

Agenda – Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

Lleoliad:	I gael rhagor o wybodaeth cysylltwch a:
Ystafell Bwyllgora 1 – Y Senedd	Gareth Williams
Dyddiad: Dydd Llun, 12 Tachwedd 2018	Clerc y Pwyllgor 0300 200 6362
Amser: 14.30	SeneddMCD@cynulliad.cymru

1 Cyflwyniad, ymddiheuriadau, dirprwyon a datgan buddiannau

2 Offerynnau nad ydynt yn cynnwys materion i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.2 na 21.3

(Tudalennau 1 – 2)

CLA(5)–28–18 – Papur 1 – Offerynnau statudol sydd ag adroddiadau clir
Offerynnau'r Penderfyniad Negyddol

2.1 SL(5)268 – Rheoliadau Taliadau Colli Cartref (Symiau Rhagnodedig) (Cymru) 2018

3 Datganiadau ysgrifenedig o dan Reol Sefydlog 30C

3.1 Rheoliadau Mynediad Trafnidiaeth Forol at Fasnach a Masnach Arforol (Dirymu) (Ymadael â'r UE) 2018

(Tudalennau 3 – 6)

CLA(5)–28–18 – Papur 2 – Datganiad

CLA(5)–28–18 – Papur 3 – Sylwadau

3.2 Rheoliadau Cerbydau Nwyddau Trwm (Codi Tâl am Ddefnyddio Seilwaith Penodol Ar y Rhwydwaith Ffyrdd Traws–Ewropeaidd) (Diwygio) (Ymadael â'r UE) 2018

(Tudalennau 7 – 10)



CLA(5)-28-18 – Papur 4 – Datganiad

CLA(5)-28-18 – Papur 5 – Sylwadau

3.3 Rheoliadau Gwrteithiau a Deunydd Amoniwm Nitrad (Diwygio) (Ymadael â'r UE) 2018

(Tudalennau 11 – 14)

CLA(5)-28-18 – Papur 6 – Datganiad

CLA(5)-28-18 – Papur 7 – Sylwadau

3.4 Rheoliadau Cynhyrchion Tybaco a Chynhyrchion Mewnanadlu Nicotin (Diwygio) (Ymadael â'r UE) 2018

(Tudalennau 15 – 18)

CLA(5)-28-18 – Papur 8 – Datganiad

CLA(5)-28-18 – Papur 9 – Sylwadau

4 Papurau i'w nodi

4.1 Llythyr gan Ysgrifennydd y Cabinet dros Ynni, Cynllunio a Materion Gwledig at y Pwyllgor Newid Hinsawdd, Amgylchedd a Materion Gwledig: Bil Amaethyddiaeth y DU

(Tudalennau 19 – 22)

CLA(5)-28-18 – Papur 10 – Llythyr gan Ysgrifennydd y Cabinet dros Ynni, Cynllunio a Materion Gwledig

4.2 Llythyr gan y Gweinidog Plant, Pobl Hŷn a Gofal Cymdeithasol: Bil Cyllido Gofal Plant (Cymru)

CLA(5)-28-18 – Papur 11 – Llythyr gan y Gweinidog Plant, Pobl Hŷn a Gofal Cymdeithasol (Papur i ddilyn)

4.3 Llythyr gan Ysgrifennydd y Cabinet dros Addysg: SL(5)256 – Cod Trefniadaeth Ysgolion

(Tudalennau 23 – 33)

**CLA(5)-28-18 – Papur 12 – Llythyr gan Ysgrifennydd y Cabinet dros Addysg:
SL(5)256 – Cod Trefniadaeth Ysgolion, 7 Tachwedd 2018**

5 Cynnig o dan Reol Sefydlog 17.42 i benderfynu gwahardd y cyhoedd o'r cyfarfod ar gyfer y busnes a ganlyn:

6 Offerynnau Statudol y mae angen cydsyniad arnynt: Brexit a datganiadau a wnaed o dan Reol Sefydlog 30C: Ymdrin â'r mater

(Tudalennau 34 – 35)

CLA(5)-28-17 – Papur 13 – Offerynnau Statudol y mae angen cydsyniad arnynt: Brexit a datganiadau a wnaed o dan Reol Sefydlog 30C: Ymdrin â'r mater

7 Confensiwn Sewel: Dull o weithredu yn y dyfodol

(Tudalennau 36 – 41)

CLA(5)-28-18 – Papur 14 – Papur briffio

Offerynnau Statudol sydd ag Adroddiadau Clir 12 Tachwedd 2018

SL(5)268 – Rheoliadau Taliadau Colli Cartref (Symiau Rhagnodedig) (Cymru) 2018

Gweithdrefn: Negyddol

Mae'r Rheoliadau hyn, sy'n gymwys o ran Cymru, yn cynyddu uchafsymiau ac isafsymiau'r taliadau colli cartref sy'n daladwy o dan Ddeddf Digollediad Tir 1973 ("y Ddeddf") i'r rhai sy'n meddiannu annedd sydd â buddiant perchennog. Mae'r Rheoliadau hyn yn cynyddu hefyd swm y taliad colli cartref sy'n daladwy o dan y Ddeddf mewn unrhyw achos arall.

Mae hawl gan berson a ddadleolir o annedd drwy brynu gorfodol neu o dan amgylchiadau eraill a bennir yn adran 29 o'r Ddeddf i gael taliad colli cartref.

Mewn achosion pan fo gan berson sy'n meddiannu annedd ar ddyddiad y dadleoli fuddiant perchennog, mae adran 30(1) o'r Ddeddf yn darparu bod swm y taliad colli cartref yn cael ei gyfrifo fel canran o werth y buddiant hwnnw ar y farchnad, a hynny'n ddarostyngedig i uchafswm ac isafswm.

Mae adran 30(2) o'r Ddeddf yn pennu swm y taliad colli cartref mewn unrhyw achos arall.

Mae rheoliad 2(a) o'r Rheoliadau hyn yn cynyddu'r uchafswm sy'n daladwy o dan adran 30(1) o'r Ddeddf o £57,500 i £59,000 ac mae rheoliad 2(b) yn cynyddu'r isafswm o £5,750 i £5,900.

Mae rheoliad 2(c) yn cynyddu'r taliad colli cartref mewn unrhyw achos arall, o dan adran 30(2) o'r Ddeddf, o £5,750 i £5,900.

Mae'r symiau diwygiedig yn gymwys pan fo'r dadleoli'n digwydd ar 3 Rhagfyr 2018 neu ar ôl hynny.

