



OFFERYNNAU STATUDOL
CYMRU

WELSH
STATUTORY INSTRUMENTS

2008 Rhif 136 (Cy.18)

2008 No. 136 (W.18)

ADDYSG, CYMRU

EDUCATION, WALES

**Rheoliadau Rheoli Mangroedd
Ysgol (Cymru) 2008**

**The Control of School Premises
(Wales) Regulations 2008**

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 gwneud darpariaeth ynghylch rheolaeth cyrff llywodraethu ar feddiannu a defnyddio mangroedd ysgol. Maent yn ail-wneud y ddarpariaeth a wnaed yn Atodlen 13 i Ddeddf Safonau a Fframwaith Ysgolion 1998, a ddiddymwyd gan Ddeddf Addysg 2002.

These Regulations make provision as to the control by governing bodies of the occupation and use of school premises. They replicate provision made in Schedule 13 to the School Standards and Framework Act 1998, which is repealed by the Education Act 2002.

Mae rheoliad 3 yn darparu mai corff llywodraethu ysgol gymunedol, ysgol arbennig gymunedol ac ysgol feithrin a gynhelir sy'n gyfrifol am feddiannu a defnyddio mangre'r ysgol, yn ystod oriau ysgol a'r tu allan iddynt. Mae hyn yn ddarostyngedig i unrhyw gyfarwyddiadau gan yr awdurdod lleol ynghylch sut mae'n rhaid i'r fangre gael ei meddiannu a'i defnyddio, i unrhyw gytundeb i drosglwyddo rheolaeth ac i unrhyw ofynion cyfreithiol eraill. Rhaid i gyrff llywodraethu roi sylw i ba mor ddymunol fyddai trefnu bod y mangroedd ar gael i'w defnyddio gan y gymuned.

Regulation 3 provides that it is the governing body of a community school, community special school and maintained nursery school that is responsible for the occupation and use of the school premises, both during and outside school hours. This is subject to any directions by the local authority as to how the premises must be occupied and used, to any transfer control agreement and to any other legal requirements. Governing bodies must have regard to the desirability of making the premises available for use by the community.

Mae rheoliad 4 yn galluogi'r corff llywodraethu i ymrwymo i gytundeb i drosglwyddo rheolaeth os diben y cytundeb yw hyrwyddo defnydd cymunedol ar fangre'r ysgol. Dim ond os yw'r corff llywodraethu wedi sicrhau cydsyniad yr awdurdod lleol y caiff y cytundeb wneud darpariaeth ar gyfer defnyddio mangre'r ysgol yn ystod oriau ysgol. Cymerir bod pob cytundeb i drosglwyddo rheolaeth yn cynnwys telerau penodol megis y gofyniad bod y corff y mae rheolaeth ar y fangre wedi'i throsglwyddo iddo yn gweithredu'n unol ag unrhyw gyfarwyddiadau awdurdod lleol, y bydd yn rhoi sylw i ba mor ddymunol fyddai trefnu bod y fangre ar gael at ddefnydd cymunedol, ac y caiff y corff llywodraethu adfeddiannu rheolaeth ar y fangre drwy roi hysbysiad ysgrifenedig rhesymol.

Regulation 4 enables the governing body to enter into a transfer of control agreement if its purpose is to promote community use of the school premises. The agreement may only make provision for use of the school premises during school hours if the governing body has obtained the consent of the local authority. All transfer of control agreements are taken to contain certain terms such as the requirement that the body to whom control of the premises has been transferred acts in accordance with any local authority directions, that it will have regard to the desirability of the premises being made available for community use, and that the governing body may take back control of the premises by giving reasonable written notice.

Mae rheoliadau 5 a 6 yn gwneud darpariaeth debyg mewn perthynas ag ysgolion sefydledig ac ysgolion arbennig sefydledig, ac eithrio yn y ffyrdd canlynol. Nid oes unrhyw ddarpariaeth i awdurdod lleol wneud cyfarwyddiadau. Mae rheoliad 5(3) yn darparu, pan fo gweithred ymddiriedaeth yr ysgol yn rhoi rheolaeth i berson ac eithrio'r corff llywodraethu, bod cyfeiriadau at y person hwnnw yn cael eu rhoi yn lle cyfeiriadau at y corff llywodraethu at ddibenion rheoliadau 5 a 6. O dan reoliad 6(2) a (3), caiff y corff llywodraethu ymrwymo i gytundeb i drosglwyddo rheolaeth er gwaethaf unrhyw beth sy'n groes i hynny yng ngweithred ymddiriedaeth yr ysgol, ond ym mhob ffordd arall rhaid i ofynion y weithred ymddiriedaeth gael eu bodloni. Mae rheoliad 6(4) yn darparu bod rhaid i'r corff llywodraethu, os yw'n dymuno ymrwymo i gytundeb i drosglwyddo rheolaeth sy'n gwneud darpariaeth ar gyfer defnyddio mangre'r ysgol yn ystod oriau ysgol, sicrhau cydsyniad Gweinidogion Cymru yn gyntaf.

Mae rheoliadau 7 ac 8 yn gwneud darpariaeth debyg mewn perthynas ag ysgolion gwirfoddol i'r un a wnaed mewn perthynas ag ysgolion cymunedol, ac eithrio yn y ffyrdd canlynol. Yn achos ysgol wirfoddol a reolir, mae rheolaeth y corff llywodraethu ar y fangre yn ddarostyngedig i unrhyw gyfarwyddiadau a roddir gan yr awdurdod lleol ynghylch sut y mae'n rhaid i fangre'r ysgol gael ei meddiannu a'i defnyddio, ac yn achos ysgol wirfoddol a gynorthwyir, mae'n ddarostyngedig i gyfarwyddiadau a roddir gan yr awdurdod lleol i'r corff llywodraethu i ddarparu llety di-dâl yn yr ysgol at ddiben sy'n gysylltiedig ag addysg neu â lles pobl ifanc. Mae rheoliad 7(3) yn gwneud darpariaeth sy'n debyg i'r un yn rheoliad 5(3) ac mae rheoliad 8(2) a (3) yn gwneud darpariaeth sy'n debyg i'r un yn rheoliad 6(2) a (3).

