided without recourse to civil proceedings in circumstances in which this section applies.
- (2) This section applies where under the law of England and Wales qualifying liability in tort on the part of a body or person mentioned in subsection (3) arises in connection with the provision of qualifying services in Wales or elsewhere as part of the health service in Wales.
- (3) The bodies and persons referred to in subsection (2) are—
 - (a) an NHS Trust in Wales;
 - (b) a Local Health Board;
 - (c) a Special Health Authority;
 - (d) the Welsh Ministers;
 - (e) a body or person providing, or arranging for the provision of, services whose provision is the subject of arrangements with a body or person mentioned in paragraphs (a) to (d).

- (4) Mae'r cyfeiriad yn is-adran (2) at atebolrwydd cymwys mewn camwedd yn gyfeiriad at atebolrwydd mewn camwedd sy'n ddyledus o ran neu o ganlyniad i anaf personol neu golled sy'n deillio o dor-dyletswydd gofal neu sy'n gysylltiedig ag ef a'r ddyletswydd gofal honno yn ddyledus i unrhyw berson mewn cysylltiad â diagnosiso salwch, neu wrth ofalu am unrhyw glaf neu ei drin, —
- (a) o ganlyniad i unrhyw weithred neu anweithred gan broffesiynolyn gofal iechyd, neu
 - (b) o ganlyniad i unrhyw weithred neu anweithred gan unrhyw gorff arall neu unrhyw berson arall y bydd Gweinidogion Cymru yn ei bennu gan y rheoliadau.
- (5) At ddibenion is-adran (2), mae gwasanaethau yn wasanaethau cymwys os ydynt o unrhyw ddisgrifiad (gan gynnwys disgrifiad sy'n cynnwys darpariaeth y tu allan i Gymru) y bydd Gweinidogion Cymru yn ei bennu gan y rheoliadau.
- (6) Yn is-adran (3)(e), nid yw'r cyfeiriad at berson sy'n darparu gwasanaethau yn cynnwys person sy'n darparu gwasanaethau o dan contract cyflogaeth.

2 Iawn o dan y rheoliadau

- (1) Yn ddarostyngedig i is-adrannau (2), (3) a (6), caiff y rheoliadau wneud unrhyw ddarpariaeth y mae Gweinidogion Cymru yn barnu ei bod yn addas ynglŷn ag iawn.
- (2) Rhaid i'r rheoliadau ddarparu mai'r canlynol yw elfennau iawn fel arfer —
- (a) cynnig digollediad yn iawn am unrhyw hawl i godi achos sifil o ran yr atebolrwydd dan sylw;
 - (b) rhoi esboniad;
 - (c) ymddiheuro mewn ysgrifen; a
 - (d) rhoi adroddiad ar y camau a gymerwyd neu a gymerir i atal achosion tebyg rhag codi;
- ond caiff y rheoliadau bennu amgylchiadau pan na fydd angen un neu ragor o'r ffurfiau hyn ar iawn.
- (3) Rhaid i'r rheoliadau ddarparu nad yw iawn yn gymwys mewn perthynas ag atebolrwydd sydd neu a fu'n destun achos sifil.
- (4) Caiff y rheoliadau, yn benodol —
- (a) gwneud darpariaeth i'r digollediad y caniateir ei gynnig gymryd ffurf gwneud contract i ddarparu gofal neu driniaeth neu ddigollediad ariannol, neu'r ddau;
 - (b) gwneud darpariaeth ynglŷn â'r amgylchiadau pan ganiateir cynnig ffurfiau gwahanol ar ddigollediad.
- (5) Os yw'r rheoliadau yn darparu ar gyfer cynnig digollediad ariannol, cânt yn benodol —
- (a) gwneud darpariaeth ynglŷn â pha faterion y caniateir cynnig digollediad ariannol mewn perthynas â hwy;
 - (b) gwneud darpariaeth mewn perthynas ag asesu swm unrhyw ddigollediad ariannol.
- (6) O ran y rheoliadau sy'n darparu ar gyfer cynnig digollediad ariannol —
- (a) cânt bennu terfyn uchaf ar y swm o ddigollediad ariannol y caniateir ei

- (4) The reference in subsection (2) to qualifying liability in tort is to liability in tort owed in respect of, or consequent upon, personal injury or loss arising out of or in connection with breach of a duty of care owed to any person in connection with the diagnosis of illness, or in the care or treatment of any patient –
 - (a) in consequence of any act or omission by a health care professional, or
 - (b) in consequence of any act or omission by any other body or person as the Welsh Ministers may specify by the regulations.
- (5) For the purposes of subsection (2), services are qualifying services if they are of such description (including a description involving provision outside Wales) as the Welsh Ministers may specify by the regulations.
- (6) In subsection (3)(e), the reference to a person providing services does not include a person providing services under a contract of employment.

