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OFFERYNNAU STATUDOL  
CYMRU

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**2011 Rhif 297 (Cy.50) (C.13)**

**ADDYSG, CYMRU**

**Gorchymyn Deddf Addysg Uwch  
2004 (Cychwyn Rhif 3) (Cymru)  
2011**

**NODYN ESBONIADOL**

*(Nid yw'r nodyn hwn yn rhan o'r Gorchymyn)*

Hwn yw'r trydydd gorchymyn cychwyn a wnaed gan Weinidogion Cymru o dan Ddeddf Addysg Uwch 2004 ("Deddf 2004"). Mae'r Gorchymyn yn dwyn i rym ddarpariaethau ynghylch amodau y mae Gweinidogion Cymru yn eu gosod er mwyn rheoli ffioedd mewn sefydliadau yng Nghymru sy'n cael grantiau oddi wrth Gyngor Cyllido Addysg Uwch Cymru.

Mae'r darpariaethau sydd yn Rhan 3 o Ddeddf 2004 ac sy'n cael eu dwyn i rym gan y Gorchymyn hwn (pan fônt yn gymwys o ran Cymru) fel a ganlyn:

- adran 22, sy'n esbonio ystyr cynllun a gymeradwywyd o ran Cymru;
- adran 27, sy'n caniatáu i Weinidogion Cymru osod amodau sydd, mewn perthynas â grantiau a wneir i gorff cyllido, yn ei gwneud yn ofynnol i'r corff cyllido osod amod mewn perthynas â grantiau a benthyciadau y mae'n eu rhoi i sefydliadau perthnasol;
- adran 28, sy'n nodi'r hyn sy'n ofynnol o dan amod a osodir gan gorff cyllido ar sefydliadau perthnasol;
- adran 29, sy'n cynnwys darpariaethau atodol;
- adran 30, sy'n esbonio ystyr "relevant authority" ac sy'n rhoi pŵer i Weinidogion Cymru ddynodi person i fod yn awdurdod perthnasol mewn perthynas â Chymru;
- adran 32(4), sy'n ei gwneud yn ofynnol i'r awdurdod perthnasol mewn perthynas â Chymru roi sylw i ganllawiau a roddir gan Weinidogion Cymru;

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WELSH STATUTORY  
INSTRUMENTS

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**2011 No. 297 (W.50) (C.13)**

**EDUCATION, WALES**

**The Higher Education Act 2004  
(Commencement No. 3) (Wales)  
Order 2011**

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This is the third commencement order made by the Welsh Ministers under the Higher Education Act 2004 ("the 2004 Act"). The Order brings into force provisions concerning the imposition by the Welsh Ministers of conditions to control fees at institutions in Wales which receive grants from the Higher Education Funding Council for Wales.

The provisions of Part 3 of the 2004 Act brought into force by this Order (where applicable in relation to Wales) are as follows:

- section 22, which explains the meaning of a Welsh approved plan;
- section 27, which allows the Welsh Ministers to impose conditions in relation to grants made to a funding body requiring the funding body to impose a condition in relation to grants and loans it makes to relevant institutions;
- section 28, which sets out what the condition imposed by a funding body on relevant institutions requires;
- section 29, which contains supplementary provisions;
- section 30, which explains the meaning of "relevant authority" and confers power on the Welsh Ministers to designate a person to be the relevant authority in relation to Wales;
- section 32(4), which requires the relevant authority in relation to Wales to have regard to guidance given by the Welsh Ministers;

- adrannau 33 i 36, sy'n gwneud darpariaeth ar gyfer cynnwys cynlluniau ffioedd, eu cymeradwyo, eu hyd ac ar gyfer eu hamrywio;
- adran 38, sy'n gwneud darpariaeth ar gyfer gorfodi cynlluniau ffioedd;
- adran 39, sy'n gwneud darpariaeth ar gyfer adolygu penderfyniadau a wneir gan yr awdurdod perthnasol mewn perthynas â chynlluniau ffioedd;
- adran 41, sy'n esbonio ystyr termau penodol a ddefnyddir yn Rhan 3 o Ddeddf 2004.

Mae erthygl 2 yn dwyn darpariaethau perthnasol i rym ar 11 Chwefror 2011 i alluogi rheoliadau i gael eu gwneud gan Weinidogion Cymru.

Mae erthyglau 3 a 4 yn dwyn gweddill darpariaethau Rhan 3 o Ddeddf 2004 i rym ar 31 Mawrth 2011 at ddibenion sy'n weddill a phan fo'n gymwys, mewn perthynas â Chymru.