Rhiant–Ddeddf: Deddf Iawndal Tir 1973

Fe'u gwnaed ar: 24 Hydref 2018



Fe'u gosodwyd ar: 25 Hydref 2018

Yn dod i rym ar: 03 Rhagfyr 2018





Llywodraeth Cymru
Welsh Government

DATGANIAD YSGRIFENEDIG GAN LYWODRAETH CYMRU

TEITL Rheoliadau Mynediad Trafnidiaeth Forol at Fasnach a Masnach Arforol (Dirymu) (Ymadael â'r UE) 2018

DYDDIAD 2 Tachwedd 2018

GAN Julie James AC, Arweinydd y Tŷ a'r Prif Chwip

Rheoliadau Mynediad Trafnidiaeth Forol at Fasnach a Masnach Arforol (Dirymu) (Ymadael â'r UE) 2018

Y Gyfraith sy'n cael ei diwygio

- *Rheoliad (EEC) Rhif 2919/85 y Cyngor (dirymu)*
- *Rheoliad (EEC) Rhif 4055/86 y Cyngor (dirymu)*
- *Rheoliad (EEC) Rhif 4057/86 y Cyngor (dirymu)*
- *Rheoliad (EEC) Rhif 4058/86 y Cyngor (dirymu)*
- *Rheoliad (EEC) Rhif 3921/91 y Cyngor (dirymu)*
- *Rheoliad (EEC) Rhif 3577/92 y Cyngor (dirymu)*
- *Rheoliad (EC) Rhif 1356/96 y Cyngor (dirymu)*
- *Rheoliad (EC) Rhif 789/2004 y Cyngor (dirymu)*
- *Penderfyniad y Cyngor 83/573/EEC (dirymu)*
- *Penderfyniad 167/2006/EC (dirymu)*
- *Atodiad XIII i gytundeb yr EEA*

Unrhyw effaith y gall yr OS ei chael ar gymhwysedd deddfwriaethol y Cynulliad a/neu gymhwysedd gweithredol Gweinidogion Cymru

Dim effaith

Pwrpas y diwygio

Pwrpas y diwygio yw i gywiro diffygion yn y ddeddfwriaeth sy'n codi o ymadawiad y DU a'r Undeb Ewropeaidd sy'n gysylltiedig â chaniatáu masnach arforol ar draws yr UE.

Bydd y rheoliadau Masnach Arforol yn dirymu nifer o Rheoliadau a Phenderfyniadau, gan gynnwys Rheoliad 3577/92 gan ddefnyddio'r egwyddor o ryddid i ddarparu gwasanaethau i

drafnidiaeth morol. Mae hyn yn unol ag arferion ehangach, gan bod masnach arforol wedi'i gyfyngu fel arfer ac nid yw'n cael ei ganiatáu yn y DU gan wledydd nad ydynt yn aelod wladwriaethau.

Mae'r Offeryn Statudol a'r Memorandwm Esboniadol sy'n cyd-fynd, yn rhoi amlinelliad o effaith pob diwygiad i'w weld yma:

<https://www.gov.uk/eu-withdrawal-act-2018-statutory-instruments/the-maritime-transport-access-to-trade-and-cabotage-revocation-eu-exit-regulations-2018>

Pam y rhoddwyd cydsyniad

Mae'r OS hwn yn diwygio amrywiol ddeddfwriaeth yr UE sy'n gysylltiedig â gwasanaethau morgludiant/morol. Mae'r mater a gadwyd yn ôl oedd yn gysylltiedig â morgludiant yn Neddf Llywodraeth Cymru 2006 yn gysylltiedig â llongau ar y môr neu unrhyw ddyfroedd eraill ac mae'n cynnwys pob agwedd ar forgludiant, gan gynnwys gwasanaethau morgludiant. Mae cymhwysedd Cynulliad Cenedlaethol Cymru yn berthnasol i gymorth ariannol ar gyfer gwasanaethau morgludiant i Gymru, o Gymru ac o fewn Cymru.

Nid yw Llywodraeth Cymru yn ystyried y byddai'n gymesur i Weinidogion Cymru ddeddfu mewn ffordd mor gyfyngedig, a'i fod yn briodol i Lywodraeth y DU wneud hynny. Nid oes disgwyl unrhyw effaith ymarferol ar Gymru o'r newidiadau hyn.

Ar sail hyn, byddai gwneud OS ar wahân yng Nghymru a Lloegr yn arwain at ddyblygu gwaith a chymhlethdod diangen i'r llyfr statud. Byddai cytuno i OS ledled y DU/Cymru a Lloegr yn sicrhau bod dull gydlynol ble y bo'n bosibl o baratoi y llyfr statud i weithredu'n iawn wedi i'r DU ymadael â'r UE. Bydd y dull hwn o weithredu yn hyrwyddo eglurder a hygyrchedd deddfwriaeth ledled y DU. O dan yr amgylchiadau eithriadol hyn, mae Llywodraeth Cymru yn ystyried ei bod yn briodol i Lywodraeth y DU ddeddfu ar ein rhan yn yr achos hwn.

**GWEINIDOGION Y DU SY'N GWEITHIO MEWN MEYSYDD
DATGANOLEDIG**

**Rheoliadau Mynediad Trafnidiaeth Forol at Fasnach a Masnach Arforol
(Dirymu) (Ymadael â'r UE) 2018**

Dyddiad gosod yn Senedd y DU: 29 Hydref 2018

Sifftio

A fydd angen eu sifftio yn Senedd y DU?	Bydd
Gweithdrefn:	Negyddol arfaethedig
Dyddiad trafod gan Bwyllgor Offerynnau Statudol Ewropeaidd Tŷ'r Cyffredin	13 Tachwedd 2018
Dyddiad trafod gan Bwyllgor Craffu ar Is-ddeddfwriaeth Tŷ'r Arglwyddi	12 Tachwedd 2018
Y dyddiad y daw'r cyfnod sifftio i ben yn Senedd y DU	19 Tachwedd 2018
Datganiad ysgrifenedig o dan Reol Sefydlog 30C:	Papur 2
Memorandwm Cydsyniad Offeryn Statudol o dan Reol Sefydlog 30A (oherwydd ei fod yn diwygio deddfwriaeth sylfaenol)	Dim angen

Gweithdrefn graffu

Canlyniad y broses sifftio	Anhysbys
Y weithdrefn	Negyddol neu Gadarnhaol
Dyddiad trafod gan y Cyd-bwyllgor ar Offerynnau Statudol	Anhysbys
Dyddiad trafod gan Bwyllgor Offerynnau Statudol Tŷ'r Cyffredin	Anhysbys
Dyddiad trafod gan Bwyllgor Craffu ar Is-ddeddfwriaeth Tŷ'r Arglwyddi	Anhysbys

Sylwadau

Mae Gwasanaethau Cyfreithiol y Cynulliad yn cytuno â chrynodeb ac amcan y gwelliannau a wneir gan y Rheoliadau fel y'u nodir gan Lywodraeth Cymru yn ei Datganiad Ysgrifenedig.