2 Redress under the regulations

- (1) Subject to subsections (2), (3) and (6), the regulations may make such provision as the Welsh Ministers think fit about redress.
- (2) The regulations must provide for redress ordinarily to comprise –
 - (a) the making of an offer of compensation in satisfaction of any right to bring civil proceedings in respect of the liability concerned;
 - (b) the giving of an explanation;
 - (c) the making of a written apology; and
 - (d) the giving of a report on the action which has been, or will be, taken to prevent similar cases arising;but the regulations may specify circumstances in which one or more of those forms of redress is not required.
- (3) The regulations must provide that redress does not apply in relation to a liability that is or has been the subject of civil proceedings.
- (4) The regulations may, in particular –
 - (a) make provision for the compensation that may be offered to take the form of entry into a contract to provide care or treatment or of financial compensation, or both;
 - (b) make provision about the circumstances in which different forms of compensation may be offered.
- (5) If the regulations provide for financial compensation to be offered, they may, in particular –
 - (a) make provision about the matters in respect of which financial compensation may be offered;
 - (b) make provision with respect to the assessment of the amount of any financial compensation.
- (6) The regulations which provide for financial compensation to be offered –
 - (a) may specify an upper limit on the amount of financial compensation that may

gynnwys mewn cynnig o iawn a wneir yn unol â'r rheoliadau;

- (b) rhaid iddynt, os nad ydynt yn pennu terfyn o dan baragraff (a), bennu terfyn uchaf ar y swm o ddigollediad ariannol y caniateir ei gynnwys yn y cyfryw gynnig mewn perthynas â phoen a dioddefaint;
- (c) ni chânt bennu unrhyw derfyn arall ar yr hyn y caniateir ei gynnwys yn y cyfryw gynnig o ran digollediad ariannol.

3 Ymfyn am Iawn

- (1) Caiff y rheoliadau wneud unrhyw ddarpariaeth y mae Gweinidogion Cymru yn barnu ei bod yn addas ynglŷn ag ymfyn am iawn.
- (2) Caiff y rheoliadau yn benodol wneud darpariaeth—
 - (a) am bwy a gaiff ymfyn am iawn;
 - (b) am sut y caniateir ymfyn am iawn;
 - (c) am derfynau amser mewn perthynas ag ymfyn am iawn;
 - (d) am amgylchiadau pan na chaniateir ymfyn am iawn.

4 Dyletswydd i ystyried y posibilrwydd o gymhwyso trefniadau iawn

- (1) Caiff y rheoliadau wneud unrhyw ddarpariaeth y mae Gweinidogion Cymru yn barnu ei bod yn addas sy'n ei gwneud yn ofynnol i unrhyw gorff neu berson a grybwyllir yn is-adran (2)—
 - (a) ystyried, o dan yr amgylchiadau y bydd y rheoliadau yn darparu ar eu cyfer, p'un a yw achos y mae'r corff neu'r person yn ymchwilio iddo neu yn ei adolygu yn cynnwys atebolrwydd y dichon fod iawn ar gael ar ei gyfer, a
 - (b) os ymddengys ei fod ar gael, cymryd unrhyw gamau y mae'r rheoliadau yn eu darparu.
- (2) Y cyrff neu'r personau y cyfeirir atynt yn is-adran (1) yw—
 - (a) unrhyw gorff neu berson y mae'r rheoliadau yn gymwys i'w atebolrwydd, a
 - (b) unrhyw gorff arall neu unrhyw berson arall a ragnodir gan Weinidogion Cymru yn y rheoliadau.

