OFFERYNNAU STATUDOL CYMRU

# 2011 Rhif 3046 (Cy.321) (C.116)

# IECHYD MEDDWL, CYMRU A LLOEGR

## Gorchymyn Mesur Iechyd Meddwl (Cymru) 2010 (Cychwyn Rhif 1 a Darpariaeth Drosiannol) 2011

### NODYN ESBONIADOL

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

Mae'r Gorchymyn hwn yn cael ei wneud o dan adrannau 52(2) a 55(3) o Fesur Iechyd Meddwl (Cymru) 2010 ("y Mesur").

Hwn yw'r gorchymyn cychwyn cyntaf i gael ei wneud o dan y Mesur. Mae'n cychwyn Rhan 4 o'r Mesur sy'n diwygio Deddf Iechyd Meddwl 1983 ("Deddf 1983") mewn perthynas ag Eiriolwyr Iechyd Meddwl Annibynnol ("EIMAau"). Bydd Deddf 1983, fel y'i diwygiwyd gan Ran 4, yn ei gwneud yn ofynnol i Weinidogion Cymru wneud trefniadau bod cymorth yn cael ei ddarparu gan EIMAau i ddau grŵp o gleientiaid: cleifion cymwys Cymru dan orfodaeth a chleifion anffurfiol cymwys Cymru.

Mae'r Gorchymyn hwn hefyd yn cychwyn rhai o ddarpariaethau Rhan 1 o'r Mesur sy'n ei gwneud yn ofynnol i bartneriaid iechyd meddwl lleol gymryd camau rhesymol i gytuno ar gynllun ar gyfer darparu gwasanaethau cymorth iechyd meddwl sylfaenol lleol, ac sy'n cynnwys pwerau i Weinidogion Cymru pan fydd methiant i gytuno ar gynllun o'r fath.

Mae'r Gorchymyn hwn hefyd yn cychwyn adran 44 o'r Mesur sy'n galluogi Gweinidogion Cymru i baratoi cod ymarfer fel canllaw ar gyfer (i) awdurdodau lleol, Byrddau Iechyd Lleol, cydgysylltwyr gofal ac unrhyw bersonau eraill o ran eu swyddogaethau o dan y Mesur, a (ii) unrhyw bersonau mewn cysylltiad â gweithredu darpariaethau'r Mesur.

WELSH STATUTORY INSTRUMENTS

# 2011 No. 3046 (W.321) (C.116)

# MENTAL HEALTH, ENGLAND AND WALES

## The Mental Health (Wales) Measure 2010 (Commencement No.1 and Transitional Provision) Order 2011

### EXPLANATORY NOTE

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

This Order is made under sections 52(2) and 55(3) of the Mental Health (Wales) Measure 2010 ("the Measure").

This is the first commencement order to be made under the Measure. It commences Part 4 of the Measure which amends the Mental Health Act 1983 ("the 1983 Act") in relation to Independent Mental Health Advocates ("IMHAs"). The 1983 Act, as amended by Part 4, will require the Welsh Ministers to make arrangements for help to be provided by IMHAs to two client groups: Welsh qualifying compulsory patients and Welsh qualifying informal patients.

This Order also commences some of the provisions of Part 1 of the Measure which requires the local mental health partners to take reasonable steps to agree a scheme for the provision of local primary mental health support services and contains powers for the Welsh Ministers in the event of a failure to agree such a scheme.

This Order also commences section 44 of the Measure which enables the Welsh Ministers to prepare a code of practice for the guidance of (i) local authorities, LHBs, care co-ordinators and any other persons in relation to their functions under the Measure and (ii) any persons in connection with the operation of the provisions of the Measure.

Mae erthygl 2 yn rhestru'r darpariaethau a fydd yn dod i rym ar 3 Ionawr 2012 ac at ba ddibenion. Mae erthygl 3 yn rhestru'r darpariaethau a fydd yn dod i rym ar 2 Ebrill 2012 ac at ba ddibenion.

Mae erthygl 4 yn rhestru'r darpariaethau, sy'n ffurfio rhan o Ran 1 o'r Mesur, a fydd yn dod i rym ar 8 Mai 2012.

Mae'r Gorchymyn hefyd yn gwneud darpariaeth drosiannol fel bod y rhai hynny sydd yn derbyn cymorth o dan drefniadau a wnaed o dan adran 130A o Ddeddf Iechyd Meddwl 1983 yn cael eu trin, o 3 Ionawr 2012 ymlaen, fel petaent yn derbyn cymorth o dan drefniadau a wnaed o dan adran 130E o'r Ddeddf honno.