Fodd bynnag, mae'r Gwasanaethau Cyfreithiol am nodi anghysondeb rhwng y fersiwn Saesneg a'r fersiwn Gymraeg o'r Datganiad Ysgrifenedig, ac yn dymuno tynnu sylw'r Aelodau at yr anghysondeb hwn.

Ar ddechrau'r adran sy'n dwyn y teitl 'Pam y rhoddwyd cydsyniad', mae'r fersiwn Saesneg yn nodi: "this SI revokes a variety of EU legislation around shipping/maritime transport services". Fodd bynnag, mae'r fersiwn Gymraeg yn nodi bod yr OS yn "diwygio" ("amend") amrywiol ddeddfwriaeth yr UE sy'n gysylltiedig â gwasanaethau morgludiant/morol.

Mae'r Gwasanaethau Cyfreithiol yn credu bod y fersiwn Saesneg o'r Datganiad Ysgrifenedig yn cynnig disgrifiad cywirach, gan fod mwyafrif cyfraith yr UE yr effeithir arno yn y Rheoliadau hyn yn cael ei ddirymu (revoke), yn hytrach na'i ddiwygio (amend).

O ran y rhesymau pam y mae Llywodraeth Cymru o'r farn ei bod yn briodol bod y Rheoliadau hyn gan Lywodraeth y DU yn cynnwys darpariaethau datganoledig, efallai y bydd yr Aelodau am drafod y rhesymeg a ddarparwyd yn nhri pharagraff olaf y Datganiad Ysgrifenedig.

Mae'r mater a gadwyd yn ôl oedd yn gysylltiedig â morgludiant yn Neddf Llywodraeth Cymru 2006 yn gysylltiedig â llongau ar y môr neu unrhyw ddyfroedd eraill ac mae'n cynnwys pob agwedd ar forgludiant, gan gynnwys gwasanaethau morgludiant. Mae cymhwysedd Cynulliad Cenedlaethol Cymru yn berthnasol i gymorth ariannol ar gyfer gwasanaethau morgludiant i Gymru, o Gymru ac o fewn Cymru.

Nid yw Llywodraeth Cymru yn ystyried y byddai'n gymesur i Weinidogion Cymru ddeddfu mewn ffordd mor gyfyngedig, a'i fod yn briodol i Lywodraeth y DU wneud hynny. Nid oes disgwyl unrhyw effaith ymarferol ar Gymru o'r newidiadau hyn.

Ar sail hyn, byddai gwneud OS ar wahân yng Nghymru a Lloegr yn arwain at ddyblygu gwaith a chymhlethdod diangen i'r llyfr statud. Byddai cytuno i OS ledled y DU/Cymru a Lloegr yn sicrhau bod dull cydlynol ble y bo'n bosibl o baratoi y llyfr statud i weithredu'n iawn wedi i'r DU ymadael â'r UE. Bydd y dull hwn o weithredu yn hyrwyddo eglurder a hygyrchedd deddfwriaeth ledled y DU. O dan yr amgylchiadau eithriadol hyn, mae Llywodraeth Cymru yn ystyried ei bod yn briodol i Lywodraeth y DU ddeddfu ar ein rhan yn yr achos hwn."



Llywodraeth Cymru
Welsh Government

DATGANIAD YSGRIFENEDIG GAN LYWODRAETH CYMRU

TEITL Rheoliadau Cerbydau Nwyddau Trwm (Codi Tâl am Ddefnyddio Seilwaith Penodol Ar y Rhwydwaith Ffyrdd Traws-Ewropeaidd) (Diwygio)(Ymadael â'r UE) 2018

DYDDIAD 2 Tachwedd 2018

GAN Julie James AC, Arweinydd y Tŷ a'r Prif Chwip

Rheoliadau Cerbydau Nwyddau Trwm (Codi Tâl am Ddefnyddio Seilwaith Penodol Ar y Rhwydwaith Ffyrdd Traws-Ewropeaidd) (Diwygio)(Ymadael â'r UE) 2018

Y Gyfraith sy'n cael ei diwygio:

- *Rheoliadau Cerbydau Nwyddau Trwm (Codi Tâl am Ddefnyddio Seilwaith Penodol Ar y Rhwydwaith Ffyrdd Traws-Ewropeaidd) (Diwygio)(Ymadael â'r UE) 2009*

Unrhyw effaith y gall yr OS ei chael ar gymhwysedd deddfwriaethol y Cynulliad a/neu gymhwysedd gweithredol Gweinidogion Cymru

Ni fydd y diwygiadau arfaethedig yn cael unrhyw effaith ar gymhwysedd deddfwriaethol y Cynulliad a/neu ar gymhwysedd gweithredol Gweinidogion Cymru.

Diben y diwygiadau

Diben yr OS hwn yw cywiro diffygion yn neddfwriaeth y DU, yn ddarostyngedig i ymadael â'r Undeb Ewropeaidd, yn ymwneud â chodi tâl ar Gerbydau Nwyddau Trwm i ddefnyddio ffyrdd.

Nid yw Rheoliadau 2009 yn ei gwneud yn ofynnol i godi tâl ar Gerbydau Nwyddau Trwm, ond pan fydd tâl, mae gofynion o ran sut y cânt eu cynllunio, a therfynau o ran uchafswm y taliadau.

Mae'r OS a'r Memorandwm Esboniadol sy'n cyd-fynd ag ef, ac sy'n nodi effaith y diwygiad hwn, i'w gweld yma:

<https://www.gov.uk/eu-withdrawal-act-2018-statutory-instruments/the-heavy-goods-vehicles-charging-for-the-use-of-certain-infrastructure-on-the-trans-european-road-network-amendment-eu-exit-regulations-2018>

Pam y rhoddwyd cydsyniad

Nid oes gwahaniaeth rhwng ymagwedd Llywodraeth Cymru a Llywodraeth y DU ar y polisi i'w gywiro, ac nid yw'r cywiriad yn wleidyddol sensitif. O ganlyniad, byddai gwneud OS ar wahân yng Nghymru a Lloegr yn arwain at ddyblygu gwaith a chymhlethdod diangen i'r llyfr statud. Byddai cytuno i OS ledled y DU/Cymru a Lloegr yn sicrhau bod dull gydlynol ble y bo'n bosibl o baratoi y llyfr statud i weithredu'n iawn wedi i'r DU ymadael â'r UE. Bydd y dull hwn o weithredu yn hyrwyddo eglurder a hygyrchedd deddfwriaeth ledled y DU. O dan yr amgylchiadau eithriadol hyn, mae Llywodraeth Cymru yn ystyried ei bod yn briodol i Lywodraeth y DU ddeddfu ar ein rhan yn yr achos hwn.