Mae rheoliad 9 yn gwneud darpariaeth mewn perthynas â rheoli mangreoedd ysgolion gwirfoddol y tu allan i oriau ysgol. Mae corff llywodraethu ysgol wirfoddol a reolir yn rheoli'r defnydd ar y fangre ar Sadyrnau os nad oes ei hangen ar gyfer yr ysgol na'i hangen ar yr awdurdod lleol at y dibenion sy'n gysylltiedig ag addysg neu â lles pobl ifanc. Mae llywodraethwyr sefydledig ysgolion gwirfoddol a reolir yn rheoli'r defnydd ar y mangreoedd ar ddyddiau Sul.

Mae rheoliad 10 yn darparu bod rheolaeth corff llywodraethu ar fangre ysgol yn ddarostyngedig i drefniadau a wnaed o dan ddarpariaethau yn Neddf Diwygio Addysg 1988 neu Ddeddf Addysg Bellach ac Uwch 1992.

Regulations 5 and 6 make similar provision in relation to foundation and foundation special schools, except in the following respects. There is no provision for a local authority to make directions. Regulation 5(3) provides that where the school's trust deed gives control to a person other than the governing body, references to that person are substituted for references to the governing body for the purposes of regulations 5 and 6. Under regulation 6(2) and (3) the governing body may enter into a transfer of control agreement despite anything in the school's trust deed to the contrary, but in all other respects the requirements of the trust deed must be met. Regulation 6(4) provides that if the governing body wishes to enter into a transfer of control agreement making provision for use of the school premises during school hours, it must first obtain the consent of the Welsh Ministers.

Regulations 7 and 8 make similar provision in relation to voluntary schools to that made in relation to community schools, except in the following respects. In the case of a voluntary controlled school, the governing body's control of the premises is subject to any directions given by the local authority as to how the school's premises must be occupied and used, and in the case of voluntary aided school, it is subject to directions given by the local authority to the governing body to provide free accommodation at the school for a purpose connected with education or with the welfare of young persons. Regulation 7(3) makes provision similar to that in regulation 5(3) and regulation 8(2) and (3) makes provision similar to that in regulation 6(2) and (3).

Regulation 9 makes provision in relation to the control of the premises of voluntary schools outside school hours. The governing body of a voluntary controlled school controls the use of the premises on Saturdays if they are not required for the school or by the local authority for the purposes connected with education or with the welfare of young persons. The foundation governors of voluntary controlled schools control the use of the premises on Sundays.

Regulation 10 provides that a governing body's control of school premises is subject to arrangements made under provisions in the Education Reform Act 1988 or the Further and Higher Education Act 1992.

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**The Control of School Premises
(Wales) Regulations 2008**

Gwnaed 23 Ionawr 2008

Made 23 January 2008

*Gosodwyd gerbron Cynulliad
Cenedlaethol Cymru* 24 Ionawr 2008

*Laid before the National
Assembly for Wales* 24 January 2008

Yn dod i rym 31 Mawrth 2008

Coming into force 31 March 2008

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd i Gynulliad Cenedlaethol Cymru gan adrannau 31 a 210(7) o Ddeddf Addysg 2002 ac sydd bellach wedi'u breinio ynddynt(1), yn gwneud y Rheoliadau canlynol.

The Welsh Ministers, in exercise of the powers conferred on the National Assembly for Wales by sections 31 and 210(7) of the Education Act 2002 and now vested in them(1) make the following Regulations.

Enwi, cychwyn a chymhwyso

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Rheoli Mangreoedd Ysgol (Cymru) 2008 a deuant i rym ar 31 Mawrth 2008.

Title, commencement and application

1.—(1) The title of these Regulations is The Control of School Premises (Wales) Regulations 2008 and they come into force on 31 March 2008.

(2) Mae'r Rheoliadau hyn yn gymwys o ran Cymru.

(2) These Regulations apply in relation to Wales.

Dehongli

2. Yn y Rheoliadau hyn, oni fydd y cyd-destun yn mynnu fel arall —

Interpretation

2. In these Regulations unless the context otherwise requires —

ystyr "defnydd cymunedol" ("*community use*") yw'r defnydd ar fangre ysgol (pan nad oes ei hangen ar yr ysgol neu mewn cysylltiad â'r ysgol) at ddibenion elusennol gan ddisgyblion yn yr ysgol neu eu teuluoedd, neu bobl sy'n byw neu'n gweithio yn y gymdogaeth y mae'r ysgol wedi'i lleoli ynddi;

"the Act" ("*y Ddeddf*") means the Education Act 2002;

"community use" ("*defnydd cymunedol*") means the use of school premises (when not required by or in connection with the school) for charitable purposes by pupils at the school or their families, or people who live or work in the locality in which the school is situated;

ystyr "y Ddeddf" ("*the Act*") yw Deddf Addysg 2002;

"school hours" ("*oriau ysgol*") means any time during a school session or during a break between school sessions on the same day;

ystyr "oriau ysgol" ("*school hours*") yw unrhyw bryd yn ystod sesiwn ysgol neu yn ystod toriad rhwng sesiynau ysgol ar yr un diwrnod;

(1) 2002 p.32. Trosglwyddwyd swyddogaethau Cynulliad Cenedlaethol Cymru o dan yr adrannau hynny i Weinidogion Cymru gan baragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p.32).

(1) 2002 c.32. The functions of the National Assembly for Wales under those sections were transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32).

ystyr "sesiwn ysgol" ("*school session*"), mewn perthynas ag unrhyw ysgol, yw sesiwn ysgol sy'n dechrau ac yn gorffen ar yr adegau y penderfynir arnynt o dro i dro yn yr ysgol honno yn unol ag adran 32 o'r Ddeddf.

Rheoli mangreoedd ysgol: ysgolion cymunedol, ysgolion arbennig cymunedol ac ysgolion meithrin a gynhelir

3.—(1) Mae meddiannu a defnyddio mangre ysgol gymunedol neu fangre ysgol arbennig gymunedol neu fangre ysgol feithrin a gynhelir (yn ystod oriau ysgol a'r tu allan iddynt) o dan reolaeth y corff llywodraethu, yn ddarostyngedig—

- (a) i unrhyw gyfarwyddiadau a roddir gan yr awdurdod lleol o dan baragraff (2);
- (b) i unrhyw gytundeb i drosglwyddo rheolaeth yr ymrwymwyd iddo gan y corff llywodraethu o dan reoliad 4; ac
- (c) i unrhyw ofynion deddfiad ac eithrio'r Ddeddf neu reoliadau a wnaed o dan y Ddeddf.