Dyma'r gorchymyn cychwyn cyntaf, ond gweler hefyd adran 55(1) o'r Mesur am y darpariaethau a ddaeth i rym ar y dyddiad ddau fis ar ôl i'r Mesur gael ei gymeradwyo gan Ei Mawrhydi yn y Cyfrin Gyngor.

Article 2 lists the provisions which are to come into force on 3 January 2012 and for which purposes. Article 3 lists the provisions which come into force on 2 April 2012 and for which purposes.

Article 4 lists the provisions, which form part of Part 1 of the Measure, which come into force on 8 May 2012.

The Order also makes a transitional provision so that those who are receiving help under arrangements made under section 130A of the Mental Health Act 1983 are treated, from 3 January 2012, as if they are receiving help under arrangements made under section 130E of that Act.

This is the first commencement order, but see also section 55(1) of the Measure for the provisions that came into force on the date two months after which the Measure was approved by Her Majesty in Council.

OFFERYNNAU STATUDOL CYMRU

# 2011 Rhif 3046 (Cy.321) (C.116)

# IECHYD MEDDWL, CYMRU A LLOEGR

## Gorchymyn Mesur Iechyd Meddwl (Cymru) 2010 (Cychwyn Rhif 1 a Darpariaeth Drosiannol) 2011

*Gwnaed* *18 Rhagfyr 2011*

Mae Gweinidogion Cymru yn gwneud y Gorchymyn a ganlyn drwy arfer y pwerau a roddwyd gan adrannau 52(2) a 55(3) o Fesur Iechyd Meddwl (Cymru) 2010(**1**).

**Enwi a dehongli**

**1**.—(1) Enw'r Gorchymyn hwn yw Gorchymyn Mesur Iechyd Meddwl (Cymru) 2010 (Cychwyn Rhif 1 a Darpariaeth Drosiannol) 2011.

(2) Yn y Gorchymyn hwn—

(a) ystyr "y Mesur" ("*the Measure*") yw Mesur Iechyd Meddwl (Cymru) 2010;

(b) mae i "claf cymwys" yr un ystyr a roddir i "*qualifying patient*" yn adran 130C o Ddeddf Iechyd Meddwl 1983(**2**);

(c) mae i "cleifion anffurfiol cymwys Cymru" yr un ystyr a roddir i "*Welsh qualifying informal patients*" yn adran 130J o Ddeddf Iechyd Meddwl 1983(**3**).

**Darpariaethau'r Mesur sy'n dod i rym ar 3 Ionawr 2012**

**2**. Mae darpariaethau canlynol y Mesur yn dod i rym ar 3 Ionawr 2012—

(a) Adran 31 (eiriolwyr iechyd meddwl annibynnol: Cymru) ac eithrio i'r graddau y mae'n ymwneud â chleifion anffurfiol cymwys Cymru;

(**1**) 2010 mccc 7.

(**2**) 1983 p.20. Mewnosodwyd adran 130C gan adran 30 o Ddeddf Iechyd Meddwl 2007 (p.12).

(**3**) Mewnosodwyd adran 130J gan adran 36 o'r Mesur.

WELSH STATUTORY INSTRUMENTS

# 2011 No. 3046 (W.321) (C.116)

# MENTAL HEALTH, ENGLAND AND WALES

## The Mental Health (Wales) Measure 2010 (Commencement No.1 and Transitional Provision) Order 2011

*Made* *18 December 2011*

The Welsh Ministers make the following Order in exercise of the powers conferred by sections 52(2) and 55(3) of the Mental Health (Wales) Measure 2010(**1**).

**Title and interpretation**

**1**.—(1) The title of this Order is the Mental Health (Wales) Measure 2010 (Commencement No.1 and Transitional Provision) Order 2011.

(2) In this Order—

(a) "the Measure" ("*y Mesur*") means the Mental Health (Wales) Measure 2010;

(b) "qualifying patient" ("*claf cymwys*") has the same meaning as in section 130C of the Mental Health Act 1983(**2**);

(c) "Welsh qualifying informal patients" ("*cleifion anffurfiol cymwys Cymru*") has the same meaning as in section 130J of the Mental Health Act 1983(**3**).

**Provisions of the Measure coming into force on 3 January 2012**

**2**. The following provisions of the Measure come into force on 3 January 2012—

(a) Section 31 (independent mental health advocates: Wales) except in so far as it relates to Welsh qualifying informal patients;

(**1**) 2010 nawm 7.

(**2**) 1983 c.20. Section 130C was inserted by section 30 of the Mental Health Act 2007 (c.12).

(**3**) Section 130J was inserted by section 36 of the Measure.