5 Dull darparu iawn

- (1) Yn ddarostyngedig i is-adrannau (3) i (6), caiff y rheoliadau wneud unrhyw ddarpariaeth y mae Gweinidogion Cymru yn barnu ei bod yn addas ynglŷn â sut y mae iawn i'w ddarparu.
- (2) Caiff y rheoliadau, yn benodol, wneud darpariaeth—
 - (a) ynglŷn ag ymchwilio i geisiadau am iawn a wneir o dan y rheoliadau (gan gynnwys darpariaeth ar gyfer goruchwyllo'r ymchwiliad gan unigolyn o ddisgrifiad penodedig);
 - (b) ynglŷn â ffurf a chynnwys cytundebau setlo o dan y rheoliadau;
 - (c) i gytundebau setlo o dan y rheoliadau fod yn ddarostyngedig mewn achosion o ddisgrifiad penodedig i'w cymeradwyo gan lys;

be included in an offer of redress made in accordance with the regulations;

- (b) must, if they do not specify a limit under paragraph (a), specify an upper limit on the amount of financial compensation that may be included in such an offer in respect of pain and suffering;
- (c) may not specify any other limit on what may be included in such an offer by way of financial compensation.

3 Accessing redress

- (1) The regulations may make such provision as the Welsh Ministers think fit about accessing redress.
- (2) The regulations may, in particular, make provision—
 - (a) about who may access redress;
 - (b) about how redress may be accessed;
 - (c) for time limits in relation to accessing redress;
 - (d) about circumstances in which redress may not be accessed.

4 Duty to consider the potential application of redress arrangements

- (1) The regulations may make such provision as the Welsh Ministers think fit requiring any body or person mentioned in subsection (2)—
 - (a) to consider, in such circumstances as the regulations may provide, whether a case that the body or person is investigating or reviewing involves liability for which redress may be available, and
 - (b) if it appears that it does, to take such steps as the regulations may provide.
- (2) The bodies or persons referred to in subsection (1) are—
 - (a) any body or person to whose liability the regulations apply;
 - (b) any other body or person prescribed by the Welsh Ministers in the regulations.

5 Method of delivering redress

- (1) Subject to subsections (3) to (6), the regulations may make such provision as the Welsh Ministers think fit regarding how redress is delivered.
- (2) The regulations may, in particular, make provision—
 - (a) regarding the investigation of applications for redress made under the regulations (including provision for the overseeing of the investigation by an individual of a specified description);
 - (b) regarding the form and content of settlement agreements under the regulations;
 - (c) for settlement agreements under the regulations to be subject in cases of a specified description to approval by a court;

- (d) ynglŷn â'r weithdrefn i'w dilyn pan fydd yr adeg a'r amgylchiadau cyfryw fel na chaniateir canlyn arni gyda cheisiadau am iawn o dan y rheoliadau mwyach.
- (3) Rhaid i'r rheoliadau –
- (a) gwneud darpariaeth ar gyfer terfynau amser ac unrhyw estyniadau iddynt mewn perthynas â –
- (i) trefnu a chwblhau ymchwiliad;
- (ii) gwneud cynnig o iawn; a
- (iii) derbyn cynnig o iawn;
- o dan y rheoliadau,
- (b) gwneud darpariaeth ar gyfer cofnodi mewn adroddiad ganfyddiadau ymchwiliad i achos pan fo unigolyn yn ceisio iawn o dan y rheoliadau, a
- (c) yn ddarostyngedig i is-adran (4), gwneud darpariaeth ar gyfer rhoi copi o'r adroddiad i'r unigolyn sy'n ceisio iawn.
- (4) Caiff y rheoliadau ddarparu nad oes angen rhoi copi o adroddiad ymchwiliad –
- (a) cyn i gynnig o iawn o dan y rheoliadau gael ei wneud neu cyn i'r achos gael ei ddirwyn i ben am unrhyw reswm;
- (b) pan fo'r adroddiad yn cynnwys gwybodaeth sy'n debygol o achosi niwed neu ofid arwyddocaol i'r claf neu i geisydd arall; neu
- (c) o dan unrhyw amgylchiadau eraill a bennir.
- (5) Rhaid i'r rheoliadau ddarparu bod cytundeb setlo am iawn a wneir o dan y rheoliadau yn cynnwys ildiad o unrhyw hawl i godi achos sifil mewn perthynas â'r atebolrwydd y mae a wnelo'r setliad ag ef.
- (6) Rhaid i'r rheoliadau ddarparu na chaniateir ceisio iawn o dan y rheoliadau bellach os daw'r atebolrwydd y ceisir iawn yn ei gylch yn destun achos sifil.