## NODYN AM ORCHMYNION CYCHWYN BLAENOROL

*(Nid yw'r nodyn hwn yn rhan o'r Gorchymyn)*

Mae darpariaethau canlynol Deddf 2004 wedi eu dwyn i rym mewn perthynas â Chymru drwy orchymnion cychwyn a wnaed cyn dyddiad y Gorchymyn hwn:

<i>Y ddarpariaeth</i>	<i>Y dyddiad cychwyn</i>	<i>O.S. Rhif</i>
Adran 10(2)	7 Gorffennaf 2005	2005/1833 (Cy. 149)
Adran 11	1 Rhagfyr 2004	2004/3144 (Cy. 272)
Adran 12	1 Rhagfyr 2004	2004/3144 (Cy. 272)
Adran 13	1 Rhagfyr 2004	2004/3144 (Cy. 272)
Adran 14	1 Rhagfyr 2004	2004/3144 (Cy. 272)
Adran 15	1 Rhagfyr 2004	2004/3144 (Cy. 272)
Adran 16	1 Rhagfyr 2004	2004/3144 (Cy. 272)
Adran 17	1 Rhagfyr 2004	2004/3144 (Cy. 272)

- sections 33 to 36, which make provision for the contents of fee plans, their approval, duration and variation;
- section 38, which makes provision for the enforcement of fee plans;
- section 39, which makes provision for the review of decisions made by the relevant authority in relation to fee plans;
- section 41, which explains the meaning of certain terms used in Part 3 of the 2004 Act.

Article 2 brings relevant provisions into force on 11 February 2011 to enable regulations to be made by the Welsh Ministers.

Articles 3 and 4 bring the remaining provisions of Part 3 of the 2004 Act into force on 31 March 2011 for remaining purposes and where applicable, in relation to Wales.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This note is not part of the Order)*

The following provisions of the 2004 Act have been brought into force in relation to Wales by commencement orders made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 10(2)	7 July 2005	2005/1833 (W. 149)
Section 11	1 December 2004	2004/3144 (W. 272)
Section 12	1 December 2004	2004/3144 (W. 272)
Section 13	1 December 2004	2004/3144 (W. 272)
Section 14	1 December 2004	2004/3144 (W. 272)
Section 15	1 December 2004	2004/3144 (W. 272)
Section 16	1 December 2004	2004/3144 (W. 272)
Section 17	1 December 2004	2004/3144 (W. 272)

Adran 18	1 Rhagfyr 2004	2004/3144 (Cy. 272)
Adran 20	1 Ionawr 2005	2004/3144 (Cy. 272)
Adran 21	1 Rhagfyr 2004	2004/3144 (Cy. 272)
Adran 44(1) a (2)	7 Gorffennaf 2005	2005/1833 (Cy. 149)
Adran 44(3)	1 Medi 2006	2005/1833 (Cy. 149)
Adran 44(4)	23 Mehefin 2006	2005/1833 (Cy. 149)
Adran 44(5) a (6)	7 Gorffennaf 2005	2005/1833 (Cy. 149)
Adran 46	1 Ionawr 2005	2004/3144 (Cy. 272)
Adran 49 i'r graddau y mae'n ymwneud â darpariaethau Atodlen 6, paragraff 7, sy'n hepgor adran 26(5) o Ddeddf Addysgu ac Addysg Uwch 1998	7 Gorffennaf 2005	2005/1833 (Cy. 149)
Adran 50 i'r graddau y mae'n ymwneud â darpariaethau Atodlen 7 sy'n diddymu adran 206 o Ddeddf Diwygio Addysg 1988 ac yn adran 207(1), paragraff (c) a'r gair "or" sy'n dod yn union o'i flaen	1 Ionawr 2005	2004/3144 (Cy. 272)
Adran 50 i'r graddau y mae'n ymwneud â darpariaethau Atodlen 7 sy'n diddymu adran 26(5) o Ddeddf Addysgu ac Addysg Uwch 1998	7 Gorffennaf 2005	2005/1833 (Cy. 149)
Atodlen 1	1 Rhagfyr 2004	2004/3144 (Cy. 272)
Atodlen 2	1 Rhagfyr 2004	2004/3144 (Cy. 272)

Section 18	1 December 2004	2004/3144 (W. 272)
Section 20	1 January 2005	2004/3144 (W. 272)
Section 21	1 December 2004	2004/3144 (W. 272)
Section 44(1) and (2)	7 July 2005	2005/1833 (W. 149)
Section 44(3)	1 September 2006	2005/1833 (W. 149)
Section 44(4)	23 June 2006	2005/1833 (W. 149)
Section 44(5) and (6)	7 July 2005	2005/1833 (W. 149)
Section 46	1 January 2005	2004/3144 (W. 272)
Section 49 in so far as it relates to the provisions of Schedule 6, paragraph 7, which omits section 26(5) of the Teaching and Higher Education Act 1998	7 July 2005	2005/1833 (W. 149)
Section 50 in so far as it relates to the provisions of Schedule 7 which repeal section 206 of the Education Reform Act 1988 and in section 207(1), paragraph (c) and the word "or" immediately preceding it	1 January 2005	2004/3144 (W. 272)
Section 50 in so far as it relates to the provisions of Schedule 7 which repeal section 26(5) of the Teaching and Higher Education Act 1998	7 July 2005	2005/1833 (W. 149)
Schedule 1	1 December 2004	2004/3144 (W. 272)
Schedule 2	1 December 2004	2004/3144 (W. 272)