**GWEINIDOGION Y DU SY'N GWEITHIO MEWN MEYSYDD
DATGANOLEDIG**

**Rheoliadau Cerbydau Nwyddau Trwm (Codi Tâl am Ddefnyddio
Seilwaith Penodol ar y Rhwydwaith Ffyrdd Traws-Ewropeaidd)
(Diwygio) (Ymadael â'r UE) 2018**

Dyddiad gosod yn Senedd y DU: 30 Hydref 2018

Sifftio

A fydd angen eu sifftio yn Senedd y DU?	Bydd
Gweithdrefn:	Negyddol arfaethedig
Dyddiad trafod gan Bwyllgor Offerynnau Statudol Ewropeaidd Tŷ'r Cyffredin	13 Tachwedd 2018
Dyddiad trafod gan Bwyllgor Craffu ar Is-ddeddfwriaeth Tŷ'r Arglwyddi	12 Tachwedd 2018
Y dyddiad y daw'r cyfnod sifftio i ben yn Senedd y DU	20 Tachwedd 2018
Datganiad ysgrifenedig o dan Reol Sefydlog 30C:	Papur 4
Memorandwm Cydsyniad Offeryn Statudol o dan Reol Sefydlog 30A (oherwydd ei fod yn diwygio deddfwriaeth sylfaenol)	Dim angen

Gweithdrefn graffu

Canlyniad y broses sifftio	Anhysbys
Y weithdrefn	Negyddol neu Gadarnhaol
Dyddiad trafod gan y Cyd-bwyllgor ar Offerynnau Statudol	Anhysbys
Dyddiad trafod gan Bwyllgor Offerynnau Statudol Tŷ'r Cyffredin	Anhysbys
Dyddiad trafod gan Bwyllgor Craffu ar Is-ddeddfwriaeth Tŷ'r Arglwyddi	Anhysbys

Sylwadau

Mae Gwasanaethau Cyfreithiol y Cynulliad yn cytuno â chrynodeb ac amcan y gwelliannau a wneir gan y Rheoliadau fel y'u nodir gan Lywodraeth Cymru yn ei Datganiad Ysgrifenedig. O ran y rhesymau pam mae Llywodraeth Cymru o'r farn ei bod yn briodol bod y Rheoliadau hyn yn cael eu gwneud gan Lywodraeth y DU, efallai y bydd yr Aelodau am drafod y rhesymeg a ddarparwyd yn y Datganiad Ysgrifenedig:

“Nid oes gwahaniaeth rhwng ymagwedd Llywodraeth Cymru a Llywodraeth y DU ar y polisi i'w gywiro, ac nid yw'r cywiriad yn wleidyddol sensitif. O ganlyniad, byddai gwneud OS ar wahân yng Nghymru a Lloegr yn arwain at ddyblygu gwaith a chymhlethdod diangen i'r llyfr statud. O

dan yr amgylchiadau eithriadol hyn, mae Llywodraeth Cymru yn ystyried ei bod yn briodol i Lywodraeth y DU ddeddfu ar ein rhan yn yr achos hwn."



Llywodraeth Cymru
Welsh Government

DATGANIAD YSGRIFENEDIG GAN LYWODRAETH CYMRU

TEITL Rheoliadau Gwrteithiau a Deunydd Amoniwm Nitrad (Diwygio)
(Ymadael â'r UE) 2018

DYDDIAD 2 Tachwedd 2018

GAN Julie James AC, Arweinydd y Tŷ a'r Prif Chwip

Rheoliadau Gwrteithiau a Deunydd Amoniwm Nitrad (Diwygio) (Ymadael â'r UE) 2018

Mae Rheoliadau 2018 yn diwygio'r canlynol:

Deddfwriaeth yr UE:

- Rheoliad (EC) Rhif 2003/2003 Senedd Ewrop a'r Cyngor mewn perthynas â gwrteithiau; a
- Cytundeb Ardal Economaidd Ewropeaidd

Deddfwriaeth Ddomestig

- Rheoliadau Gwrteithiau 1991 (O.S. 1991/2197) (ar gyfer Prydain Fawr);
- Rheoliadau Diogelwch Deunydd Amoniwm Nitrad (Cynnwys Nitrogen Uchel) 2003 (O.S. 2003/1082);
- Rheoliadau Gwrteithiau'r Gymuned Ewropeaidd (Cymru a Lloegr) 2006 (O.S. 2006/2486).

Unrhyw effaith y gall yr OS ei chael ar gymhwysedd deddfwriaethol y Cynulliad a/neu gymhwysedd gweithredol Gweinidogion Cymru

Mae gwrteithiau'n fater datganoledig. Mae amoniwm nitrad wedi'i gadw yn ôl gan Lywodraeth y DU, fodd bynnag, mewn perthynas â Chymru i'r graddau y mae'n gysylltiedig ag iechyd a diogelwch o dan Ddeddf Llywodraeth Cymru 2006 (Atodlen 7A).

Mae'r Offeryn Statudol yma'n cynnwys swyddogaethau trosglwyddo yn Rheoliad yr UE i Weinidogion Cymru mewn perthynas â Chymru o fewn meysydd o gymhwysedd datganoledig.

Diben y diwygiadau

Mae'r OS hwn, sy'n dilyn y weithdrefn negyddol, yn mynd i'r afael â methiannau cyfraith yr UE sydd wedi'i dargadw i weithredoldeb a hefyd â diffygion eraill sy'n deillio o'r ffaith

bod y DU yn ymadael â'r UE. Maent hefyd yn diwygio'n rhannol gyfeiriadau sydd wedi dyddio mewn deddfwriaeth ddomestig, sy'n angenrheidiol er mwyn sicrhau eglurder i ddefnyddwyr y ddeddfwriaeth.

Ni fyddai cyfraith berthnasol yr UE yn gweithredu'n briodol ar ôl i'r DU ymadael â'r UE heb iddi gael ei diwygio. Byddai hyn yn amharu ar waith masnachu gwrteithiau a awdurdodir ar hyn o bryd o dan gyfraith yr UE. Mae'n rhaid i'r newidiadau gael eu gwneud er mwyn cynnal safonau gwrteithiau o fewn cyfraith y DU a hefyd er mwyn sicrhau parhad i'r sector a diogelu'r cyflenwad ar gyfer ffermwyr. Diben y diwygiadau hyn yw sicrhau bod y llyfr statud yn parhau i weithio ar ôl i'r DU ymadael â'r UE.