6 Atal dros dro gyfnod y cyfyngiad

- (1) Rhaid i'r rheoliadau wneud darpariaeth ar gyfer diystyru'r cyfnod pryd y mae atebolrwydd yn destun cais am iawn o dan y rheoliadau at ddibenion cyfrifo p'un a yw unrhyw gyfnod cyfyngiad perthnasol wedi dod i ben ai peidio.
- (2) Mae'r cyfeiriad yn is-adran (1) at unrhyw gyfnod cyfyngiad perthnasol yn gyfeiriad at unrhyw gyfnod o amser ar gyfer codi achos sifil mewn perthynas â'r atebolrwydd a ragnodir gan Ddeddf Cyfyngiadau Achosion 1980 (p.58) neu unrhyw ddeddfiad arall neu odanynt.
- (3) Caiff y rheoliadau ddiffinio at ddibenion darpariaeth yn unol ag is-adran (1) pan fydd atebolrwydd yn destun cais am iawn o dan y rheoliadau.

7 Cyngor cyfreithiol, etc.

- (1) Yn ddarostyngedig i is-adrannau (2) a (4), caiff y rheoliadau wneud y ddarpariaeth y mae Gweinidogion Cymru yn barnu ei bod yn addas –

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- (d) regarding the procedure to be followed when, and the circumstances in which, applications for redress under the regulations may no longer be pursued.
- (3) The regulations must—
- (a) make provision for time limits and any extensions of them in relation to—
 - (i) the conduct and completion of an investigation;
 - (ii) the making of an offer of redress; and
 - (iii) the acceptance of such an offer,under the regulations,
 - (b) make provision for the findings of an investigation of a case where an individual is seeking redress under the regulations to be recorded in a report, and
 - (c) subject to subsection (4), make provision for a copy of the report to be provided to the individual seeking redress.
- (4) The regulations may provide that no copy of an investigation report need be provided—
- (a) before an offer of redress under the regulations is made or proceedings are for any reason terminated;
 - (b) where the report contains information likely to cause the patient or other applicant significant harm or distress; or
 - (c) in such other circumstances as may be specified.
- (5) The regulations must provide for a settlement agreement for redress entered into under the regulations to include a waiver of any right to bring civil proceedings in respect of the liability to which the settlement relates.
- (6) The regulations must provide that redress may no longer be sought under the regulations if the liability in relation to which redress is being sought becomes the subject of civil proceedings.

6 Suspension of limitation period

- (1) The regulations must make provision for the period during which a liability is the subject of an application for redress under the regulations to be disregarded for the purposes of calculating whether any relevant limitation period has expired or not.
- (2) The reference in subsection (1) to any relevant limitation period is to any period of time for the bringing of civil proceedings in respect of the liability which is prescribed by or under the Limitation Act 1980 (c.58) or any other enactment.
- (3) The regulations may define for the purposes of provision in accordance with subsection (1) when liability is the subject of an application for redress under the regulations.

7 Legal advice, etc.

- (1) Subject to subsections (2) and (4), the regulations may make such provision as the Welsh Ministers think fit—

- (a) ar gyfer darparu cyngor cyfreithiol di-dâl i unigolion sy'n ceisio iawn o dan y rheoliadau;
 - (b) ar gyfer darparu gwasanaethau eraill, gan gynnwys gwasanaethau arbenigwyr meddygol, mewn cysylltiad â chais am iawn o dan y rheoliadau.
- (2) Rhaid i'r rheoliadau wneud unrhyw ddarpariaeth y mae Gweinidogion Cymru yn barnu ei bod yn briodol er mwyn sicrhau bod unigolion y caniateir gwneud cynnig o iawn iddynt o dan y rheoliadau yn cael ymofyn am gyngor cyfreithiol yn ddi-dâl mewn perthynas ag—
- (a) unrhyw gynnig a wneir,
 - (b) unrhyw wrthodiad i wneud y cyfryw gynnig; ac
 - (c) unrhyw gytundeb setlo.
- (3) Caiff darpariaeth o dan is-adran (1)(a) neu (2) ynghylch pwy a gaiff ddarparu'r cyngor cyfreithiol gael ei gweithredu drwy gyfeirio at restr sy'n cynnwys darparwyr posibl ac a lunnir gan berson neu gorff penodedig.
- (4) Os yw'r rheoliadau yn gwneud darpariaeth ar gyfer gwasanaethau arbenigwyr meddygol, rhaid iddynt ddarparu hefyd bod yr arbenigwyr hynny yn cael eu cyfarwyddo ar y cyd gan y corff neu'r person sy'n gweithredu'r trefniadau iawn o dan y rheoliadau a chan yr unigolyn sy'n ceisio iawn.

