OFFERYNNAU STATUDOL CYMRU

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ADDYSG, CYMRU
CYDRADDOLDEB, CYMRU

Gorchymyn Hawl Plentyn i Wneud Hawliad Gwahaniaethu ar sail Anabledd (Ysgolion) (Cymru) 2011

Gwnaed - - - -	*5 Gorffennaf 2011*
Yn dod i rym - -	*6 Gorffennaf 2011*

Mae Gweinidogion Cymru yn gwneud y Gorchymyn canlynol drwy arfer y pwerau a roddwyd iddynt gan adran 20(3) o Fesur Addysg (Cymru) 2009(**1**).

Mae drafft o'r Gorchymyn hwn, wedi ei osod gerbron Cynulliad Cenedlaethol Cymru cyn gwneud y Gorchymyn, yn unol ag adran 24(4) o Fesur Addysg (Cymru) 2009 ac wedi ei gymeradwyo drwy benderfyniad Cynulliad Cenedlaethol Cymru.

Enwi a chychwyn

1.—(1) Enw'r Gorchymyn hwn yw Gorchymyn Hawl Plentyn i Wneud Hawliad Gwahaniaethu ar sail Anabledd (Ysgolion) (Cymru) 2011.

(2) Daw'r Gorchymyn hwn i rym ar 6 Gorffennaf 2011.

Diwygio Mesur Addysg (Cymru) 2009

2. Diwygir Mesur Addysg (Cymru) 2009 ("y Mesur") yn unol ag erthyglau 3 i 13 o'r Gorchymyn hwn.

Hawl plentyn i wneud hawliad anabledd

3. Yn lle adran 9 o'r Mesur (hawl plentyn i wneud hawliad gwahaniaethu ar sail anabledd), rhodder—

"**Hawl plentyn i wneud hawliad gwahaniaethu ar sail anabledd**

9.—(1) Diwygir Atodlen 17 i Ddeddf Cydraddoldeb 2010(**2**) yn unol â'r adran hon.

(**1**) 2009 mccc 5.
(**2**) 2010 p.15.

(2) Yn y pennawd i baragraff 3 (awdurdodaeth), ar ôl "*Jurisdiction*" mewnosoder "— *England and Wales*".

(3) Ar ôl paragraff 3 mewnosoder—

"**3A.** *Jurisdiction — Wales*

(1) A claim that a responsible body for a school in Wales has contravened Chapter 1 of Part 6 in relation to a person because of disability may be made to the Tribunal by that person ("the relevant person").

(2) But this paragraph does not apply to a claim to which paragraph 13 or 14 applies.

(3) The relevant person's right to claim is exercisable concurrently with the right of the relevant person's parent under paragraph 3.

(4) The exercise of rights under this paragraph is subject to provision made by regulations under paragraphs 6 and 6A.".".

Amser ar gyfer dwyn achos

4. Yn lle adran 10 o'r Mesur (cyfeillion achos), rhodder—

"**Amser ar gyfer dwyn achos**

10.—(1) Diwygir Atodlen 17 i Ddeddf Cydraddoldeb 2010 yn unol â'r adran hon.

(2) Ym mharagraff 4 (amser ar gyfer dwyn achos), ar ôl is-baragraff (2), rhodder—

"(2A) If, in relation to proceedings or prospective proceedings on a claim under paragraph 3 or 3A, the dispute is referred for resolution in pursuance of arrangements under paragraph 6C or for conciliation in pursuance of arrangements under section 27 of the Equality Act 2006(**3**) before the end of the period of 6 months mentioned in sub-paragraph (1), that period is extended by 3 months.".".

Gweithdrefn y Tribiwnlys

5. Yn lle adran 11 o'r Mesur (cyngor a gwybodaeth), rhodder —

"**Gweithdrefn y Tribiwnlys**

11.—(1) Diwygir Atodlen 17 i Ddeddf Cydraddoldeb 2010 yn unol â'r adran hon.

(2) Ym mharagraff 6 (gweithdrefn)—

(a) yn is-baragraff (2)(a), ar ôl "paragraph 3" mewnosoder "or 3A";

(b) ar ôl is-baragraff (3)(c), mewnosoder "(ca) for adding and substituting parties;".".

Cyfeillion achos

6. Yn lle adran 12 o'r Mesur (datrys anghydfodau), rhodder—

"**Cyfeillion achos**

12.—(1) Diwygir Atodlen 17 i Ddeddf Cydraddoldeb 2010 yn unol â'r adran hon..