Bydd yr offeryn hwn yn disodli'r drefn 'gwrteithiau'r GE' o fewn cyfraith yr UE, gan gyflwyno trefn ddomestig newydd. Canlyniad hyn fydd label 'gwrtaith y DU' a fydd yn gweithio yn yr un modd. Bydd hefyd yn caniatáu ar gyfer cyfnod trosiannol o ddwy flynedd lle y bydd modd gwerthu 'gwrteithiau'r GE' o fewn y DU heb y gofyn i'w hail-labelu. Bydd hyn yn sicrhau parhad y cyflenwad ac yn lleihau'r baich ar fusnesau.

Ni fydd unrhyw newid sylweddol i ddefnyddwyr gwrteithiau. Bydd y dull hwn yn ei gwneud hi'n bosibl i'r holl wrteithiau sy'n cael eu marchnata yn y DU gael eu mewnfurio a'u marchnata yn y DU ar ôl ymadael â'r UE. Mae'r dull hwn hefyd yn sicrhau y bydd yr un safonau uchel iawn yn parhau'n berthnasol i wrteithiau.

Mae'r OS a'r Memorandwm Esboniadol sy'n mynd gydag ef, ac sy'n nodi effaith pob un o'r diwygiadau, ar gael yma:

<https://www.gov.uk/eu-withdrawal-act-2018-statutory-instruments>

Pam y rhoddwyd cydsyniad

O dan yr amgylchiadau eithriadol hyn pan fo gofyn inni ystyried a chywiro nifer digyffelyb o ddarnau deddfwriaeth o fewn amserlen dynn gan ddefnyddio adnoddau cyfyngedig, egwyddor gyffredinol Llywodraeth Cymru yw ein bod yn gofyn i Lywodraeth y DU ddeddfu ar ein rhan ar gyfer nifer mawr o offerynnau statudol. Mae hyn yn sicrhau dull cydlynol lle y bo'n bosibl, er mwyn sicrhau bod y gyfraith yn glir ar draws y DU. Gan nad oes gwahaniaeth rhwng ymagwedd Llywodraeth Cymru a Llywodraeth y DU ar y polisi i'w gywiro, mae'n briodol mai Llywodraeth y DU sy'n gwneud yr OS y tro hwn.

Gallai methu i weithredu'r diwygiadau testunol sydd eu hangen i sicrhau bod Rheoliadau'r UE yn parhau i gael eu gweithredu, yn yr achos hwn Rheoliad yr UE (EC) 2003/2003 fod â goblygiadau posibl o ran masnach. Mae masnach ym maes gwrteithiau'r UE yn hanfodol gan y bernir bod y cyflenwad o amoniwm nitrad yn gyfyngedig a gallai unrhyw darfu ar y cyflenwad olygu prinder sylweddol yn y DU.

**GWEINIDOGION Y DU SY'N GWEITHIO MEWN MEYSYDD
DATGANOLEDIG**

**Rheoliadau Gwrteithiau a Deunydd Amoniwm Nitrad (Diwygio)
(Ymadael â'r UE) 2018**

Dyddiad gosod yn Senedd y DU: 1 Tachwedd 2018

Sifftio

A fydd angen eu sifftio yn Senedd y DU?	Bydd
Gweithdrefn:	Negyddol arfaethedig
Dyddiad trafod gan Bwyllgor Offerynnau Statudol Ewropeaidd Tŷ'r Cyffredin	13 Tachwedd 2018
Dyddiad trafod gan Bwyllgor Craffu ar Is-ddeddfwriaeth Tŷ'r Arglwyddi	12 Tachwedd 2018
Y dyddiad y daw'r cyfnod sifftio i ben yn Senedd y DU	22 Tachwedd 2018
Datganiad ysgrifenedig o dan Reol Sefydlog 30C:	Papur 6
Memorandwm Cydsyniad Offeryn Statudol o dan Reol Sefydlog 30A (oherwydd ei fod yn diwygio deddfwriaeth sylfaenol)	Dim angen

Gweithdrefn graffu

Canlyniad y broses sifftio	Anhysbys
Y weithdrefn	Negyddol neu Gadarnhaol
Dyddiad trafod gan y Cyd-bwyllgor ar Offerynnau Statudol	Anhysbys
Dyddiad trafod gan Bwyllgor Offerynnau Statudol Tŷ'r Cyffredin	Anhysbys
Dyddiad trafod gan Bwyllgor Craffu ar Is-ddeddfwriaeth Tŷ'r Arglwyddi	Anhysbys

Sylwadau

Mae Gwasanaethau Cyfreithiol y Cynulliad yn cytuno â chrynodeb ac amcan y gwelliannau a wneir gan y Rheoliadau fel y'u nodir gan Lywodraeth Cymru yn ei Datganiad Ysgrifenedig.

O ran y rhesymau pam y mae Llywodraeth Cymru o'r farn ei bod yn briodol bod y Rheoliadau hyn gan Lywodraeth y DU yn cynnwys darpariaethau datganoledig, efallai y bydd yr Aelodau am drafod y rhesymeg a ddarparwyd yn nau baragraff olaf y Datganiad Ysgrifenedig.

“O dan yr amgylchiadau eithriadol hyn pan fo gofyn inni ystyried a chywiro nifer digyffelyb o ddarnau deddfwriaeth o fewn amserlen dynn gan ddefnyddio adnoddau cyfyngedig, egwyddor gyffredinol Llywodraeth Cymru yw ein bod yn gofyn i Lywodraeth y DU ddeddfu ar ein rhan ar

gyfer nifer mawr o offerynnau statudol. Mae hyn yn sicrhau dull cydlynol lle y bo'n bosibl, er mwyn sicrhau bod y gyfraith yn glir ar draws y DU. Gan nad oes gwahaniaeth rhwng ymagwedd Llywodraeth Cymru a Llywodraeth y DU ar y polisi i'w gywiro, mae'n briodol mai Llywodraeth y DU sy'n gwneud yr OS y tro hwn.

Gallai methu i weithredu'r diwygiadau testunol sydd eu hangen i sicrhau bod Rheoliadau'r UE yn parhau i gael eu gweithredu, yn yr achos hwn Rheoliad yr UE (EC) 2003/2003 fod â goblygiadau posibl o ran masnach. Mae masnach ym maes gwrteithiau'r UE yn hanfodol gan y bernir bod y cyflenwad o amoniwm nitrad yn gyfyngedig a gallai unrhyw darfu ar y cyflenwad olygu prinder sylweddol yn y DU.”