8 Cymorth i unigolion sy'n ceisio iawn

- (1) Dyletswydd Gweinidogion Cymru yw trefnu, i'r graddau y maent yn barnu ei bod yn angenrheidiol er mwyn diwallu pob gofyniad rhesymol, fod cymorth yn cael ei ddarparu (drwy gyfrwng cynrychiolaeth neu fel arall) i unigolion sy'n ceisio iawn, neu'n bwriadu ceisio iawn, o dan y rheoliadau.
- (2) Caiff Gweinidogion Cymru wneud unrhyw drefniadau eraill y maent yn barnu eu bod yn addas ar gyfer darparu cymorth (drwy gyfrwng cynrychiolaeth neu fel arall) i unigolion mewn cysylltiad ag achosion sy'n destun cais am iawn o dan y rheoliadau.
- (3) Caiff Gweinidogion Cymru wneud taliadau i unrhyw berson neu gorff yn unol â threfniadau o dan yr adran hon ac adran 7.
- (4) Wrth wneud trefniadau o dan yr adran hon, rhaid i Weinidogion Cymru roi sylw i'r egwyddor y dylai darparu gwasanaethau o dan y trefniadau mewn cysylltiad ag achos penodol, i'r graddau y mae'n ymarferol, fod yn annibynnol ar unrhyw berson y mae a wnelo'r achos â'i ymddygiad neu unrhyw berson sydd â rhan yn y gwaith o ymdrin â'r cais am iawn.

9 Swyddogaethau o ran trefniadau iawn

- (1) Caiff y rheoliadau wneud darpariaeth i unrhyw berson neu gorff o fewn y gwasanaeth iechyd yng Nghymru fod â'r swyddogaethau o ran gweithredu trefniadau iawn o dan y Mesur hwn y mae Gweinidogion Cymru yn barnu eu bod yn addas.
- (2) Caiff y rheoliadau, yn benodol, ddarparu i'r cyfryw bersonau neu gyrff fod â swyddogaethau mewn perthynas ag—
- (a) ymofyn am iawn;
 - (b) taliadau yn iawn o dan gytundebau setlo;
 - (c) darparu cyngor neu ganllawiau am faterion penodedig mewn cysylltiad â threfniadau iawn;

- (a) for the provision of legal advice without charge to individuals seeking redress under the regulations;
 - (b) for the provision in connection with an application for redress under the regulations of other services, including the services of medical experts.
- (2) The regulations must make such provision as the Welsh Ministers consider appropriate in order to secure that individuals to whom an offer of redress under the regulations may be made have access to legal advice without charge in relation to—
 - (a) any offer that is made,
 - (b) any refusal to make such an offer; and
 - (c) any settlement agreement.
- (3) Provision under subsection (1)(a) or (2) about who may provide the legal advice may operate by reference to whether a potential provider is included in a list prepared by a specified person or body.
- (4) If the regulations make provision for the services of medical experts, they must also provide for such experts to be instructed jointly by the body or person operating the redress arrangements under the regulations and the individual seeking redress.

8 Assistance for individuals seeking redress

- (1) It is the duty of the Welsh Ministers to arrange, to such extent as they consider necessary to meet all reasonable requirements, for the provision of assistance (by way of representation or otherwise) to individuals seeking, or intending to seek, redress under the regulations.
- (2) The Welsh Ministers may make such other arrangements as they think fit for the provision of assistance (by way of representation or otherwise) to individuals in connection with cases which are the subject of an application for redress under the regulations.
- (3) The Welsh Ministers may make payments to any person or body in pursuance of arrangements under this section and section 7.
- (4) In making arrangements under this section, the Welsh Ministers must have regard to the principle that the provision of services under the arrangements in connection with a particular case should, as far as practicable, be independent of any person to whose conduct the case relates or who is involved in dealing with the application for redress.

