



**CYNULLIAD CENEDLAETHOL CYMRU**

**NATIONAL ASSEMBLY FOR WALES**

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**OFFERYNNAU STATUDOL**

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**STATUTORY INSTRUMENTS**

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**2002 Rhif 3161 (Cy.296)**

**2002 No. 3161 (W.296)**

**GOFAL CYMDEITHASOL,  
CYMRU**

**SOCIAL CARE,  
WALES**

**PLANT A PHOBL IFANC,  
CYMRU**

**CHILDREN AND YOUNG  
PERSONS, WALES**

**Rheoliadau Arolygu Ysgolion a  
Cholegau Preswyl (Pwerau a  
Ffioedd)(Cymru) 2002**

**The Inspection of Boarding  
Schools and Colleges (Powers and  
Fees)(Wales) Regulations 2002**

**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 nodi pwerau ychwanegol y rhai sy'n arolygu darpariaeth les ysgolion a cholegau preswyl, o dan adran 87(6) o'r Ddeddf Plant.

These regulations set out the additional powers of those who inspect the welfare provision of boarding schools and colleges, under section 87(6) of the Children Act.

Mae'r rheoliadau hefyd yn cyflwyno, drwy ddiwygiad i Rheoliadau Cofrestru Gofal Cymdeithasol a Gofal Iechyd Annibynnol (Ffioedd)(Cymru) 2002, ffi blyneddol sy'n daladwy gan ysgolion a cholegau.

The regulations also introduce, through an amendment to The Registration of Social Care and Independent Healthcare (Fees)(Wales) Regulations 2002, an annual fee which is payable by the schools and colleges.

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Schools and Colleges (Powers and  
Fees)(Wales) Regulations 2002

*Wedi'u gwneud* 17 Rhagfyr 2002

*Made* 17th December 2002

*Yn dod i rym* 1 Chwefror 2003

*Coming into force* 1st February 2003

Mae Cynulliad Cenedlaethol Cymru yn gwneud y Rheoliadau canlynol drwy arfer y pwerau a roddwyd iddo gan adrannau 87(6), 87D(2) a 104(4) o Ddeddf Plant 1989(a).

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred by sections 87(6), 87D(2) and 104(4) of the Children Act 1989(a).

**Enwi, dehongli, cymhwyso a chychwyn**

**Citation, interpretation, application and commencement**

1.-(1) Enw'r rheoliadau hyn yw Rheoliadau Arolygu Ysgolion a Cholegau Preswyl (Pwerau a Ffioedd)(Cymru) 2002.

1.-(1) These regulations may be cited as The Inspection of Boarding Schools and Colleges (Powers and Fees) (Wales) Regulations 2002.

(2) Yn y rheoliadau hyn -

(2) In these regulations -

ystyr "Deddf 1989" ("*the 1989 Act*") yw Deddf Plant 1989;

"the 1989 Act" ("*Deddf 1989*") means the Children Act 1989;

ystyr "person awdurdodedig" ("*authorised person*") yw person a awdurdodwyd yn briodol sy'n arfer pŵer mynediad a roddir gan adran 87(5) o Ddeddf 1989; ac

"authorised person" ("*person awdurdodedig*") means a duly authorised person who is exercising the power of entry conferred by section 87(5) of the 1989 Act; and

ystyr "ysgol neu goleg perthnasol" ("*relevant school or college*") yw ysgol neu goleg sy'n darparu llety ar gyfer unrhyw blentyn ac y mae adran 87(1) o Ddeddf 1989 yn gymwys iddo.

"relevant school or college" ("*ysgol neu goleg perthnasol*") means a school or college which provides accommodation for any child and to which section 87(1) of the 1989 Act applies.

(3) Mae'r rheoliadau hyn yn gymwys mewn perthynas â Chymru.

(3) These regulations apply in relation to Wales.

(4) Daw'r Rheoliadau hyn i rym ar 1 Chwefror 2003.

(4) These Regulations shall come into force on 1st February 2003.

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(a) 1989 p.41. Mae'r pwerau'n arferadwy gan yr Ysgrifennydd Gwladol. Mewn perthynas â Chymru trosglwyddwyd y swyddogaethau i Gynulliad Cenedlaethol Cymru gan Erthygl 2 o Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672) a'r cofnod ar gyfer Deddf 1989 yn Atodlen 1 iddo ac adran 120(2) o Ddeddf Safonau Gofal 2000.

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(a) 1989 c.41. The powers are exercisable by the Secretary of State. In relation to Wales the functions are transferred to the National Assembly for Wales by Article 2 of, and the entry for the 1989 Act in Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and section 120(2) of the Care Standards Act 2000.