DATGANIAD YSGRIFENEDIG GAN LYWODRAETH CYMRU

TEITL	Rheoliadau Cynhyrchion Tybaco a Chynhyrchion Mewnanadlu Nicotin (Diwygio) (Ymadael â'r UE) 2018
DYDDIAD	5 Tachwedd 2018
GAN	Julie James AC, Arweinydd y Tŷ a'r Prif Chwip

Rheoliadau Cynhyrchion Tybaco a Chynhyrchion Mewnanadlu Nicotin (Diwygio) (Ymadael â'r UE) 2018

Y Gyfraith sy'n cael ei diwygio

Deddf Hysbysebu a Hyrwyddo Tybaco 2002

Rheoliadau Hysbysebu a Hyrwyddo Tybaco (Rhannu Brand) 2004

Rheoliadau Pecynnau Safonedig i Gynhyrchion Tybaco 2015

Rheoliadau Cynhyrchion Mewnanadlu Nicotin (Oedran Gwerthu a Phrynu drwy Ddirprwy) 2015

Rheoliadau Tybaco a Chynhyrchion Cysylltiedig 2016

Unrhyw effaith y gall yr OS ei chael ar gymhwysedd deddfwriaethol y Cynulliad a/neu gymhwysedd gweithredol Gweinidogion Cymru

Bydd y Rheoliadau yn gwneud mân ddiwygiadau i ddeddfwriaeth y DU mewn perthynas â chynhyrchion tybaco a chynhyrchion mewnanadlu nicotin, gyda rhywfaint o hyn lle mae cymhwysedd wedi ei ddatganoli. Ni fydd y diwygiadau hyn yn rhoi unrhyw swyddogaethau newydd i Weinidogion Cymru na'r Ysgrifennydd Gwladol, ac maent yn gwbl dechnegol eu natur heb unrhyw effaith ar bolisi.

Bydd y Rheoliadau hefyd yn trosglwyddo nifer o swyddogaethau'r Comisiwn Ewropeaidd mewn perthynas â labelu a diogelwch tybaco a chynhyrchion tybaco i'r Ysgrifennydd Gwladol. Mae'r Rheoliadau yn darparu bod rhaid i'r Ysgrifennydd Gwladol ymgynghori â Gweinidogion Cymru cyn defnyddio'r pwerau hyn i wneud rheoliadau sy'n gymwys i Gymru. Mae pwnc y pwerau hyn yn ymwneud yn bennaf â meysydd lle mae'r cymhwysedd wedi'i gadw yn ôl, sef diogelwch ac atebolrwydd cynhyrchion a labelu cynhyrchion. Ni fyddai modd i'r elfennau hynny o'r pwerau y gellid dadlau eu bod o fewn cymhwysedd wedi ei ddatganoli gael eu harfer yn ystyrion, yn ymarferol, gan Weinidogion Cymru yn annibynnol i'r Ysgrifennydd Gwladol.

Diben y diwygiadau

Diben y diwygiadau yw cywiro mân ddiffygion yn neddfwriaeth y DU, rhai ohonynt lle mae cymhwysedd wedi ei ddatganoli, yn codi yn sgil ymadawiad y DU â'r Undeb Ewropeaidd mewn perthynas â labelu a manwerthu nwyddau sy'n cynnwys cynhyrchion tybaco.

Mae'r Rheoliadau hefyd yn trosglwyddo pwerau yn ymwneud â deddfwriaeth tybaco, sydd wedi'u neilltuo i'r Comisiwn Ewropeaidd ar hyn o bryd, i'r Ysgrifennydd Gwladol, ond gan ei gwneud yn ofynnol ymgynghori â Gweinidogion Cymru cyn arfer y pwerau hynny. Mae'r pwerau hyn yn ymwneud â:

- gosod safonau ar gyfer cynhyrchion tybaco ac e-sigaréts fel gosod gweithdrefnau ar gyfer cadarnhau pa mor wenwynig ydynt, diweddarau'r rhestr o ychwanegion ac addasu'r dulliau o fesur tar, nicotin a charbon monocsid
- addasu'r rhybuddion iechyd cyfun ar gynhyrchion tybaco ar gyfer eu smygu a'r rhybuddion iechyd ar becynnau e-sigaréts.

Mae'r OS a'r Memorandwm Esboniadol sy'n mynd gydag ef, ac sy'n nodi effaith pob un o'r diwygiadau, ar gael yma:

<http://www.legislation.gov.uk/ukdsi/2018/9780111174203/contents>

Pam y rhoddwyd cydsyniad

Nid oes gwahaniaeth rhwng ymagwedd Llywodraeth Cymru a Llywodraeth y DU ar y polisi i'w gywiro. O ganlyniad, byddai gwneud OS ar wahân yng Nghymru ac yn Lloegr yn arwain at ddyblygu gwaith a chymhlethdod diangen i'r llyfr statud. Mae cydsynio i OS ar draws y DU yn sicrhau bod un fframwaith deddfwriaethol ar draws y DU sy'n hybu eglurder a hygyrchedd yn ystod y cyfnod hwn o newid. O dan yr amgylchiadau eithriadol hyn, mae Llywodraeth Cymru yn ystyried ei bod yn briodol i Lywodraeth y DU ddeddfu ar ein rhan yn yr achos hwn.

**GWEINIDOGION Y DU SY'N GWEITHIO MEWN MEYSYDD
DATGANOLEDIG**

**Rheoliadau Cynhyrchion Tybaco a Chynhyrchion Mewnanadlu Nicotin
(Diwygio) (Ymadael â'r UE) 2018**

Dyddiad gosod yn Senedd y DU: 24 Hydref 2018

Sifftio

A fydd angen eu sifftio yn Senedd y DU?	Na
Gweithdrefn:	-
Dyddiad trafod gan Bwyllgor Offerynnau Statudol Ewropeaidd Tŷ'r Cyffredin	Amh
Dyddiad trafod gan Bwyllgor Craffu ar Is-ddeddfwriaeth Tŷ'r Arglwyddi	Amh
Y dyddiad y daw'r cyfnod sifftio i ben yn Senedd y DU	Amh
Datganiad ysgrifenedig o dan Reol Sefydlog 30C:	Papur 8
Memorandwm Cydsyniad Offeryn Statudol o dan Reol Sefydlog 30A (oherwydd ei fod yn diwygio deddfwriaeth sylfaenol)	Dim angen

Gweithdrefn graffu

Canlyniad y broses sifftio	Amh
Y weithdrefn	Cadarnhaol
Dyddiad trafod gan y Cyd-bwyllgor ar Offerynnau Statudol	Anhysbys
Dyddiad trafod gan Bwyllgor Offerynnau Statudol Tŷ'r Cyffredin	Anhysbys
Dyddiad trafod gan Bwyllgor Craffu ar Is-ddeddfwriaeth Tŷ'r Arglwyddi	w/c 12 Tachwedd

Sylwadau

Mae Gwasanaethau Cyfreithiol y Cynulliad yn cytuno â chrynodeb ac amcan y diwygiadau a wneir gan y Rheoliadau hyn, fel y'u nodir gan Lywodraeth Cymru yn ei Datganiad Ysgrifenedig dyddiedig 5 Tachwedd 2018.