(2) Caiff yr awdurdod lleol roi unrhyw gyfarwyddiadau y gwelant yn dda ynghylch meddiannu a defnyddio mangre ysgol gymunedol neu fangre ysgol arbennig gymunedol neu fangre ysgol feithrin a gynhelir.

(3) Wrth reoli'r feddiannaeth a'r defnydd ar fangre'r ysgol y tu allan i oriau ysgol, rhaid i'r corff llywodraethu roi sylw i ba mor ddymunol fyddai trefnu bod y fangre honno ar gael at ddefnydd cymunedol.

Cytundebau i drosglwyddo rheolaeth: ysgolion cymunedol, ysgolion arbennig cymunedol ac ysgolion meithrin a gynhelir

4.—(1) Yn ddarostyngedig i baragraff (2), caiff corff llywodraethu unrhyw ysgol gymunedol neu unrhyw ysgol gymunedol arbennig neu unrhyw ysgol feithrin a gynhelir ymrwymo i gytundeb i drosglwyddo rheolaeth ag unrhyw gorff neu berson os bwriad y corff neu'r person (neu un o'i fwriadau) wrth wneud hynny yw hyrwyddo defnydd cymunedol ar y cyfan neu unrhyw ran o fangre'r ysgol.

(2) Ni chaiff y corff llywodraethu ymrwymo i unrhyw gytundeb i drosglwyddo rheolaeth sy'n gwneud neu'n cynnwys darpariaeth ar gyfer defnyddio'r cyfan neu unrhyw ran o fangre'r ysgol yn ystod oriau ysgol onid yw wedi sicrhau'n gyntaf gydsyniad yr awdurdod lleol â'r cytundeb i'r graddau y mae'n gwneud darpariaeth o'r fath.

(3) Cymerir bod cytundeb i drosglwyddo rheolaeth yn cynnwys y telerau canlynol, sef —

"school session" ("*sesiwn ysgol*"), in relation to any school, means a school session beginning and ending at such times as may from time to time be determined in that school in accordance with section 32 of the Act.

Control of school premises: community and community special schools and maintained nursery schools

3.—(1) The occupation and use of the premises of a community or community special school or maintained nursery school (both during and outside school hours) are under the control of the governing body, subject to —

- (a) any directions given by the local authority under paragraph (2);
- (b) any transfer of control agreement entered into by the governing body under regulation 4; and
- (c) any requirements of an enactment other than the Act or regulations made under the Act.

(2) The local authority may give such directions as to the occupation and use of the premises of a community or community special school or maintained nursery school as it thinks fit.

(3) In exercising control of the occupation and use of the premises of the school outside school hours the governing body must have regard to the desirability of those premises being made available for community use.

Transfer of control agreements: community and community special schools and maintained nursery schools

4.—(1) Subject to paragraph (2), the governing body of any community or community special school or maintained nursery school may enter into a transfer of control agreement with any body or person if their purpose (or one of their purposes) in doing so is to promote community use of the whole or any part of the school premises.

(2) The governing body may not enter into any transfer of control agreement which makes or includes provision for the use of the whole or any part of the school premises during school hours unless it has first obtained the local authority's consent to the agreement insofar as it makes such provision.

(3) A transfer of control agreement is taken to include the following terms, namely —

- (a) bod rhaid i'r corff llywodraethu hysbysu'r corff rheoli o unrhyw gyfarwyddiadau a roddir i'r corff llywodraethu o dan reoliad 3(2);
- (b) bod rhaid i'r corff rheoli, wrth arfer rheolaeth ar y defnydd o unrhyw fangre sy'n ddarostyngedig i'r cytundeb —
 - (i) gwneud hynny'n unol ag unrhyw gyfarwyddiadau yr hysbysir y corff hwnnw ohonynt o dro i dro yn unol ag is-baragraff (a);
 - (ii) rhoi sylw i'r mater o ba mor ddymunol fyddai trefnu bod y fangre ar gael at ddefnydd cymunedol; ac
- (c) os rhoddir hysbysiad rhesymol mewn ysgrifen gan y corff llywodraethu i'r corff rheoli bod angen rhesymol i'r fangre honno sy'n ddarostyngedig i'r cytundeb ac sydd wedi'i phennu yn yr hysbysiad gael ei defnyddio gan yr ysgol neu mewn cysylltiad â'r ysgol ar yr adegau a bennir felly, yna —
 - (i) bydd y defnydd ar y fangre benodedig ar yr adegau hynny o dan reolaeth y corff llywodraethu, a
 - (ii) yn unol â hynny, caniateir i'r fangre honno gael ei defnyddio ar yr adegau hynny gan yr ysgol neu mewn cysylltiad â'r ysgol at y dibenion a bennir yn yr hysbysiad,

er y byddai'r defnydd ar y fangre honno ar yr adegau hynny, oni bai am y paragraff hwn, o dan reolaeth y corff rheoli.

(4) Mae paragraff (5) yn gymwys pan fo cytundeb i drosglwyddo rheolaeth yn gwneud darpariaeth bendant i'r defnydd ar unrhyw fangre ysgol sy'n ddarostyngedig i'r cytundeb fod yn achlysurol o dan reolaeth y corff llywodraethu, yn hytrach na'r corff rheoli, o dan yr amgylchiadau, ar yr adegau neu at y dibenion y darperir ar eu cyfer gan neu o dan y cytundeb.

(5) Mewn achos o'r fath, nid oes gan is-baragraff (c) o baragraff (3) effaith mewn perthynas â'r cytundeb i drosglwyddo rheolaeth os oedd y corff llywodraethu, ar yr adeg yr ymrwymodd i'r cytundeb hwnnw, o'r farn y byddai'r ddarpariaeth bendant yn fwy ffafriol i fuddiannau'r ysgol na'r telor a fyddai fel arall wedi'i gynnwys yn rhinwedd yr is-baragraff hwnnw.