(b) Adran 32 (darpariaeth bellach ynghylch eiriolaeth iechyd meddwl annibynnol ar gyfer cleifion cymwys Cymru dan orfodaeth);

(c) Adran 34 (eiriolwyr iechyd meddwl annibynnol: pwerau a dyletswyddau atodol) ac eithrio i'r graddau y mae'n ymwneud â chleifion anffurfiol cymwys Cymru;

(ch) Adran 35 (cleifion cymwys Cymru dan orfodaeth);

(d) Adran 37 (dyletswydd i roi gwybodaeth am eiriolwyr iechyd meddwl annibynnol i gleifion cymwys Cymru dan orfodaeth);

(dd) Adran 39 (cymhwyso cod ymarfer Deddf Iechyd Meddwl 1983 i eiriolwyr iechyd meddwl annibynnol Cymru) ac eithrio i'r graddau y mae'n ymwneud â chleifion anffurfiol cymwys Cymru;

(e) Adran 40 (gweithdrefnau ar gyfer gwneud rheoliadau o dan Ddeddf Iechyd Meddwl 1983) ac eithrio i'r graddau y mae'n ymwneud â chleifion anffurfiol cymwys Cymru;

(f) Adran 44 (codau ymarfer);

(ff) Adran 53(1) (diwygiadau canlyniadol etc) ac eithrio i'r graddau y mae'n ymwneud â chleifion anffurfiol cymwys Cymru;

(g) Adran 54 (diddymiadau) ac eithrio i'r graddau y mae'n ymwneud â chleifion anffurfiol cymwys Cymru;

(ng) Atodlen 1 (diwygiadau canlyniadol i Ddeddf Iechyd Meddwl 1983) ac eithrio i'r graddau y mae'n ymwneud â chleifion anffurfiol cymwys Cymru; ac

(h) Atodlen 2 (diddymiadau) ac eithrio i'r graddau y mae'n ymwneud â chleifion anffurfiol cymwys Cymru.

**Darpariaethau'r Mesur sy'n dod i rym ar 2 Ebrill 2012**

**3**. Mae darpariaethau canlynol y Mesur yn dod i rym ar 2 Ebrill 2012—

(a) Adran 31 (eiriolwyr iechyd meddwl annibynnol: Cymru) i'r graddau nad yw eisoes wedi cychwyn;

(b) Adran 33 (darpariaeth bellach ynghylch eiriolaeth iechyd meddwl annibynnol ar gyfer cleifion anffurfiol cymwys Cymru);

(c) Adran 34 (eiriolwyr iechyd meddwl annibynnol: pwerau a dyletswyddau atodol) i'r graddau nad yw eisoes wedi cychwyn;

(ch) Adran 36 (cleifion anffurfiol cymwys Cymru);

(d) Adran 38 (dyletswydd i roi gwybodaeth am eiriolwyr iechyd meddwl annibynnol i gleifion anffurfiol cymwys Cymru);

(b) Section 32 (further provision about independent mental health advocacy for Welsh qualifying compulsory patients);

(c) Section 34 (independent mental health advocates: supplementary powers and duties) except in so far as it relates to Welsh qualifying informal patients;

(d) Section 35 (Welsh qualifying compulsory patients);

(e) Section 37 (duty to give information about independent mental health advocates to Welsh qualifying compulsory patients);

(f) Section 39 (application of the Mental Health Act 1983 code of practice to Welsh independent mental health advocates) except in so far as it relates to Welsh qualifying informal patients;

(g) Section 40 (procedures for making regulations under the Mental Health Act 1983) except in so far as it relates to Welsh qualifying informal patients;

(h) Section 44 (codes of practice);

(i) Section 53(1) (consequential etc amendments) except in so far as it relates to Welsh qualifying informal patients;

(j) Section 54 (repeals) except in so far as it relates to Welsh qualifying informal patients;

(k) Schedule 1 (consequential amendments to the Mental Health Act 1983) except in so far as it relates to Welsh qualifying informal patients; and

(l) Schedule 2 (repeals) except in so far as it relates to Welsh qualifying informal patients.