9 Functions with regard to redress arrangements

- (1) The regulations may make provision for any person or body within the health service in Wales to have such functions with regard to the operation of redress arrangements under this Measure as the Welsh Ministers think fit.
- (2) The regulations may, in particular, provide for such persons or bodies to have functions in relation to—
 - (a) accessing redress;
 - (b) payments under settlement agreements by way of redress;
 - (c) the provision in connection with redress arrangements of advice or other guidance about specified matters;

- (d) darparu cyngor cyfreithiol di-dâl mewn cysylltiad â threfniadau iawn;
 - (e) monitro sut y mae personau neu gyrff yn cyflawni eu swyddogaethau o dan y rheoliadau;
 - (f) cyhoeddi data blynyddol am y trefniadau iawn.
- (3) Caiff y rheoliadau ei gwneud yn ofynnol i unrhyw gorff neu berson wrth iddo gyflawni swyddogaethau o dan y rheoliadau –
- (a) cadw cofnodion penodedig mewn perthynas â chyflawni'r swyddogaethau hynny;
 - (b) rhoi cyfrifoldeb i unigolyn o ddisgrifiad penodedig dros oruchwylio sut y mae swyddogaethau penodedig a roddwyd i'r corff hwnnw neu i'r person hwnnw yn cael eu cyflawni o dan y rheoliadau;
 - (c) rhoi cyfrifoldeb i unigolyn o ddisgrifiad penodedig dros gynghori'r corff neu'r person ynglŷn â'r gwersi sydd i'w dysgu o achosion sy'n ymwneud â'r corff hwnnw neu'r person hwnnw ac yr ymdrinnir â hwy o dan y rheoliadau.
- (4) Rhaid i'r rheoliadau ei gwneud yn ofynnol bod y cyfryw gorff neu berson yn llunio a chyhoeddi adroddiad blynyddol am achosion sy'n ymwneud â'r corff hwnnw neu â'r person hwnnw ac yr ymdrinnir â hwy o dan y rheoliadau ynghyd â'r gwersi sydd i'w dysgu oddi wrthynt.
- (5) Caiff y rheoliadau ddarparu bod unrhyw swyddogaeth sy'n arferadwy gan gorff neu berson o dan y rheoliadau, drwy drefnu gyda'r corff hwnnw neu gyda'r person hwnnw ac yn ddarostyngedig i unrhyw gyfyngiadau ac amodau y mae'r corff hwnnw neu'r person hwnnw yn meddwl eu bod yn addas, gael ei harfer ar ran y corff hwnnw neu'r person hwnnw gan gorff neu berson arall neu ar y cyd â'r corff hwnnw neu'r person hwnnw.
- (6) Caiff y rheoliadau ei gwneud yn ofynnol i unrhyw gorff neu berson sy'n arfer swyddogaethau o dan y rheoliadau roi sylw i unrhyw gyngor neu ganllawiau a roddir o bryd i'w gilydd gan Weinidogion Cymru.
- (7) Mae'r ddarpariaeth y caniateir ei gwneud o dan yr adran hon yn cynnwys darpariaeth ei heffaith yw y bydd gan gorff neu berson ac sydd wedi trefnu ar gyfer darparu gwasanaethau swyddogaethau o dan y rheoliadau sy'n ymwneud ag atebolrwydd rhywun arall mewn cysylltiad â darparu'r gwasanaethau hynny.

10 Cwynion

Yn adran 113(2) o Ddeddf Iechyd a Gofal Cymdeithasol (Iechyd Cymunedol a Safonau) 2003 (p.43), ar ôl paragraff (c) mewnosoder –

"(d) the provision of redress by or for a Welsh NHS body under the NHS Redress (Wales) Measure 2008."

11 Gorchmynion a rheoliadau

- (1) Mae unrhyw bŵer i wneud gorchmyn neu reoliadau a roddir gan y Mesur hwn yn arferadwy gan offeryn statudol.
- (2) Mae unrhyw bŵer gan Weinidogion Cymru i wneud rheoliadau o dan y Mesur hwn yn cynnwys pŵer –
 - (a) i wneud darpariaeth sy'n rhoi neu'n gosod swyddogaethau sy'n cynnwys arfer disgresiwn;