(6) Pan fo'r corff llywodraethu yn ymrwymo i gytundeb i drosglwyddo rheolaeth, rhaid i'r corff llywodraethu sicrhau, cyn belled ag y bo'n rhesymol ymarferol, fod y corff rheoli yn arfer rheolaeth yn unol ag unrhyw gyfarwyddiadau yr hysbysir y corff hwnnw ohonynt yn unol â pharagraff (3)(a).

(7) Yn y rheoliad hwn —

ystyr "y corff rheoli" ("*the controlling body*") yw'r corff neu'r personau (ac eithrio'r corff llywodraethu) sydd â rheolaeth ar y defnydd o'r cyfan neu unrhyw ran o fangre'r ysgol o dan y cytundeb i drosglwyddo rheolaeth sydd o dan sylw; ac

- (a) that the governing body must notify the controlling body of any directions given to the governing body under regulation 3(2);
- (b) that the controlling body, in exercising control of the use of any premises subject to the agreement —
 - (i) must do so in accordance with any directions from time to time notified to that body in pursuance of sub-paragraph (a);
 - (ii) must have regard to the desirability of the premises being made available for community use; and
- (c) that, if reasonable notice is given in writing by the governing body to the controlling body that such of the premises subject to the agreement as may be specified in the notice are reasonably required for use by or in connection with the school at such times as may be so specified, then —
 - (i) the use of the specified premises at those times is to be under the control of the governing body, and
 - (ii) accordingly, those premises may be used at those times by or in connection with the school for such purposes as may be specified in the notice,

even though their use at those times would, apart from this paragraph, be under the control of the controlling body.

(4) Paragraph (5) applies where a transfer of control agreement makes express provision for the use of any school premises which are subject to the agreement to be occasionally under the control of the governing body, instead of the controlling body, in such circumstances, at such times or for such purposes as may be provided by or under the agreement.

(5) In such a case sub-paragraph (c) of paragraph (3) does not have effect in relation to the transfer of control agreement if, at the time of entering into it, the governing body was of the opinion that the express provision would be more favourable to the interests of the school than the term that would otherwise be included by virtue of that sub-paragraph.

(6) Where the governing body enters into a transfer of control agreement, the governing body must so far as reasonably practicable secure that the controlling body exercises control in accordance with any such directions as are notified to that body in pursuance of paragraph (3)(a).

(7) In this regulation —

"the controlling body" ("*y corff rheoli*") means the body or persons (other than the governing body) which has control of the use of the whole or any part of the school premises under the transfer of control agreement in question; and

ystyr "cytundeb i drosglwyddo rheolaeth" ("*transfer of control agreement*") yw cytundeb sydd (yn ddarostyngedig i baragraff (3)) yn darparu bod y defnydd ar gymaint o fangre'r ysgol ag a bennir yn y cytundeb i fod o dan reolaeth y corff neu'r person a bennir felly ac ar yr adegau a bennir felly.

Rheoli mangreoedd ysgol: ysgolion sefydledig ac ysgolion arbennig sefydledig

5.—(1) Mae meddiannu a defnyddio mangre ysgol sefydledig neu fangre ysgol arbennig sefydledig (yn ystod oriau ysgol a'r tu allan iddynt) o dan reolaeth y corff llywodraethu, yn ddarostyngedig —

- (a) i unrhyw gytundeb i drosglwyddo rheolaeth yr ymrwymwyd iddo gan y corff llywodraethu o dan reoliad 6;
- (b) i unrhyw ofynion deddfiad ac eithrio'r Ddeddf neu reoliadau a wnaed odani.

(2) Wrth reoli'r feddiannaeth a'r defnydd ar fangre'r ysgol y tu allan i oriau'r ysgol, rhaid i'r corff llywodraethu roi sylw i ba mor ddymunol fyddai trefnu bod y fangre honno ar gael at ddefnydd cymunedol.

(3) Pan fo gan yr ysgol weithred ymddiriedaeth sy'n darparu i unrhyw berson ac eithrio'r corff llywodraethu gael hawl i reoli'r feddiannaeth a'r defnydd ar fangre'r ysgol i unrhyw raddau, yna, os yw'r defnydd ar y fangre honno, neu os byddai'r defnydd arno, o dan reolaeth person o'r fath ac i'r graddau y mae neu y byddai o dan ei reolaeth (gan anwybyddu unrhyw gytundeb i drosglwyddo rheolaeth a wnaed o dan reoliad 6), bydd —

- (a) y rheoliad hwn, a
- (b) rheoliad 6,

yn cael effaith mewn perthynas â'r ysgol drwy roi cyfeiriadau at y person hwnnw yn lle cyfeiriadau at y corff llywodraethu.

Cytundebau i drosglwyddo rheolaeth: ysgolion sefydledig ac ysgolion arbennig sefydledig

6.—(1) Yn ddarostyngedig i baragraff (2), caiff corff llywodraethu unrhyw ysgol sefydledig neu ysgol arbennig sefydledig ymrwymo i gytundeb i drosglwyddo rheolaeth ag unrhyw gorff neu berson os bwriad y corff neu'r person (neu os un o'i fwriadau) wrth wneud hynny yw hyrwyddo defnydd cymunedol ar y cyfan neu unrhyw ran o fangre'r ysgol.

(2) Mae paragraff (1) yn gymwys hyd yn oed pan fo gan yr ysgol weithred ymddiriedaeth a fyddai (oni bai am y paragraff hwn) yn bendant neu'n ymhlwg yn rhagwahardd y corff llywodraethu rhag ymrwymo i gytundeb i drosglwyddo rheolaeth â'r corff neu'r person o dan sylw neu rhag rhoi rheolaeth i'r corff rheoli o dan sylw.

"transfer of control agreement" ("*cytundeb i drosglwyddo rheolaeth*") means an agreement which (subject to paragraph (3)) provides for the use of so much of the school premises as may be specified in the agreement to be under the control, at such times as may be so specified, of such body or person as may be so specified.

Control of school premises: foundation and foundation special schools

5.—(1) The occupation and use of the premises of a foundation or foundation special school (both during and outside school hours) are under the control of the governing body, subject to —

- (a) any transfer of control agreement entered into by the governing body under regulation 6;
- (b) any requirements of an enactment other than the Act or regulations made under it.