Wrth ystyried pam mae Llywodraeth Cymru o'r farn ei bod yn briodol bod y Rheoliadau hyn wedi'u gwneud gan Lywodraeth y DU, efallai y bydd yr Aelodau am ystyried y rhesymeg a ddarperir ym mharagraff olaf y Datganiad Ysgrifenedig:

"Nid oes gwahaniaeth rhwng ymagwedd Llywodraeth Cymru a Llywodraeth y DU ar y polisi i'w gywiro. O ganlyniad, byddai gwneud OS ar wahân yng Nghymru ac yn Lloegr yn arwain at ddyblygu gwaith a

chymhlethdod diangen i'r llyfr statud. Mae cydsynio i OS ar draws y DU yn sicrhau bod un fframwaith deddfwriaethol ar draws y DU sy'n hybu eglurder a hygyrchedd yn ystod y cyfnod hwn o newid. O dan yr amgylchiadau eithriadol hyn, mae Llywodraeth Cymru yn ystyried ei bod yn briodol i Lywodraeth y DU ddeddfu ar ein rhan yn yr achos hwn."

Lesley Griffiths AC/AM
Ysgrifennydd y Cabinet dros Ynni, Cynllunio a Materion Gwledig
Cabinet Secretary for Energy, Planning and Rural Affairs



Llywodraeth Cymru
Welsh Government

Mike Hedges AM
Chair of Climate Change, Environment and Rural Affairs Committee
National Assembly for Wales
Cardiff Bay
Cardiff, CF99 1NA

30 October 2018

Dear Mike,

Thank you for your letter of 18 October raising a number of questions following the Committee's consideration of the UK Government's Agriculture Bill. I welcome the opportunity to clarify the Welsh provisions further. I have dealt with your questions broadly in the order in which they are raised in your letter. In some cases I have given grouped answers where it helps explain the position more clearly.

By way of context, the Welsh Government's Green Paper 'Brexiteer and our Land' sets out proposals for providing future support to farmers when the UK leaves the EU. It consults on proposals both to simplify existing schemes and a new land management programme which would replace the Common Agriculture Policy in its entirety. The consultation closed on 30 October and responses are now being considered. No decisions have been taken, including on timescales for the introduction of new schemes, and further consultation will take place next spring before I make decisions on the detail.

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400
Gohebiaeth.Lesley.Griffiths@llyw.cymru
Correspondence.Lesley.Griffiths@gov.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

Tudalen y pecyn 19

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

I instructed the UK Government to take powers for Welsh Ministers in the Agriculture Bill to provide certainty to the Welsh agriculture sector as the UK Government continues to negotiate the terms of the UK's future relationship with the EU. I confirm it is still my intention to bring forward an Agriculture (Wales) Bill to the Assembly but this is unlikely to be in place for 2020 because of the pressure on the legislative timetable. The Welsh provisions in the Bill are needed now to provide Welsh Ministers with a legal base to continue with existing schemes following our exit from the European Union (EU) and provide flexibility for transition and potential implementation of new schemes, should that be required. Without such powers the Welsh Government would not be able to continue paying agricultural support in 2020 or to simplify existing schemes, for example, by removing the greening requirement of the Basic Payments Scheme and simplifying arrangements for payments to cross border farms. The powers provide the flexibility to begin transition, once policy decisions have been taken on the nature of new schemes.

Given the level of uncertainty surrounding Brexit, I did not consider it to be appropriate to include an explicit sunset provision for these powers to be on the face of the Bill. The provisions in the UK Agriculture Bill are, therefore, not time limited. I can confirm it is my intention for the powers to be transitional and superseded by a Wales Agriculture Bill at the appropriate time. I intend to bring forward a Wales Agriculture Bill before the end of the current Assembly term.

I would like to reassure the Committee the powers being taken now are broad enabling powers which do not constrain or predetermine future policy decisions. The Committee will appreciate it is necessary for legislation to be ready in good time in order the Government can react quickly once decisions are made. I acknowledge the Committee's concern regarding the significant regulation-making powers provided in the Bill to Welsh Ministers. I am committed to consulting stakeholders properly should these powers be used. We are already consulting on future policy and have outlined our intention to undertake further consultation before making any changes to payments. The powers in the Agriculture Bill are generally enabling powers which required separate secondary legislation to take effect. The Assembly and the Committee will, therefore, have the opportunity for scrutiny.

The Committee has asked for information on how powers in Schedule 3, Part 1 to delegate functions for the giving financial assistance may be used. In general terms, the powers would allow for a wide range of possible payment schemes to be established. The purposes for which Welsh Ministers will be able to give financial assistance are designed to be non-limiting in their scope and no decisions have yet been taken on the use and purpose of the powers. This will very much be dependent on the consultation outcomes and on the UK's future relationship with the EU and rest of the world.

As you note, the agricultural transition period for Wales mirrors that for England in the Bill. This reflects the Welsh Government's decision to make a neutral assumption and not pre-judge the consultation. Whilst we are consulting on an agricultural transition period from 2020 to 2025, it would be inappropriate for this to be on the face of the Bill. Our legal provisions for agricultural transition thus mirror the UK Government's approach for England, however, this would be amended later if necessary, once decisions have been made about the length of the transition period in Wales.

The Bill enables simplifications through a power to amend retained EU law relating to direct payments. These powers are separate to provisions providing for future financial assistance to deliver the new land management schemes. Secondary legislation laid under the EU (Withdrawal) Act will make operability fixes to the direct payments regulation. The powers under the Agriculture Bill may allow for further policy changes to that regulation if desired. There would need to be further consultation with those affected and work to understand risks of making changes to farmer payments.

Officials are continuing discussions on the WTO and Red Meat Levy clauses with the UK Government and I hope to resolve these issues as the Bill passes through Parliament.

In terms of timescales, the Bill passed second reading in the House of Commons on 10th October and is now at the Committee stage. The Public Bill Committee met on Tuesday 23 October 2018 and is expected to report to the House by Tuesday 20 November 2018. Beyond this, the timetabling of subsequent stages is a matter for Parliament but I can reassure the Committee that officials are in regular communication with the UK Government to ensure provisions for Wales are properly taken account of.