(2) Ar ôl paragraff 6 (gweithdrefn) mewnosoder—

(**3**) Diwygiwyd ardan 27(1) o Ddeddf Cydraddoldeb 2006 gan erthygl 7 o Orchymyn Deddf Cydraddoldeb 2010 (Awdurdodau Cyhoeddus a Diwygiadau Canlyniadol ac Atodol) 2011 (O.S. 2011/1060).

"**6A.** *Case friends — Wales*

(1) The Welsh Ministers may by regulations provide for—

(a) a disabled child in a local authority area in Wales to have a person to make representations on behalf of the disabled child with a view to avoiding or resolving disagreements about contraventions of Chapter 1 of Part 6; and

(b) a relevant person (within the meaning of paragraph 3A) to have another person to exercise the relevant person's rights under that paragraph on the relevant person's behalf.

(2) A person exercising rights or making representations on behalf of a disabled child or a relevant person under sub-paragraph (1) is referred to in this Schedule as a "case friend".

(3) A case friend must—

(a) make representations and exercise rights fairly and competently;

(b) have no interest adverse to that of the disabled child or relevant person;

(c) ensure that all steps and decisions taken by the case friend are for the benefit of the disabled child or relevant person and take account of the disabled child or relevant person's views.

(4) Regulations made under this paragraph may (among other things)—

(a) confer functions on the Welsh Tribunal;

(b) make provision about procedures in relation to case friends;

(c) make provision about the appointment and removal of case friends;

(d) specify the circumstances in which a person may or may not act as a case friend;

(e) specify the circumstances in which a relevant person (within the meaning of paragraph 3A) must have a case friend;

(f) specify further requirements in respect of the conduct of case friends.

(5) In this paragraph and in paragraphs 6B, 6C, 6D and 6E, "local authority" has the meaning given in section 89(10).

(6) In this paragraph and in paragraphs 6B, 6C and 6D—

"disabled child" means any disabled person who is a pupil (or a prospective pupil) of—

(a) a maintained school or maintained nursery school,

(b) a pupil referral unit,

(c) an independent school, or

(d) a special school not maintained by a local authority;

"proprietor" has the meaning given in section 89(4);

"school" has the meanings given in section 89(5).

(7) In sub-paragraph (6)—

"independent school" has the meaning given in section 89(8);

"maintained school" has the meaning given in section 20(7) of the School Standards and Framework Act 1998;

"maintained nursery school" has the meaning given in section 22(9) of the School Standards and Framework Act 1998

"pupil" has the meanings given in section 89(3);

"pupil referral unit" has the meaning given in section 19 of the Education Act 1996; and

"special school" has the meaning given in section 89(9).".".

Cyngor a gwybodaeth

7. Yn lle adran 13 o'r Mesur (gwasanaethau eirioli annibynnol), rhodder—

"**Cyngor a gwybodaeth**

13.—(1) Diwygir Atodlen 17 i Ddeddf Cydraddoldeb 2010 yn unol â'r adran hon.

(2) Ar ôl paragraff 6A (cyfeillion achos — Cymru) mewnosoder—

"**6B.** *Advice and information — Wales*

(1) A local authority in Wales must arrange for any disabled child in its area and for the case friend of any such child to be provided with advice and information about matters relating to disability discrimination in schools.

(2) In making the arrangements, the local authority must have regard to any guidance given by the Welsh Ministers.

(3) The arrangements must comply with any provisions made in regulations by the Welsh Ministers that relate to the arrangements.

(4) The local authority must take such steps as it considers appropriate for making the services provided under sub-paragraph (1) known to—

(a) disabled children in its area,

(b) parents of disabled children in its area,

(c) head teachers and proprietors of schools in its area, and

(d) such other persons as it considers appropriate.".".

Datrys anghydfodau

8. Yn lle adran 14 o'r Mesur (gweithdrefn y Tribiwnlys), rhodder —

"**Datrys anghydfodau**

14.—(1) Diwygir Atodlen 17 i Ddeddf Cydraddoldeb 2010 yn unol â'r adran hon.

(2) Ar ôl paragraff 6B (cyngor a gwybodaeth — Cymru) mewnosoder—

"**6C.** *Resolution of disputes — Wales*

(1) A local authority in Wales must make arrangements with a view to avoiding or resolving disagreements between responsible bodies and disabled children in its area about contraventions of Chapter 1 of Part 6.

(2) The arrangements must provide for the appointment of independent persons with the functions of facilitating the avoidance or resolution of such disagreements.

(3) In making the arrangements, the local authority must have regard to any guidance given by the Welsh Ministers.

(4) The arrangements must comply with any provisions made in regulations by the Welsh Ministers that relate to the arrangements.