(2) In exercising control of the occupation and use of the premises of the school outside school hours the governing body must have regard to the desirability of those premises being made available for community use.

(3) Where the school has a trust deed which provides for any person other than the governing body to be entitled to control the occupation and use of the school premises to any extent, then, if and to the extent that (disregarding any transfer of control agreement made under regulation 6) the use of those premises is or would be under the control of such a person —

- (a) this regulation, and
- (b) regulation 6,

have effect in relation to the school with the substitution of references to that person for references to the governing body.

Transfer of control agreements: foundation and foundation special schools

6.—(1) Subject to paragraph (2), the governing body of any foundation or foundation special school may enter into a transfer of control agreement with any body or person if their purpose (or one of their purposes) in doing so is to promote community use of the whole or any part of the school premises.

(2) Paragraph (1) applies even where the school has a trust deed that would (apart from this paragraph) expressly or impliedly preclude the governing body from entering into a transfer of control agreement with the body or person concerned or from conferring control on the controlling body in question.

(3) Serch hynny, ni chaiff y corff llywodraethu ymrwymo i gytundeb i drosglwyddo rheolaeth onid yw'r defnydd y caniateir ei wneud o'r fangre o dan y cytundeb yn cydymffurfio ym mhob ffordd arall ag unrhyw ofnyion, gwaharddiadau neu gyfyngiadau a osodir gan unrhyw weithred ymddiriedaeth a fyddai'n gymwys pe bai rheolaeth yn cael ei harfer gan y corff llywodraethu.

(4) Ni chaiff y corff llywodraethu ymrwymo i unrhyw gytundeb i drosglwyddo rheolaeth a hwnnw'n gytundeb sy'n gwneud neu sy'n cynnwys darpariaeth ar gyfer defnyddio'r cyfan neu unrhyw ran o fangre'r ysgol yn ystod oriau ysgol onid yw wedi sicrhau'n gyntaf gydsyniad Gweinidogion Cymru â'r cytundeb i'r graddau y mae'n gwneud darpariaeth o'r fath.

(5) Cymerir bod cytundeb i drosglwyddo rheolaeth yn cynnwys y telerau canlynol, sef —

- (a) bod rhaid i'r corff rheoli, wrth arfer rheolaeth ar y defnydd o unrhyw fangre sy'n ddarostyngedig i'r cytundeb, roi sylw i ba mor ddymunol fyddai trefnu bod y fangre ar gael at ddefnydd cymunedol; a
- (b) os rhoddir hysbysiad rhesymol mewn ysgrifen gan y corff llywodraethu i'r corff rheoli bod angen rhesymol i'r fangre honno sy'n ddarostyngedig i'r cytundeb ac sydd wedi'i phennu yn yr hysbysiad gael ei defnyddio gan yr ysgol neu mewn cysylltiad â'r ysgol ar yr adegau a bennir felly, yna —
 - (i) bydd y defnydd ar y fangre benodedig ar yr adegau hynny o dan reolaeth y corff llywodraethu, a
 - (ii) yn unol â hynny, caniateir i'r fangre honno gael ei defnyddio ar yr adegau hynny gan yr ysgol neu mewn cysylltiad â'r ysgol at y dibenion a bennir yn yr hysbysiad,

er y byddai'r defnydd ar y fangre honno ar yr adegau hynny (oni bai am y paragraff hwn), o dan reolaeth y corff rheoli.

(6) Mae paragraff (7) yn gymwys pan fo cytundeb i drosglwyddo rheolaeth yn gwneud darpariaeth bendant i'r defnydd ar unrhyw fangre ysgol sy'n ddarostyngedig i'r cytundeb fod yn achlysurol o dan reolaeth y corff llywodraethu, yn hytrach na'r corff rheoli, o dan yr amgylchiadau, ar yr adegau ac at y dibenion y darperir ar eu cyfer gan neu o dan y cytundeb.

(7) Mewn achos o'r fath, nid oes gan is-baragraff (b) o baragraff (5) effaith mewn perthynas â'r cytundeb i drosglwyddo rheolaeth os oedd y corff llywodraethu, ar yr adeg yr ymrwymodd i'r cytundeb hwnnw, o'r farn y byddai'r ddarpariaeth bendant yn fwy ffafriol i fuddiannau'r ysgol na'r telerau a fyddai fel arall wedi'i gynnwys yn rhinwedd yr is-baragraff hwnnw.

(8) Yn y rheoliad hwn —

ystyr "y corff rheoli" ("*the controlling body*") yw'r

(3) However, the governing body may not enter into a transfer of control agreement unless the use to which the premises may be put under the agreement is in all other respects in conformity with any such requirements, prohibitions or restrictions imposed by any such trust deed as would apply if control was being exercised by the governing body.

(4) The governing body may not enter into any transfer of control agreement which makes or includes provision for the use of the whole or any part of the school premises during school hours unless it has first obtained the consent of the Welsh Ministers to the agreement insofar as it makes such provision.

(5) A transfer of control agreement is taken to include the following terms, namely —

- (a) that the controlling body, in exercising control of the use of any premises subject to the agreement, must have regard to the desirability of the premises being made available for community use; and
- (b) that, if reasonable notice is given in writing by the governing body to the controlling body that such of the premises subject to the agreement as may be specified in the notice are reasonably required for use by or in connection with the school at such times as may be so specified, then —
 - (i) the use of the specified premises at those times is to be under the control of the governing body, and
 - (ii) accordingly, those premises may be used at those times by or in connection with the school for such purposes as may be specified in the notice,

even though their use at those times would (apart from this paragraph) be under the control of the controlling body.

(6) Paragraph (7) applies where a transfer of control agreement makes express provision for the use of any school premises which are subject to the agreement to be occasionally under the control of the governing body, instead of the controlling body, in such circumstances, at such times or for such purposes as may be provided by or under the agreement.

(7) In such a case sub-paragraph (b) of paragraph (5) does not have effect in relation to the transfer of control agreement if, at the time of entering into it, the governing body was of the opinion that the express provision would be more favourable to the interests of the school and the term that would otherwise be included by virtue of that sub-paragraph.