Atodlen 3	1 Rhagfyr 2004	2004/3144 (Cy. 272)
Atodlen 4	1 Rhagfyr 2004	2004/3144 (Cy. 272)
Atodlen 6, paragraff 7, hepgor adran 26(5) o Ddeddf Addysgu ac Addysg Uwch 1998	7 Gorffennaf 2005	2005/1833 (Cy. 149)
Yn Atodlen 7, diddymu yn Neddf Diwygio Addysg 1988 adran 206, ac yn adran 207(1), diddymu paragraff (c) a'r gair "or" sy'n dod yn union o'i flaen	1 Ionawr 2005	2004/3144 (Cy. 272)
Yn Atodlen 7, diddymu adran 26(5) o Ddeddf Addysgu ac Addysg Uwch 1998	7 Gorffennaf 2005	2005/1833 (Cy. 149)

Schedule 3	1 December 2004	2004/3144 (W. 272)
Schedule 4	1 December 2004	2004/3144 (W. 272)
Schedule 6, paragraph 7, the omission of section 26(5) of the Teaching and Higher Education Act 1998	7 July 2005	2005/1833 (W. 149)
In Schedule 7, the repeals in the Education Reform Act 1988 of section 206 and in section 207(1), paragraph (c) and the word "or" immediately preceding it	1 January 2005	2004/3144 (W. 272)
In Schedule 7, the repeal of section 26(5) of the Teaching and Higher Education Act 1998	7 July 2005	2005/1833 (W. 149)

Mae amryw o ddarpariaethau Deddf 2004 wedi eu dwyn i rym mewn perthynas â Lloegr gan yr Offerynnau Statudol a ganlyn: O.S. 2004/2781, O.S. 2004/3255, O.S. 2005/767 ac O.S. 2006/51. Mae amryw o ddarpariaethau Deddf 2004 wedi eu dwyn i rym mewn perthynas â'r Alban gan O.S.A. 2005/33.

Gweler hefyd adran 52(1) ar gyfer y darpariaethau a ddaeth i rym adeg pasio Deddf 2004.

Various provisions of the 2004 Act have been brought into force in relation to England by the following Statutory Instruments: S.I 2004/2781, S.I 2004/3255, S.I. 2005/767 and S.I. 2006/51. Various provisions of the 2004 Act have been brought into force in relation to Scotland by S.S.I. 2005/33.

See also section 52(1) for the provisions which came into force on the passing of the 2004 Act.

**2011 Rhif 297 (Cy.50) (C.13)**

**ADDYSG, CYMRU**

**Gorchymyn Deddf Addysg Uwch  
2004 (Cychwyn Rhif 3) (Cymru)  
2011**

*Gwnaed*

*9 Chwefror 2011*

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd i Gynulliad Cenedlaethol Cymru gan adrannau 47(1), 52(3) a 52(6) o Ddeddf Addysg Uwch 2004(1) ac sydd bellach yn arferadwy ganddynt hwy(2), yn gwneud y Gorchymyn a ganlyn:

**Enwi a dehongli**

1.–(1) Enw'r Gorchymyn hwn yw Gorchymyn Deddf Addysg Uwch 2004 (Cychwyn Rhif 3) (Cymru) 2011.

(2) Yn y Gorchymyn hwn:

ystyr "Deddf 1998" ("*the 1998 Act*") yw Deddf Addysgu ac Addysg Uwch 1998(3);

ystyr "Deddf 2004" ("*the 2004 Act*") yw Deddf Addysg Uwch 2004.

**Darpariaethau sy'n dod i rym**

2. Mae darpariaethau canlynol Deddf 2004 yn dod i rym ar 11 Chwefror 2011–

- (a) adran 22 mewn perthynas â Chymru;
- (b) adran 28(6) i'r graddau y mae'n galluogi rheoliadau i gael eu gwneud;
- (c) adrannau 33 i 36 mewn perthynas â Chymru i'r graddau y maent yn galluogi rheoliadau i gael eu gwneud;
- (ch) adran 38 i'r graddau y mae'n galluogi rheoliadau i gael eu gwneud;

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(1) 2004 p. 8.

(2) Trosglwyddwyd swyddogaethau Cynulliad Cenedlaethol Cymru o dan adrannau 47(1), 52(3) a 52(6) i Weinidogion Cymru gan baragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p. 32).