## **Arolygu'r Tir ac Adeiladau**

2.-(1) Caiff person awdurdodedig arolygu unrhyw dir ac adeiladau, neu ran o unrhyw dir ac adeiladau, sydd, neu sydd i fod, yn dir ac adeiladau ysgol neu goleg perthnasol.

(2) Caiff person awdurdodedig gyflawni unrhyw archwiliad o'r fath i gyflwr a rheolaeth y tir a'r adeiladau a arolygir o dan baragraff (1) y mae o'r farn ei bod yn angenrheidiol at ddibenion yr arolygiad.

(3) Caiff arolygiad o dan baragraff (1) ddigwydd heb hysbysu'r person perthnasol(a).

## **Arolygu cofnodion**

3.-(1) Caiff person awdurdodedig arolygu unrhyw gofnodion ysgol neu goleg perthnasol sy'n berthnasol i gyflawni dyletswydd Cynulliad Cenedlaethol Cymru o dan adran 87(3) o Ddeddf 1989.

(2) Mae'r pŵer ym mharagraff (1) yn cynnwys pŵer i'w gwneud yn ofynnol i'r person perthnasol ddangos unrhyw gofnodion, ym mha le bynnag y cedwir hwy, i'w harolygu ar y tir neu yn yr adeiladau.

(3) Yn y rheoliad hwn, mae cyfeiriad at gofnod yn cynnwys cofnod a gedwir drwy gyfrwng cyfrifiadu.

## **Arolygu Plant**

4.-(1) Yn ddarostyngedig i ddarpariaethau'r rheoliad hwn, caiff person awdurdodedig, at ddibenion galluogi Cynulliad Cenedlaethol Cymru i gyflawni ei ddyletswydd o dan adran 87(3) o Ddeddf 1989, gyflawni arolygiad ar blant y darperir llety iddynt gan ysgol neu goleg perthnasol.

(2) Caiff arolygiad gynnwys archwiliad corfforol o blentyn gan y person awdurdodedig, ar yr amod-

- (a) bod y person awdurdodedig yn ymarferydd meddygol cofrestredig neu'n nyrs gofrestredig;
- (b) bod gan y person awdurdodedig achos rhesymol dros gredu nad yw lles y plentyn o dan sylw yn cael ei ddiogelu'n ddigonol neu'n cael ei hybu'n ddigonol gan y person perthnasol(a); ac
- (c) bod y plentyn yn cydsynio â'r archwiliad, neu nid yw'n alluog i roi cydsyniad.

(3) Rhaid i archwiliad o dan baragraff (2) ddigwydd yn breifat.

(4) Yn ddarostyngedig i baragraff (5), caiff person awdurdodedig gynnal cyfweiliad yn breifat, neu ymorol am sylwadau ysgrifenedig neu ar lafar gan unrhyw blentyn neu grŵp o blant sy'n cydsynio i gael eu cyfweld neu fynegi eu sylwadau, yn ôl y digwydd.

(5) Ni chaiff person awdurdodedig gyfweld unrhyw

(a) *Gweler* adran 87(11) a (12) o Ddeddf 1989 i gael ystyr "relevant person" ("*person perthnasol*").

## **Inspection of Premises**

2.-(1) An authorised person may inspect any premises, or part of any premises, which are, or are to be, the premises of a relevant school or college.

(2) An authorised person may carry out such examination into the state and management of the premises inspected under paragraph (1) as he considers necessary for the purposes of the inspection.

(3) An inspection under paragraph (1) may take place without notice to the relevant person(a).

## **Inspection of records**

3.-(1) An authorised person may inspect any record of a relevant school or college which is relevant to the discharge of the National Assembly for Wales' duty under section 87(3) of the 1989 Act.

(2) The power in paragraph (1) includes power to require the relevant person to produce any records, wherever kept, for inspection on the premises.

(3) In this regulation, a reference to a record includes a record which is kept by means of a computer.

## **Inspection of Children**

4.-(1) Subject to the provisions of this regulation, an authorised person may, for the purpose of enabling the National Assembly for Wales to discharge its duty under section 87(3) of the 1989 Act, carry out an inspection of children who are provided with accommodation by a relevant school or college.

(2) An inspection may include a physical examination of a child by the authorised person, provided that-

- (a) the authorised person is a registered medical practitioner or a registered nurse;
- (b) the authorised person has reasonable cause to believe that the welfare of the child in question is not being adequately safeguarded or promoted by the relevant person(a); and
- (c) the child consents to the examination, or is incapable of giving consent.

(3) An examination under paragraph (2) shall take place in private.

(4) Subject to paragraph (5), an authorised person may interview in private, or solicit written or verbal expressions of opinion from any child or group of children who consent to be interviewed or to express their views, as the case may be.