(8) In this regulation —

"the controlling body" ("*y corff rheoli*") means the

corff neu'r person (ac eithrio'r corff llywodraethu) sydd â rheolaeth ar y defnydd o'r cyfan neu unrhyw ran o fangre'r ysgol o dan y cytundeb o dan sylw i drosglwyddo rheolaeth;

ystyr "cytundeb i drosglwyddo rheolaeth" ("*transfer of control agreement*") yw cytundeb sydd (yn ddarostyngedig i baragraff (5)) yn darparu bod y defnydd ar gymaint o fangre'r ysgol ag a bennir yn y cytundeb i fod o dan reolaeth y corff neu'r person a bennir felly ac ar yr adegau a bennir felly.

Rheoli mangreoedd ysgol: ysgolion gwirfoddol

7.—(1) Mae meddiannu a defnyddio mangre ysgol wirfoddol (yn ystod oriau ysgol a'r tu allan iddynt) o dan reolaeth y corff llywodraethu, yn ddarostyngedig —

- (a) i unrhyw gyfarwyddiadau a roddir gan yr awdurdod lleol —
 - (i) (yn achos ysgol wirfoddol a reolir) o dan baragraff (2), neu
 - (ii) (yn achos ysgol wirfoddol a gynorthwyir) o dan reoliad 9(3);
- (b) i unrhyw gytundeb i drosglwyddo rheolaeth yr ymrwymwyd iddo gan y corff llywodraethu o dan reoliad 8; ac
- (c) i unrhyw ofynion deddfiad ac eithrio'r Ddeddf neu reoliadau a wnaed odani.

(2) Caiff yr awdurdod lleol roi cyfarwyddiadau ynghylch meddiannu a defnyddio mangre ysgol wirfoddol a reolir yn ôl yr hyn y gwelant yn dda (yn ddarostyngedig i reoliad 9(1) a (2)).

(3) Pan fo'r weithred ymddiriedaeth ar gyfer ysgol wirfoddol yn darparu i unrhyw berson ac eithrio'r corff llywodraethu gael hawl i reoli'r feddiannaeth a'r defnydd ar fangre'r ysgol i unrhyw raddau, yna, os yw'r defnydd ar y fangre honno, neu os byddai'r defnydd arno, o dan reolaeth person o'r fath ac i'r graddau y mae neu y byddai o dan ei reolaeth (gan anwybyddu unrhyw gytundeb i drosglwyddo rheolaeth a wnaed o dan reoliad 8), bydd —

- (a) y rheoliad hwn, a
- (b) rheoliadau 8 a 9,

yn cael effaith mewn perthynas â'r ysgol drwy roi cyfeiriadau at y person hwnnw yn lle cyfeiriadau at y corff llywodraethu.

Cytundebau i drosglwyddo rheolaeth: ysgolion gwirfoddol

8.—(1) Yn ddarostyngedig i baragraff (2), caiff corff llywodraethu unrhyw ysgol wirfoddol ymrwymo i gytundeb i drosglwyddo rheolaeth ag unrhyw gorff neu berson os bwriad y corff neu'r person (neu os un o'i fwriadau) wrth wneud hynny yw hyrwyddo defnydd cymunedol ar y cyfan neu unrhyw ran o fangre'r ysgol.

body or person (other than the governing body) which has control of the use of the whole or any part of the school premises under the transfer of control agreement in question; and

"transfer of control agreement" ("*cytundeb i drosglwyddo rheolaeth*") means an agreement which (subject to paragraph (5)) provides for the use of so much of the school premises as may be specified in the agreement to be under the control, at such times as may be so specified, of such body or person as may be so specified.

Control of school premises: voluntary schools

7.—(1) The occupation and use of the premises of a voluntary school (both during and outside school hours) are under the control of the governing body, subject to —

- (a) any directions given by the local authority —
 - (i) (in the case of a voluntary controlled school) under paragraph (2), or
 - (ii) (in the case of a voluntary aided school) under regulation 9(3);
- (b) any transfer of control agreement entered into by the governing body under regulation 8; and
- (c) any requirements of an enactment other than the Act or regulations made under it.

(2) The local authority may give directions as to the occupation and use of the premises of a voluntary controlled school as it thinks fit (subject to regulation 9(1) and (2)).

(3) Where the trust deed for a voluntary school provides for any person other than the governing body to be entitled to control the occupation and use of the school premises to any extent, then, if and to the extent that (disregarding any transfer of control agreement made under regulation 8) the use of those premises is or would be under the control of such a person —

- (a) this regulation, and
- (b) regulations 8 and 9,

have effect in relation to the school with the substitution of references to that person for references to the governing body.

Transfer of control agreements: voluntary schools

8.—(1) Subject to paragraph (2), the governing body of any voluntary school may enter into a transfer of control agreement with any body or person if their purpose (or one of their purposes) in doing so is to promote community use of the whole or any part of the school premises.

(2) Mae paragraff (1) yn gymwys hyd yn oed pe bai gweithred ymddiriedaeth yr ysgol (oni bai am y paragraff hwn) yn bendant neu'n ymhlyg yn rhagwahardd y corff llywodraethu rhag ymrwymo i gytundeb i drosglwyddo rheolaeth â'r corff neu'r person o dan sylw neu rhag rhoi rheolaeth i'r corff rheoli o dan sylw.

(3) Serch hynny, ni chaiff y corff llywodraethu ymrwymo i gytundeb i drosglwyddo rheolaeth onid yw'r defnydd y caniateir ei wneud o'r fangre o dan y cytundeb yn cydymffurfio ym mhob ffordd arall ag unrhyw ofnyion, gwaharddiadau neu gyfyngiadau a osodir gan y weithred ymddiriedaeth a fyddai'n gymwys pe bai rheolaeth yn cael ei harfer gan y corff llywodraethu.

(4) Ni chaiff y corff llywodraethu ymrwymo i unrhyw gytundeb i drosglwyddo rheolaeth a hwnnw'n gytundeb sy'n gwneud neu'n cynnwys darpariaeth ar gyfer defnyddio'r cyfan neu unrhyw ran o fangre'r ysgol yn ystod oriau ysgol onid yw wedi sicrhau'n gyntaf gydsyniad yr awdurdod lleol â'r cytundeb i'r graddau y mae'n gwneud darpariaeth o'r fath.