**Provisions of the Measure coming into force on 2 April 2012**

**3**. The following provisions of the Measure come into force on 2 April 2012—

(a) Section 31 (independent mental health advocates: Wales) in so far as not already commenced;

(b) Section 33 (further provision about independent mental health advocacy for Welsh qualifying informal patients);

(c) Section 34 (independent mental health advocates: supplementary powers and duties) in so far as not already commenced;

(d) Section 36 (Welsh qualifying informal patients);

(e) Section 38 (duty to give information about independent mental health advocates to Welsh qualifying informal patients);

(dd) Adran 39 (cymhwyso cod ymarfer Deddf Iechyd Meddwl 1983 i eiriolwyr iechyd meddwl annibynnol Cymru) i'r graddau nad yw eisoes wedi cychwyn;

(e) Adran 40 (gweithdrefnau ar gyfer gwneud rheoliadau o dan Ddeddf Iechyd Meddwl 1983) i'r graddau nad yw eisoes wedi cychwyn;

(f) Adran 53(1) (diwygiadau canlyniadol etc) i'r graddau nad yw eisoes wedi cychwyn;

(ff) Adran 54 (diddymiadau) i'r graddau nad yw eisoes wedi cychwyn;

(g) Atodlen 1 (diwygiadau canlyniadol i Ddeddf Iechyd Meddwl 1983) i'r graddau nad yw eisoes wedi cychwyn; ac

(ng) Atodlen 2 (diddymiadau) i'r graddau nad yw eisoes wedi cychwyn.

**Darpariaethau'r Mesur sy'n dod i rym ar 8 Mai 2012**

**4**. Mae darpariaethau canlynol y Mesur yn dod i rym ar 8 Mai 2012—

(a) Adran 1 (ystyr "partneriaid iechyd meddwl lleol");

(b) Adran 2 (cynlluniau ar y cyd ar gyfer darparu gwasanaethau cymorth iechyd meddwl sylfaenol lleol);

(c) Adran 4 (methiannau i gytuno ar gynlluniau);

(ch) Adran 5 (ystyr "gwasanaethau cymorth iechyd meddwl sylfaenol lleol");

(d) Adran 11 (cynnwys cynlluniau o dan y Rhan hon mewn cynlluniau plant a phobl ifanc);

(dd) Adran 43 (diwygio Deddf Gwasanaethau Cymdeithasol Awdurdodau Lleol 1970) i'r graddau y mae'n ymwneud ag adrannau 1, 2, 4, 5 ac 11 o'r Mesur; ac

(e) Adran 45 (Rhan 1: y pŵer i sicrhau darpariaeth ranbarthol).

**Darpariaeth Drosiannol**

**5**.—(1) Mae'r erthygl hon yn gymwys pan fo claf cymwys yng Nghymru yn derbyn cymorth o dan drefniadau a wnaed o dan adran 130A o Ddeddf Iechyd Meddwl 1983.

(2) O 3 Ionawr 2012 ymlaen mae'r cymorth hwnnw i gael ei drin fel petai wedi cael ei roi o dan drefniadau a wnaed o dan adran 130E o Ddeddf Iechyd Meddwl 1983.

(f) Section 39 (application of the Mental Health Act 1983 code of practice to Welsh independent mental health advocates) in so far as not already commenced;

(g) Section 40 (procedures for making regulations under the Mental Health Act 1983) in so far as not already commenced;

(h) Section 53(1) (consequential etc amendments) in so far as not already commenced;

(i) Section 54 (repeals) in so far as not already commenced;

(j) Schedule 1 (consequential amendments to the Mental Health Act 1983) in so far as not already commenced; and

(k) Schedule 2 (repeals) in so far as not already commenced.

**Provisions of the Measure coming into force on 8 May 2012**

**4**. The following provisions of the Measure come into force on 8 May 2012—

(a) Section 1 (meaning of "local mental health partners");

(b) Section 2 (joint schemes for the provision of local primary mental health support services);

(c) Section 4 (failures to agree schemes);

(d) Section 5 (meaning of "local primary mental health support services");

(e) Section 11 (inclusion of schemes under this Part in children and young people's plans);

(f) Section 43 (amendment of the Local Authority Social Services Act 1970) in so far as it relates to sections 1, 2, 4, 5 and 11 of the Measure; and

(g) Section 45 (Part 1: power to secure regional provision).

**Transitional provision**

**5**.—(1) This article applies where a qualifying patient in Wales is receiving help under arrangements made under section 130A of the Mental Health Act 1983.

(2) From the 3 January 2012 the help is to be treated as if it had been given under arrangements made under section 130E of the Mental Health Act 1983.

*Lesley Griffiths*

Y Gweinidog dros Iechyd a Gwasanaethau Cymdeithasol, un o Weinidogion Cymru

18 Rhagfyr 2011

Minister for Health and Social Services, one of the Welsh Ministers

18 December 2011

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## 2011 Rhif 3046 (Cy.321) (C.116)

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# IECHYD MEDDWL, CYMRU A LLOEGR

# MENTAL HEALTH, ENGLAND AND WALES

Gorchymyn Mesur Iechyd Meddwl (Cymru) 2010 (Cychwyn Rhif 1 a Darpariaeth Drosiannol) 2011

The Mental Health (Wales) Measure 2010 (Commencement No.1 and Transitional Provision) Order 2011

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