(3) 1998 p. 30.

**2011 No. 297 (W.50) (C.13)**

**EDUCATION, WALES**

**The Higher Education Act 2004  
(Commencement No. 3) (Wales)  
Order 2011**

*Made*

*9 February 2011*

The Welsh Ministers, in exercise of the powers conferred upon the National Assembly for Wales by sections 47(1), 52(3) and 52(6) of the Higher Education Act 2004(1) and now exercisable by them(2) make the following Order:

**Title and interpretation**

1.–(1) The title of this Order is the Higher Education Act 2004 (Commencement No. 3) (Wales) Order 2011.

(2) In this Order:

"the 1998 Act" ("*Deddf 1998*") means the Teaching and Higher Education Act 1998(3);

"the 2004 Act" ("*Deddf 2004*") means the Higher Education Act 2004.

**Provisions coming into force**

2. The following provisions of the 2004 Act come into force on 11 February 2011–

- (a) section 22 in relation to Wales;
- (b) section 28(6) so far as enabling regulations to be made;
- (c) sections 33 to 36 in relation to Wales so far as enabling regulations to be made;
- (d) section 38 so far as enabling regulations to be made;

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(1) 2004 c. 8.

(2) The functions of the National Assembly for Wales under sections 47(1), 52(3) and 52(6) were transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(3) 1998 c. 30.

(d) adran 39 mewn perthynas â Chymru i'r graddau y mae'n galluogi rheoliadau i gael eu gwneud;

(dd) adran 41 mewn perthynas â Chymru.

3. Daw darpariaethau canlynol Deddf 2004 i rym ar 31 Mawrth 2011—

(a) adran 27;

(b) adran 28(1) i (5);

(c) adran 28(6) i'r graddau nad yw wedi ei chychwyn gan erthygl 2(b);

(ch) adran 30(2) a (3);

(d) adran 32(4);

(dd) adran 38 i'r graddau nad yw wedi ei chychwyn gan erthygl 2(b).

4. Daw darpariaethau canlynol Deddf 2004 i rym ar 31 Mawrth 2011 mewn perthynas â Chymru—

(a) adran 29;

(b) adran 30(1);

(c) adrannau 33 i 36 i'r graddau nad yw wedi ei chychwyn gan erthygl 2(c);

(ch) adran 39 i'r graddau nad yw wedi ei chychwyn gan erthygl 2(d);

(d) adran 49 i'r graddau y mae'n ymwneud â'r darpariaethau yn Atodlen 6 a nodir ym mharagraffau (e) ac (f);

(dd) adran 50 i'r graddau y mae'n ymwneud â'r darpariaethau yn Atodlen 7 a nodir ym mharagraffau (ff) ac (g);

(e) yn Atodlen 6, paragraff 7, hepgor adran 26(3), (4) a (6) i (11) o Ddeddf 1998;

(f) yn Atodlen 6, paragraff 8;

(ff) yn Atodlen 7, diddymu adran 26(3), (4) a (6) i (11) o Ddeddf 1998;

(g) yn Atodlen 7, diddymu yn adran 28(1) o Ddeddf 1998 Act y diffiniadau o "fees" a "publicly-funded institution".

(e) section 39 in relation to Wales so far as enabling regulations to be made;

(f) section 41 in relation to Wales.

3. The following provisions of the 2004 Act come into force on 31 March 2011—

(a) section 27;

(b) section 28(1) to (5);

(c) section 28(6) in so far as not commenced by article 2(b);

(d) section 30(2) and (3);

(e) section 32(4);

(f) section 38 in so far as not commenced by article 2(b).

4. The following provisions of the 2004 Act come into force on 31 March 2011 in relation to Wales—

(a) section 29;

(b) section 30(1);

(c) sections 33 to 36 in so far as not commenced by article 2(c);

(d) section 39 in so far as not commenced by article 2(e);

(e) section 49 so far as it relates to the provisions of Schedule 6 set out in paragraphs (g) and (h);

(f) section 50 in so far as it relates to the provisions of Schedule 7 set out in paragraphs (i) and (j);

(g) in Schedule 6, paragraph 7, the omission of section 26(3), (4) and (6) to (11) of the 1998 Act;

(h) in Schedule 6, paragraph 8;

(i) in Schedule 7, the repeal of section 26(3), (4) and (6) to (11) of the 1998 Act;

(j) in Schedule 7, the repeal in section 28(1) of the 1998 Act of the definitions of "fees" and "publicly-funded institution".

*Leighton Andrews*

Y Gweinidog dros Blant, Addysg a Dysgu Gydol Oes,  
un o Weinidogion Cymru

9 Chwefror 2011

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Minister for Children, Education and Lifelong Learning, one of the Welsh Ministers

9 February 2011

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