- (d) the provision in connection with redress arrangements of legal advice without charge;
 - (e) the monitoring of the carrying out by persons or bodies of their functions under the regulations;
 - (f) the publication of annual data about the redress arrangements.
- (3) The regulations may require any body or person carrying out functions under the regulations to –
- (a) keep specified records in relation to carrying out such functions;
 - (b) charge an individual of a specified description with responsibility for overseeing the carrying out of specified functions conferred on that body or person under the regulations;
 - (c) charge an individual of a specified description with responsibility for advising the body or person about lessons to be learnt from cases involving that body or person that are dealt with under the regulations.
- (4) The regulations must require that such a body or person prepare and publish an annual report about cases involving that body or person that are dealt with under the regulations and the lessons to be learnt from them.
- (5) The regulations may provide that any function exercisable by a body or person under the regulations may, by arrangement with that body or person and subject to such restrictions and conditions as that body or person may think fit, be exercised on behalf of that body or person by, or jointly with, another body or person.
- (6) The regulations may require any body or person exercising functions under the regulations to have regard to any advice or guidance given from time to time by the Welsh Ministers.
- (7) The provision that may be made under this section includes provision which has the effect that a body or person who has arranged for the provision of services shall have functions under the regulations which relate to someone else's liability in connection with the provision of those services.

10 Complaints

In section 113(2) of the Health and Social Care (Community Health and Standards) Act 2003 (c.43), after paragraph (c) insert –

- "(d) the provision of redress by or for a Welsh NHS body under the NHS Redress (Wales) Measure 2008."

11 Orders and regulations

- (1) Any power to make an order or regulations conferred by this Measure is exercisable by statutory instrument.
- (2) Any power of the Welsh Ministers to make regulations under this Measure includes power –
 - (a) to make provision conferring or imposing functions which involve the exercise of discretion;

- (b) i wneud darpariaeth yn gyffredinol neu mewn perthynas ag achosion penodol;
 - (c) i wneud darpariaeth wahanol ar gyfer achosion gwahanol; a
 - (d) i wneud unrhyw ddarpariaeth gysylltiedig, atodol, arbed neu drosiannol y mae Gweinidogion Cymru yn barnu ei bod yn addas.
- (3) Caniateir arfer unrhyw bŵer sydd gan Weinidogion Cymru i wneud rheoliadau neu orchmynion o dan y Mesur hwn (yn ogystal â bod yn arferadwy mewn perthynas â phob achos y mae'n ymestyn iddo) mewn perthynas â'r holl achosion hynny yn ddarostyngedig i eithriadau neu mewn perthynas ag unrhyw achos neu ddsbarth ar achos.
- (4) Mae unrhyw offeryn statudol sy'n cynnwys rheoliadau a wneir o dan y Mesur hwn yn ddarostyngedig i'w ddirymu yn unol â phenderfyniad gan Gynulliad Cenedlaethol Cymru.
- (5) Nid yw is-adran (4) yn gymwys i reoliadau y mae is-adran (6) yn gymwys iddynt.
- (6) Ni chaniateir gwneud offeryn statudol sydd –
- (a) yn cynnwys rheoliadau a wneir gan Weinidogion Cymru o dan adran 12 sy'n diwygio neu'n diddymu unrhyw ran o destun Deddf Seneddol neu un o Fesurau'r Cynulliad, neu
 - (b) yn cynnwys y rheoliadau cyntaf o dan adran 1(1), neu
 - (c) yn cynnwys rheoliadau yn gwneud darpariaeth o dan adran 1(4)(b), adran 1(5), adran 3 neu adran 5, neu
 - (d) yn cynnwys y rheoliadau cyntaf i wneud darpariaeth o dan adrannau 2, 4, 6, 7 neu 9,
- oni bai i ddrafft o'r offeryn gael ei osod gerbron Cynulliad Cenedlaethol Cymru a'i gymeradwyo drwy benderfyniad gan Gynulliad Cenedlaethol Cymru.
- (7) Nid oes dim yn y Mesur hwn i'w ystyried fel petai'n cyfyngu ar gyffredinolrwydd adrannau 1(1) a 12(1).

12 Pŵer i wneud darpariaeth atodol a chanlyniadol bellach etc.

- (1) Caiff Gweinidogion Cymru ar unrhyw adeg drwy reoliadau wneud –
- (a) unrhyw ddarpariaeth atodol, gysylltiedig neu ganlyniadol, neu
 - (b) unrhyw ddarpariaeth drosiannol neu ddarpariaeth arbed,
- y maent yn barnu ei bod yn angenrheidiol neu'n hwylus at ddibenion unrhyw ddarpariaeth yn y Mesur hwn, o ganlyniad iddi neu er mwyn rhoi effaith lawn iddi.
- (2) Caiff rheoliadau o dan is-adran (1) yn benodol wneud darpariaeth –
- (a) sy'n diwygio neu'n diddymu unrhyw ddeddfiad a basiwyd cyn neu yn ystod yr un flwyddyn Cynulliad â'r Mesur hwn, a
 - (b) sy'n diwygio neu'n dirymu unrhyw is-ddeddfwriaeth (o fewn ystyr Deddf Dehongli 1978 (p.30)) a wnaed cyn pasio'r Mesur hwn.