(5) An authorised person may not interview any

(a) *See* section 87(11) and (12) of the 1989 Act for the meaning of "relevant person".

blentyn unigol yn breifat oni bai-

- (a) bod y plentyn o dan sylw wedi gofyn yn benodol am gael ei gyfnewid ar ei ben ei hun ac yn breifat; neu
- (b) bod y person awdurdodedig yn barnu ar sail resymol bod cyfnewid o'r fath yn angenrheidiol i alluogi Cynulliad Cenedlaethol Cymru i gyflawni ei ddyletswydd o dan adran 87(3) o Ddeddf 1989.

(6) Ni chaiff unrhyw arolygiad ei gyflawni o dan y rheoliad hwn mewn perthynas â'r canlynol -

- (a) unrhyw blentyn i aelod o staff ysgol neu goleg perthnasol; neu
- (b) unrhyw blentyn arall sy'n byw gydag aelod o staff o'r fath fel aelod o'i aelwyd,

onid yw'r plentyn hefyd yn ddisgybl neu'n fyfyrwr yn yr ysgol neu'r coleg.

### Arolygiad - cyffredinol

5. Caiff person awdurdodedig wrth gyflawni unrhyw arolygiad o dan y Rheoliadau hyn-

- (a) ei gwneud yn ofynnol i unrhyw berson ddarparu ar ei gyfer y cyfleusterau hynny a'r cymorth hwnnw ynghylch materion sydd o fewn rheolaeth y person hwnnw ac sy'n angenrheidiol i alluogi'r person awdurdodedig i arfer ei bwerau o dan y Rheoliadau hyn; a
- (b) cymryd y cyfryw ffotograffau, mesuriadau a chofnodion y mae o'r farn eu bod yn angenrheidiol i alluogi arfer ei bwerau.

### Ffi Blynyddol

6.-(1) Diwygir Rheoliadau Cofrestru Gofal Cymdeithasol a Gofal Iechyd Annibynnol (Ffioedd)(Cymru) 2002(a) yn unol â darpariaethau canlynol y rheoliad hwn.

(2) Yn y paragraff o dan y pennawd "Arrangement of Regulations", ychwaneger y llinell ganlynol ar y diwedd "10. Annual fee - boarding schools and further education colleges".

(3) Yn rheoliad 2 -

- (a) yn y diffiniad o "annual fee", ar ôl y geiriau "section 16(3) of the Act, or" ychwaneger "section 87D(2) of, or" a dilêr yr ymadrodd "(as the case may be)";
- (b) yn y diffiniad o "approved place", ar ôl yr ymadrodd "for the use of a service user at night;" ychwaneger "or, in relation to a boarding school, residential special school or further education college, a bed provided for the use of a child accommodated at the school or college;"
- (c) yn y lle priodol yn nhrefn yr wyddor yn y

individual child in private unless-

- (a) the child concerned has expressly asked to be interviewed alone and in private; or
- (b) the authorised person considers on reasonable grounds that such an interview is necessary to enable the National Assembly for Wales to discharge its duty under section 87(3) of the 1989 Act.

(6) No inspection may be carried out under this regulation in respect of -

- (a) any child of a member of staff of a relevant school or college; or
- (b) any other child living with such a member of staff as a member of his or her household,

unless the child is also a pupil or student of the school or college.

### Inspection - general

5. An authorised person may in carrying out any inspection under these Regulations-

- (a) require any person to afford him or her such facilities and assistance with respect to matters within that person's control as are necessary to enable the authorised person to exercise his or her powers under these Regulations; and
- (b) take such photographs, measurements and recordings as he or she considers necessary to enable the exercise of his or her powers.

### Annual Fee

6.-(1) The Registration of Social Care and Independent Healthcare (Fees)(Wales) Regulations 2002(a) are amended in accordance with the following provisions of this regulation.

(2) In the paragraph headed "Arrangement of Regulations", the following line shall be added at the end "10. Annual fee - boarding schools and further education colleges".

(3) In regulation 2 -

- (a) in the definition of "annual fee", after the words "section 16(3) of the Act, or" there shall be added "section 87D(2) of, or" and the phrase "(as the case may be)" shall be deleted;
- (b) in the definition of "approved place", after the phrase "for the use of a service user at night;" there shall be added "or, in relation to a boarding school, residential special school or further education college, a bed provided for the use of a child accommodated at the school or college;"
- (c) at the appropriate point in the alphabetical

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(a) O.S. 2002/921 (Cy. 109).

