



# Deddf y Gwasanaeth Iechyd Gwladol (Indemniadau) (Cymru) 2020

2020 dccc 2

Nodiadau Esboniadol

# National Health Service (Indemnities) (Wales) Act 2020

2020 anaw 2

Explanatory Notes

£6.90

# **DEDDF Y GWASANAETH IECHYD GWLADOL (INDEMNIADAU) (CYMRU) 2020**

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## **NODIADAU ESBONIADOL**

### **CYFLWYNIAD**

1. Mae'r Nodiadau Esboniadol hyn ar gyfer Deddf y Gwasanaeth Iechyd Gwladol (Indemniadau) (Cymru) 2020 a basiwyd gan Gynulliad Cenedlaethol Cymru ar 14 Ionawr 2020 ac a gafodd y Cydsyniad Brenhinol ar 26 Chwefror 2020. Fe'u lluniwyd gan Adran Iechyd a Gwasanaethau Cymdeithasol Llywodraeth Cymru er mwyn cynorthwyo'r sawl sy'n darllen y Ddeddf. Dylid darllen y Nodiadau Esboniadol ar y cyd â'r Ddeddf ond nid ydynt yn rhan ohoni.
2. Mae'r Ddeddf yn diwygio adran 30 o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006 ("Deddf 2006"). Mae'n gwneud darpariaeth ynghylch indemnio personau a chyrrff am dreuliau ac atebolrwyddau sy'n codi mewn cysylltiad â darparu gwasanaethau iechyd yng Nghymru ac yn creu pŵer newydd i Weinidogion Cymru i wneud rheoliadau mewn cysylltiad â chynlluniau indemniad uniongyrchol.

### **ADRAN 30 - DEDDF Y GWASANAETH IECHYD GWLADOL (CYMRU) 2006**

3. Mae adran 30 o Ddeddf 2006 yn galluogi Gweinidogion Cymru i sefydlu cynllun fel y gall cyrrff penodol wneud darpariaeth i dalu treuliau am golled neu ddifrod i'w heiddo, ac i fodloni atebolrwyddau i drydydd partion am golled, difrod neu anaf sy'n codi wrth i'r cyrrff hynny gyflawni eu swyddogaethau. Byrddau Iechyd Lleol, Ymddiriedolaethau'r GIG ac Awdurdodau Iechyd Arbennig yw'r cyrrff hyn.

### **SYLWEBEAETH AR YR ADRANNAU**

#### **Adran 1 - Indemniadau mewn cysylltiad â darparu gwasanaethau iechyd**

4. Mae is-adran (2) o adran 1 o'r Ddeddf yn mewnosod y diffiniad o gynllun indemniad cydfuddiannol ("mutual indemnity scheme") yn is-adran (1) o adran 30 o Ddeddf 2006. Mae cynnwys y term diffiniedig yn gwahaniaethu'r cynlluniau hynny a wneir yn unol ag is-adran (1), pan fo sawl corff gwasanaeth iechyd yn talu eu treuliau ac yn bodloni eu hatebolrwyddau drwy gyfuno adnoddau mewn cronfa ar y cyd, oddi wrth y cynlluniau hynny a wneir o dan yr is-adran newydd (8) a elwir yn gynlluniau indemniad uniongyrchol ("direct indemnity schemes").

# **NATIONAL HEALTH SERVICE (INDEMNITIES) (WALES) ACT 2020**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

1. These Explanatory Notes are for the National Health Service (Indemnities) (Wales) Act 2020 which was passed by the National Assembly for Wales on 14 January 2020 and received Royal Assent on 26 February 2020. They have been prepared by the Department for Health and Social Services of the Welsh Government to assist the reader of the Act. The Explanatory Notes should be read in conjunction with the Act but are not part of it.
2. The Act amends section 30 of the National Health Service (Wales) Act 2006 (“the 2006 Act”). It makes provision about indemnifying persons and bodies for expenses and liabilities arising in connection with the provision of health services in Wales and creates a new power for the Welsh Ministers to make regulations in respect of direct indemnity schemes.