(5) Cymerir bod cytundeb i drosglwyddo rheolaeth yn cynnwys y telerau canlynol, sef —

- (a) bod rhaid i'r corff llywodraethu hysbysu'r corff rheoli —
 - (i) o unrhyw gyfarwyddiadau a roddwyd i'r corff llywodraethu o dan reoliad 7(2) (yn achos ysgol wirfoddol a reolir) neu reoliad 9(3) (yn achos ysgol wirfoddol a gynorthwyir); a
 - (ii) o unrhyw benderfyniad a wnaed gan y llywodraethwyr sefydledig o dan reoliad 9(2) (yn achos ysgol wirfoddol a reolir);
- (b) bod rhaid i'r corff rheoli, wrth arfer rheolaeth ar y defnydd o unrhyw fangre sy'n ddarostyngedig i'r cytundeb —
 - (i) gwneud hynny'n unol ag unrhyw gyfarwyddiadau neu benderfyniadau yr hysbysir y corff hwnnw ohonynt o bryd i'w gilydd yn unol ag is-baragraff (a); a
 - (ii) rhoi sylw i ba mor ddymunol fyddai trefnu bod y fangre ar gael at ddefnydd cymunedol;
- (c) os rhoddir hysbysiad rhesymol mewn ysgrifen gan y corff llywodraethu i'r corff rheoli bod angen rhesymol i'r fangre honno sy'n ddarostyngedig i'r cytundeb ac sydd wedi'i phennu yn yr hysbysiad gael ei defnyddio gan yr ysgol neu mewn cysylltiad â'r ysgol ar yr adegau a bennir felly, yna —
 - (i) bydd y defnydd ar y fangre benodedig ar yr adegau hynny o dan reolaeth y corff llywodraethu, a
 - (ii) yn unol â hynny, caniateir i'r fangre honno gael ei defnyddio ar yr adegau hynny gan

(2) Paragraph (1) applies even where the trust deed for the school would (apart from this paragraph) expressly or impliedly preclude the governing body from entering into such a transfer of control agreement with the body or person concerned or from conferring control on the controlling body in question.

(3) However, the governing body may not enter into a transfer of control agreement unless the use to which the premises may be put under the agreement is in all other respects in conformity with any such requirements, prohibitions or restrictions imposed by the trust deed as would apply if control were being exercised by the governing body.

(4) The governing body may not enter into any transfer of control agreement which makes or includes provision for the use of the whole or any part of the school premises during school hours unless it has first obtained the local authority's consent to the agreement insofar as it makes such provision.

(5) A transfer of control agreement is taken to include the following terms, namely —

- (a) that the governing body must notify the controlling body of —
 - (i) any directions given to the governing body under regulation 7(2) (in the case of a voluntary controlled school) or regulation 9(3) (in the case of a voluntary aided school); and
 - (ii) any determination made by the foundation governors under regulation 9(2) (in the case of a voluntary controlled school);
- (b) that the controlling body, in exercising control of the use of any premises subject to the agreement —
 - (i) must do so in accordance with any directions or determinations from time to time notified to that body in pursuance of sub-paragraph (a); and
 - (ii) must have regard to the desirability of the premises being made available for community use;
- (c) that, if reasonable notice is given in writing by the governing body to the controlling body that such of the premises subject to the agreement as may be specified in the notice are reasonably required for use by or in connection with the school at such times as may be so specified, then —
 - (i) the use of the specified premises at those times is to be under the control of the governing body, and
 - (ii) accordingly, those premises may be used at those times by or in connection with the

yr ysgol neu mewn cysylltiad â'r ysgol at y dibenion a bennir yn yr hysbysiad,

er y byddai'r defnydd ar y fangre honno ar yr adegau hynny, oni bai am y paragraff hwn, o dan reolaeth y corff rheoli.

(6) Mae paragraff (7) yn gymwys pan fo cytundeb i drosglwyddo rheolaeth yn gwneud darpariaeth bendant i'r defnydd ar unrhyw fangre ysgol sy'n ddarostyngedig i'r cytundeb fod yn achlysurol o dan reolaeth y corff llywodraethu, yn hytrach na'r corff rheoli, o dan yr amgylchiadau, ar yr adegau ac at y dibenion y darperir ar eu cyfer gan neu o dan y cytundeb.

(7) Mewn achos o'r fath, nid oes gan is-baragraff (c) o baragraff (5) effaith mewn perthynas â'r cytundeb i drosglwyddo rheolaeth os oedd y corff llywodraethu, ar yr adeg yr ymrwymodd i'r cytundeb hwnnw, o'r farn y byddai'r ddarpariaeth bendant yn fwy ffafriol i fuddiannau'r ysgol na'r telor a fyddai fel arall wedi'i gynnwys yn rhinwedd yr is-baragraff hwnnw.

(8) Pan fo'r corff llywodraethu yn ymrwymo i gytundeb i drosglwyddo rheolaeth, rhaid i'r corff llywodraethu sicrhau, cyn belled ag y bo'n rhesymol ymarferol, fod y corff rheoli yn arfer rheolaeth yn unol ag unrhyw gyfarwyddiadau neu benderfyniadau yr hysbysir y corff hwnnw ohonynt yn unol â pharagraff (5)(a).

(9) Yn y rheoliad hwn —

ystyr "y corff rheoli" ("*the controlling body*") yw'r corff neu'r person (ac eithrio'r corff llywodraethu) sydd â rheolaeth ar y defnydd o'r cyfan neu unrhyw ran o fangre'r ysgol o dan y cytundeb o dan sylw i drosglwyddo rheolaeth;

ystyr "cytundeb i drosglwyddo rheolaeth" ("*transfer of control agreement*") yw cytundeb sydd (yn ddarostyngedig i baragraff (5)) yn darparu bod y defnydd ar gymaint o fangre'r ysgol ag a bennir yn y cytundeb i fod o dan reolaeth y corff neu'r person a bennir felly ac ar yr adegau a bennir felly.