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(a) S.I. 2002/921 (W. 109).

diffiniadau, mewnosoder y diffiniad canlynol-

""boarding school" means a school (not being a residential special school or a school which is a children's home or a care home) providing accommodation for any child, and "school" has the meaning given to it in section 105(1) of the 1989 Act(a);";

(ch) yn y lle priodol yn nhrefn yr wyddor yn y diffiniadau, mewnosoder y diffiniad canlynol-

""further education college" means a college as defined in section 87(10) of the 1989 Act which provides accommodation for any child;";

(d) yn y lle priodol yn nhrefn yr wyddor yn y diffiniadau, mewnosoder y diffiniad canlynol-

""residential special school" means -

- (i) a special school in accordance with sections 337 and 347(1) of the Education Act 1996(b); or
- (ii) an independent school not falling within (i) which has as its sole or main purpose the provision of places, with the consent of the National Assembly for Wales, for pupils with special educational needs or who are in public care,

and which provides accommodation for any child;".

(4) Ar ôl rheoliad 9 (Ffi blynyddol - gofal dydd), mewnosoder y rheoliad canlynol -

#### " Annual fee - boarding schools and colleges

10.-(1) The annual fee which shall be paid by the relevant person(c) in respect of a boarding school, residential special school or further education college shall be the amount in column (2) of the table below added to the sum of the amounts in columns (3) and (4) multiplied in each case by the number of approved places specified in respect of that column.

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(a) Mae adran 105(1) o Ddeddf 1989 yn cyfeirio at y diffiniad o ysgol yn Neddf Addysg 1996 p.56.

(b) 1996 p.56.

(c) *Gweler* adran 87(11) a (12) o Ddeddf 1989 i gael ystyr "relevant person" ("*person perthnasol*").

order of definitions, there shall be inserted the following definition-

""boarding school" means a school (not being a residential special school or a school which is a children's home or a care home) providing accommodation for any child, and "school" has the same meaning given to it in section 105(1) of the 1989 Act(a) ;";

(d) at the appropriate point in the alphabetical order of definitions, there shall be inserted the following definition-

""further education college" means a college as defined in section 87(10) of the 1989 Act which provides accommodation for any child;";

(e) at the appropriate point in the alphabetical order of definitions, there shall be inserted the following definition-

""residential special school" means -

- (i) a special school in accordance with sections 337 and 347(1) of the Education Act 1996(b); or
- (ii) an independent school not falling within (i) which has as its sole or main purpose the provision of places, with the consent of the National Assembly for Wales, for pupils with special educational needs or who are in public care,

and which provides accommodation for any child;".

(4) After regulation 9 (Annual fee - day care), there shall be inserted the following regulation-

#### " Annual fee - boarding schools and colleges

10.-(1) The annual fee which shall be paid by the relevant person(c) in respect of a boarding school, residential special school or further education college shall be the amount in column (2) of the table below added to the sum of the amounts in columns (3) and (4) multiplied in each case by the number of approved places specified in respect of that column.

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(a) s.105(1) of the 1989 Act refers to the definition of school in the Education Act 1996 c.56.

(b) 1996 c.56.

(c) *See* section 87(11) and (12) of the 1989 Act for the meaning of "relevant person".

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Type of school or college</i>	<i>Flat rate</i>	<i>Rate payable for each approved place from the 4th to the 29th place inclusive</i>	<i>Rate payable for the 30th and each subsequent approved place</i>
Boarding school and further education college	£250	£15	£7.50
Residential Special Schools	£400	£40	£20

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Type of school or college</i>	<i>Flat rate</i>	<i>Rate payable for each approved place from the 4th to the 29th place inclusive</i>	<i>Rate payable for the 30th and each subsequent approved place</i>
Boarding school and further education college	£250	£15	£7.50
Residential Special Schools	£400	£40	£20

(2) In the case of a school or college which is providing accommodation for any child on 1st February 2003, the annual fee shall first be payable on 1st September 2003 and, in all other cases, on the date residential accommodation is first provided.

(3) The annual fee shall be payable every year on the anniversary of the date on which it was first payable."

### **Diddymu**

7. Diddymir Rheoliadau Arolygu Tir ac Adeiladau, Plant a Chofnodion (Ysgolion Annibynnol) 1991(a).

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

17 Rhagfyr 2002

*D. Elis-Thomas*

Llywydd y Cynulliad Cenedlaethol

(2) In the case of a school or college which is providing accommodation for any child on 1st February 2003, the annual fee shall first be payable on 1st September 2003 and, in all other cases, on the date residential accommodation is first provided.

(3) The annual fee shall be payable every year on the anniversary of the date on which it was first payable."

### **Revocation**

7. The Inspection of Premises, Children and Records (Independent Schools) Regulations 1991(a) are revoked.

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

17th December 2002

The Presiding Officer of the National Assembly

(a) O.S. 1991/975.

(b) 1998 p.38.

(a) S.I. 1991/975.

(b) 1998 c.38.



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