- (b) to make provision generally or in relation to specific cases;
 - (c) to make different provision for different cases; and
 - (d) to make such incidental, supplementary, saving or transitional provision as the Welsh Ministers think fit.
- (3) Any power of the Welsh Ministers to make regulations or orders under this Measure (as well as being exercisable in relation to all cases to which it extends) may be exercised in relation to all those cases subject to exceptions or in relation to any particular case or class of case.
- (4) Any statutory instrument containing regulations made under this Measure is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (5) Subsection (4) does not apply to regulations to which subsection (6) applies.
- (6) A statutory instrument which—
- (a) contains regulations made by the Welsh Ministers under section 12 which amend or repeal any part of the text of an Act of Parliament or an Assembly Measure, or
 - (b) contains the first regulations under section 1(1), or
 - (c) contains regulations making provision under section 1(4)(b), section 1(5), section 3 or section 5, or
 - (d) contains the first regulations to make provision under sections 2, 4, 6, 7 or 9,
- may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (7) Nothing in this Measure is to be regarded as limiting the generality of sections 1(1) and 12(1).

12 Power to make further supplementary and consequential provision etc.

- (1) The Welsh Ministers may at any time by regulations make—
- (a) such supplementary, incidental or consequential provision, or
 - (b) such transitional or saving provision,
- as they consider necessary or expedient for the purposes of, in consequence of, or for giving full effect to, any provision of this Measure.
- (2) Regulations under subsection (1) may, in particular, make provision—
- (a) amending or repealing any enactment passed before, or during the same Assembly year as, this Measure, and
 - (b) amending or revoking any subordinate legislation (within the meaning of the Interpretation Act 1978 (c.30)) made before the passing of this Measure.

13 Dehongli

Yn y Mesur hwn—

mae "anaf personol" ("*personal injury*") yn cynnwys unrhyw glefyd ac unrhyw amhariad ar iechyd corfforol neu feddyliol unigolyn;

mae i "claf" yr un ystyr â "patient" yn Neddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006 (p.42);

ystyr "y gwasanaeth iechyd yng Nghymru" ("*the health service in Wales*") yw'r gwasanaeth iechyd a barheir o dan adran 1(1) o'r Ddeddf honno;

ystyr "proffesiynolyn gofal iechyd" ("*a health care professional*") yw aelod o broffesiwn (p'un a yw'n cael ei reoleiddio gan unrhyw ddeddfiad neu yn rhinwedd unrhyw ddeddfiad sy'n ymwneud (yn llwyr neu yn rhannol) ag iechyd corfforol neu iechyd meddyliol unigolion;

mae i "salwch" yr un ystyr ag "illness" yn Neddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006 (p.42).

14 Teitl byr a chychwyn

- (1) Enw'r Mesur hwn yw Mesur Gwneud Iawn am Gamweddau'r GIG (Cymru) 2008.
- (2) Daw'r adran hon i rym ar y diwrnod pan gymeradwyir y Mesur hwn gan Ei Mawrhydi yn Ei Chyngor.
- (3) Daw gweddill darpariaethau'r Mesur hwn i rym ar y diwrnod neu'r diwrnodau a benodir gan Weinidogion Cymru drwy orchymyn.

13 Interpretation

In this Measure—

"a health care professional" ("*proffesiynolyn gofal iechyd*") means a member of a profession (whether or not regulated by, or by virtue of, any enactment) which is concerned (wholly or partly) with the physical or mental health of individuals;

"the health service in Wales" ("*y gwasanaeth iechyd yng Nghymru*") means the health service continued under section 1(1) of the National Health Service (Wales) Act 2006 (c.42);

"illness" ("*salwch*") has the same meaning as in that Act;

"patient" ("*claf*") has the same meaning as in that Act;

"personal injury" ("*anaf personol*") includes any disease and any impairment of a person's physical or mental health.

14 Short title and commencement

- (1) This Measure may be cited as the NHS Redress (Wales) Measure 2008.
- (2) This section shall come into force on the day on which this Measure is approved by Her Majesty in Council.
- (3) The remaining provisions of this Measure shall come into force on such day as the Welsh Ministers may appoint by order.

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