Ysgolion gwirfoddol: rheoli'r defnydd ar fangroedd y tu allan i oriau ysgol

9.—(1) Caiff y corff llywodraethu benderfynu'r defnydd a wneir o fangre ysgol wirfoddol a reolir (neu unrhyw ran o'r fangre honno) ar Sadyrnau pan nad oes ei hangen —

- (a) at ddibenion yr ysgol, neu
- (b) at unrhyw ddiben sy'n gysylltiedig ag addysg neu â lles pobl ifanc a hwnnw'n ddiben y mae'r awdurdod lleol yn dymuno darparu llety ar ei gyfer yn y fangre (neu yn y rhan o dan sylw).

(2) Caiff y llywodraethwyr sefydledig benderfynu'r defnydd a wneir o fangre ysgol wirfoddol a reolir (neu

school for such purposes as may be specified in the notice,

even though their use at those times would, apart from this paragraph, be under the control of the controlling body.

(6) Paragraph (7) applies where a transfer of control agreement makes express provision for the use of any school premises which are subject to the agreement to be occasionally under the control of the governing body, instead of the controlling body, in such circumstances, at such times or for such purposes as may be provided by or under the agreement.

(7) In such a case sub-paragraph (c) of paragraph (5) does not have effect in relation to the transfer of control agreement if, at the time of entering into it, the governing body was of the opinion that the express provision would be more favourable to the interests of the school than the term that would otherwise be included by virtue of that sub-paragraph.

(8) Where the governing body enters into a transfer of control agreement, the governing body must so far as reasonably practicable secure that the controlling body exercises control in accordance with any such directions or determinations as are notified to that body in pursuance of paragraph (5)(a).

(9) In this regulation —

"the controlling body" ("*y corff rheoli*") means the body or person (other than the governing body) which has control of the use of the whole or any part of the school premises under the transfer of control agreement in question; and

"transfer of control agreement" ("*cytundeb i drosglwyddo rheolaeth*") means an agreement which (subject to paragraph (5)) provides for the use of so much of the school premises as may be specified in the agreement to be under the control, at such times as may be so specified, of such body or person as may be so specified.

Voluntary schools: control of use of premises outside school hours

9.—(1) The governing body may determine the use to which the premises of a voluntary controlled school (or any part of them) are put on Saturdays when not required —

- (a) for the purposes of the school, or
- (b) for any purpose connected with education or with the welfare of young persons for which the local authority desires to provide accommodation on the premises (or on the part in question).

(2) The foundation governors may determine the use to which the premises of a voluntary controlled school

unrhyw ran o'r fangre honno) ar ddyddiau Sul.

(3) Os yw'r awdurdod lleol —

- (a) yn dymuno darparu llety at unrhyw ddiben sy'n gysylltiedig ag addysg neu â lles pobl ifanc, a
- (b) wedi'i fodloni nad oes unrhyw lety amgen addas yn ei ardal at y diben hwnnw,

cânt gyfarwyddo corff llywodraethu ysgol wirfoddol a gynorthwyir i ddarparu llety di-dâl at y diben hwnnw ar fangre'r ysgol (neu unrhyw ran o'r fangre honno) ar unrhyw ddiwrnod yn yr wythnos pan nad oes ei hangen at ddibenion yr ysgol.

(4) Ni chaiff yr awdurdod lleol arfer ei bwerau o dan baragraff (3) yn y fath fodd ag i gyfarwyddo'r corff llywodraethu i ddarparu llety ar fwy na thri diwrnod mewn unrhyw wythnos.

(5) Wrth arfer rheolaeth ar feddiannu a defnyddio mangre ysgol wirfoddol y tu allan i oriau ysgol, rhaid i'r corff llywodraethu roi sylw i ba mor ddymunol y byddai trefnu bod y fangre honno ar gael at ddefnydd cymunedol.

Arbedion

10. Mae pwerau corff llywodraethu ysgol a gynhelir i reoli'r feddiannaeth a'r defnydd ar fangre'r ysgol yn ddarostyngedig i unrhyw drefniadau a wneir o dan neu yn rhinwedd —

- (a) unrhyw gytundeb a wneir o dan baragraff 1 neu 2 o Atodlen 10 i Ddeddf Diwygio Addysg 1988(1) neu benderfyniad a wneir yn unol â pharagraff 62 neu 63 o Atodlen 8 i Ddeddf Addysg Bellach ac Uwch 1992(2); neu
- (b) cytundeb a wnaed o dan baragraff 1 neu 2(3) o Atodlen 5 i Ddeddf Addysg Bellach ac Uwch 1992 neu benderfyniad a wnaed yn unol â pharagraff 3 neu 4(4) o'r Atodlen honno.

(or any part of them) are put on Sundays.

(3) If the local authority —

- (a) wishes to provide accommodation for any purpose connected with education or with the welfare of young persons, and
- (b) is satisfied that there is no suitable alternative accommodation in its area for that purpose,

it may direct the governing body of a voluntary aided school to provide accommodation free of charge for that purpose on the school premises (or any part of them) on any week day when not needed for the purposes of the school.

(4) The local authority may not exercise its power under paragraph (3) so as to direct the governing body to provide accommodation on more than three days in any week.

(5) In exercising control of the occupation and use of the premises of a voluntary school outside school hours the governing body must have regard to the desirability of those premises being made available for community use.

Savings

10. The power of the governing body of a maintained school to control the occupation and use of the premises of the school is subject to any arrangements made under or by virtue of —

- (a) any agreement made under paragraph 1 or 2 of Schedule 10 to the Education Reform Act 1988(1); or
- (b) an agreement made under paragraph 1 or 2(2) of Schedule 5 to the Further and Higher Education Act 1992 or a determination made in accordance with paragraph 3 or 4(3) of that Schedule.

(1) 1988 (p.40), a amnewidiwyd gan baragraffau 3 a 4 o Atodlen 29 i Ddeddf Safonau a Fframwaith Ysgolion 1998 (p.31).

(2) 1992 p.13.

(3) Diwygiwyd gan adran 136(2) o Ddeddf Safonau a Fframwaith Ysgolion 1998.

(4) Diwygiwyd gan adran 136(2) o Ddeddf Safonau a Fframwaith Ysgolion 1998.

(1) 1988 (c.40), substituted by paragraphs 3 and 4 of Schedule 29 to the School Standards and Framework Act 1998 (c.31).

(2) Amended by section 136(2) of the School Standards and Framework Act 1998.

(3) Amended by section 136(2) of the School Standards and Framework Act 1998.

Jane Hutt

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

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

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