### **SECTION 30 - NATIONAL HEALTH SERVICE (WALES) ACT 2006**

3. Section 30 of the 2006 Act enables the Welsh Ministers to establish a scheme so that certain bodies can make provision to meet expenses for loss or damage to their property, and to meet liabilities to third parties for loss, damage or injury arising out of those bodies carrying out their functions. These bodies are Local Health Boards, NHS Trusts and Special Health Authorities.

### **COMMENTARY ON SECTIONS**

#### **Section 1 - Indemnities in connection with provision of health services**

4. Subsection (2) of section 1 of the Act inserts the definition “mutual indemnity scheme” into subsection (1) of section 30 of the 2006 Act. Inclusion of the defined term distinguishes those schemes made in accordance with subsection (1), where several health service bodies meet their expenses and liabilities by combining resources in a collective fund, from those schemes made under the new subsection (8) which are termed “direct indemnity schemes”.

5. Mae is-adran (3) o adran 1 o'r Ddeddf yn ychwanegu at y cyrff a gaiff wneud darpariaeth o fewn cynllun indemniad o dan adran 30. Y cyntaf o'r cyrff newydd hyn yw person sy'n darparu neu sydd wedi darparu gwasanaethau meddygol sylfaenol. Byddai hyn yn cynnwys Ymarferwyr Cyffredinol. Yr ail ychwanegiad yw corff, neu berson arall, sy'n darparu neu sy'n trefnu i ddarparu gwasanaethau iechyd, neu a ddarparodd neu a drefnodd i ddarparu gwasanaethau iechyd (ac eithrio corff sydd eisoes wedi ei restru yn is-adran (2)) o dan drefniant â Bwrdd Iechyd Lleol, Ymddiriedolaeth GIG neu Awdurdod Iechyd Arbennig. Byddai hyn yn cynnwys, er enghraifft, berson sy'n darparu gwasanaethau o dan gontract â Bwrdd Iechyd Lleol.
6. Mae is-adran (5) o adran 1 o'r Ddeddf yn mewnosod enwau'r cyrff y caiff Gweinidogion Cymru eu cyfarwyddo i gymryd rhan mewn cynllun indemniad cydfuddiannol yn unol â'u pŵer yn is-adran (4) o adran 30 o Ddeddf 2006. Mae'n ofynnol egluro hyn o ganlyniad i'r rhestr hwy o gyrff sydd wedi ei chynnwys yn is-adran (2) o adran 30.
7. Mae is-adran (8) o adran 1 o'r Ddeddf yn mewnosod is-adrannau newydd (8) i (11) yn adran 30 o Ddeddf 2006.
8. Mae'r is-adran newydd (8) o adran 30 yn creu pŵer i Weinidogion Cymru i wneud rheoliadau i sefydlu cynllun statudol y cânt indemniad personau neu'r cyrff yn is-adran (2) odano. Mae'r Ddeddf yn enwi'r rhain yn gynlluniau indemniad uniongyrchol ("direct indemnity schemes").
9. Mae'r is-adran newydd (9) yn darparu rhestr nad yw'n hollgynhwysfawr o'r hyn y caiff rheoliadau sy'n sefydlu cynllun indemniad uniongyrchol ei ragnodi, gan gynnwys, er enghraifft, pwy sy'n berson cymwys, a pha atebolrwyddau neu dreuliau y caniateir eu hindemnio drwy gynllun o'r fath.
10. Mae'r is-adran newydd (10) o adran 30 yn ei gwneud yn glir nad oes dim yn adran 30 sy'n atal Gweinidogion Cymru rhag arfer eu pwerau i ddarparu indemniadau i unrhyw berson ac eithrio'r rheini sydd wedi eu rhestru yn is-adran (2), neu rhag darparu mathau gwahanol o indemniadau i'r cyrff hynny sydd wedi eu rhestru yn is-adran (2).
11. Mae is-adran newydd (11) yn darparu diffiniad o swyddogaethau ("functions").
12. Mae'r Ddeddf hefyd yn gwneud nifer o fân ddiwygiadau a diwygiadau canlyniadol i adran 30 o ganlyniad i'r darpariaethau o sylwedd.

## **Adran 2 – Enw byr a dod i rym**

13. Enw byr y Ddeddf yw Deddf y Gwasanaeth Iechyd Gwladol (Indemniadau) (Cymru) 2020 (adran 2(1)).
14. Daw'r Ddeddf i rym drannoeth y diwrnod y caiff y Cydsyniad Brenhinol.

5. Subsection (3) of section 1 of the Act adds to the bodies who may make provision within an indemnity scheme under section 30. The first of these new bodies is a person providing or who has provided primary medical services. This includes General Practitioners. The second addition is a body or other person providing or arranging the provision of, or who provided or arranged the provision of, health services (other than a body already listed in subsection (2)) under an arrangement with a Local Health Board, an NHS Trust or a Special Health Authority. This would include for example a person providing services under a contract with a Local Health Board.
6. Subsection (5) of section 1 of the Act inserts the names of the bodies that the Welsh Ministers may direct to participate in a mutual indemnity scheme in accordance with their power in subsection (4) of section 30 of the 2006 Act. This clarification is required as a result of the expanded list of bodies included in subsection (2) of section 30.
7. Subsection (8) of section 1 of the Act inserts new subsections (8) to (11) into section 30 of the 2006 Act.
8. The new subsection (8) of section 30 creates a power for the Welsh Ministers to make regulations to establish a statutory scheme under which they may indemnify the persons or bodies in subsection (2). The Act names these “direct indemnity schemes”.
9. The new subsection (9) provides a non-exhaustive list of what regulations establishing a direct indemnity scheme may prescribe, including for example who is an eligible person, and what liabilities or expenses may be indemnified by such a scheme.
10. The new subsection (10) of section 30 makes it clear that there is nothing in section 30 that prevents the Welsh Ministers from exercising their powers to provide indemnities to any person other than those listed in subsection (2), or from providing different kinds of indemnities to those bodies listed in subsection (2).
11. New subsection (11) provides a definition of “functions”.
12. The Act also makes a number of minor and consequential amendments to section 30 as a result of the substantive provisions.

## **Section 2 – Short title and coming into force**

13. The short title of the Act is the National Health Service (Indemnities) (Wales) Act 2020 (section 2(1)).
14. The Act will come into force on the day after the day on which it receives Royal Assent.

## **COFNOD Y TRAFODION YNG NGHYNULLIAD CENEDLAETHOL CYMRU**

15. Mae'r tabl a ganlyn yn nodi'r dyddiadau ar gyfer pob cyfnod o hynt y Ddeddf drwy Gynulliad Cenedlaethol Cymru. Gellir cael Cofnod y Trafodion a rhagor o wybodaeth am hynt y Ddeddf hon ar wefan Cynulliad Cenedlaethol Cymru ar: <http://www.senedd.cynulliad.cymru/mgIssueHistoryHome.aspx?Ild=26396>

<b>Cyfnod</b>	<b>Dyddiad</b>
Cyflwynwyd	14 Hydref 2019
Cyfnod 1 - Dadl	19 Tachwedd 2019
Cyfnod 2 Pwyllgor Craffu - ystyried y gwelliannau	11 Rhagfyr 2019
Cyfnod 3 Cyfarfod Llawn - ystyried y gwelliannau	14 Ionawr 2020
Cyfnod 4 Cymeradwywyd gan y Cynulliad	14 Ionawr 2020
Y Cydsyniad Brenhinol	26 Chwefror 2020

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*These notes refer to the National Health Service (Indemnities) (Wales) Act 2020 (anaw 2)  
which received Royal Assent on 26 February 2020*

## **RECORD OF PROCEEDINGS IN NATIONAL ASSEMBLY FOR WALES**

15. The following table sets out the dates for each stage of the Act's passage through the National Assembly for Wales. The Record of Proceedings and further information on the passage of this Act can be found on the National Assembly for Wales' website at: <http://www.senedd.assembly.wales/mgIssueHistoryHome.aspx?Id=26396>

<b>Stage</b>	<b>Date</b>
Introduced	14 October 2019
Stage 1 - Debate	19 November 2019
Stage 2 Scrutiny Committee - consideration of amendments	11 December 2019
Stage 3 Plenary - consideration of amendments	14 January 2020
Stage 4 Approved by the Assembly	14 January 2020
Royal Assent	26 February 2020

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