My clear objective is to retain broad powers for Welsh Ministers as the Bill passes through Parliament. Where amendments to English provisions are tabled they will be considered carefully on a case by case basis to see whether equivalent amendments are needed in Wales. If amendments are made to Welsh provisions which would require consent, I confirm that a Supplementary Memorandum will be laid.

You have asked me to give oral evidence to the Committee To which I am of course agreeable and my Diary Secretary will be in touch to confirm.

Regards
Lesley

Lesley Griffiths AC/AM

Ysgrifennydd y Cabinet dros Ynni, Cynllunio a Materion Gwledig
Cabinet Secretary for Energy, Planning and Rural Affairs

Kirsty Williams AC/AM
Ysgrifennydd y Cabinet dros Addysg
Cabinet Secretary for Education



Llywodraeth Cymru
Welsh Government

Mick Antoniw AC
Cadeirydd
Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol
Cynulliad Cenedlaethol Cymru

SeneddCLA@Assembly.Wales

7 Tachwedd 2018

Annwyl Mick,

Diolch am eich llythyr dyddiedig 24 Hydref ar ran y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol yn holi am eglurder ynghylch sut yr ystyriwyd yn arbennig Erthygl 12 Confensiwn y Cenhedloedd Unedig ar Hawliau'r Plentyn wrth lunio'r Aseiad Effaith ar Hawliau Plant (CRIA).

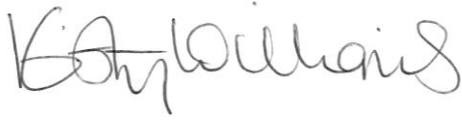
Wrth gyflwyno cynigion, gan gynnwys cynigion i gau unrhyw ysgol, mae'n ofynnol i gynigwyr gydymffurfio â Deddf Safonau a Threfniadaeth Ysgolion (Cymru) 2013 a'r Cod Trefniadaeth Ysgolion gan gynnwys y gofynion o ran ymgynghori. O dan y Cod presennol a ddaeth i rym ym mis Hydref 2013, mae'n rhaid i gynigwyr wneud trefniadau addas i ymgynghori â disgyblion unrhyw ysgol yr effeithir arni gan eu cynigion a, lle bo'n bosibl, â phlant a phobl ifanc sy'n debygol o fynd i'r ysgolion hynny. Fan leiaf, rhaid cynnwys yn yr ymgynghoriad gynghorau ysgol yr ysgolion yr effeithir arnynt. Mae'r gofyniad hwn yn parhau yn ail fersiwn y Cod.

Mae Llywodraeth Cymru wedi cyhoeddi canllawiau i awdurdodau lleol, cyrff llywodraethu ysgolion a gynhelir a chynigwyr eraill ynghylch ymgynghori â phlant a phobl ifanc mewn perthynas â chynigion ynghylch trefniadaeth ysgolion i gefnogi'r Cod.

O dan y Cod diwygiedig, ni ddylid gwneud penderfyniad i ymgynghori a symud ymlaen i gau ysgol wledig hyd nes y bydd yr holl bosibiliadau eraill rhag cau wedi'u hystyried. Rhaid i'r broses o ystyried y posibiliadau eraill gael ei gwneud mewn dau gam gyda'r cynigydd yn gwneud hyn cyn iddynt hyd yn oed benderfynu dechrau'r broses ymgynghori ynghylch cau. Bydd hyn yn rhoi cyfle i unrhyw sydd â diddordeb yn y mater gan gynnwys disgyblion a darpar ddisgyblion a'u rhieni awgrymu posibiliadau eraill rhag cau y bydd yn rhaid i'r cynigydd eu hystyried. Drwy hynny, mae hawliau plant i leisio barn ynghylch y cynnig arfaethedig i gau ysgol wledig a'u hawl i sicrhau bod eu barn yn cael ei hystyried yn cael eu cryfhau o dan y trefniadau newydd.

Er bod Erthygl 12 wedi'i hystyried yng nghorff y CRIA, ni chyfeiriwyd yn benodol at Erthygl 12 yng Ngham 3 o'r CRIA. Mae fersiwn fwy diweddar o'r CRIA wedi'i hatodi a bydd yn cael ei chyhoeddi cyn hir.

Yn gywir

A handwritten signature in black ink, appearing to read 'Kirsty Williams'.

Kirsty Williams AC/AM
Ysgrifennydd y Cabinet dros Addysg
Cabinet Secretary for Education



Children’s Rights Impact Assessment (CRIA) Template

Title / Piece of work:	Strengthening the School Organisation Code in respect of a presumption against the closure of rural schools
Related SF / LF number (if applicable)	MA-L-KW-5346-16 MA-L-KW-0060-18 MA-L-KW-0204-18 MA-L-KW-0439-18 MA-L-KW-0656-18
Name of Official:	David Weale, School Organisation and Admissions Branch
Department:	Department for Education & Public Services
Date:	29 October 2018
Signature:	

Please complete the CRIA and retain it for your records on iShare. You may be asked to provide this document at a later stage to evidence that you have complied with the duty to have due regard to children’s rights e.g. Freedom of Information access requests, monitoring purposes or to inform reporting to the NafW.

Upon completion you should also forward a copy of the CRIA to the Measure Implementation Team for monitoring purposes using the dedicated mailbox CRIA@wales.gsi.gov.uk

If officials are not sure about whether to complete a CRIA, they should err on the side of caution and seek advice from the Measure Implementation Team by forwarding any questions to our mailbox CRIA@wales.gsi.gov.uk

You may wish to cross-reference with other impact assessments undertaken.

NB. All CRIAs undertaken on legislation must be published alongside the relevant piece of work on the WG website. All other CRIAs must be listed in the WG CRIA newsletter and must be made available upon request. Ministers are however, encouraged to publish all completed CRIAs.

Six Steps to Due Regard



Step 1. What's the piece of work and its objective(s)?

A brief description of the piece of work

In Plenary in November 2016 the Cabinet Secretary for Education announced a number of actions she would take in respect of small and rural schools, recognising that schools and communities in different parts of Wales face different challenges as the Welsh Government moves forward with its reforms to raise education standards. As part of this she committed to consult on strengthening the School Organisation Code in respect of a presumption against the closure of rural schools. This commitment is one of the key actions in our national mission¹.

The School Organisation Code ("the Code") is made by the Welsh Ministers.² It sets out what must be done whenever significant changes to schools are proposed - such as a change in category of a school or the opening or closing of a school. There is currently no presumption in favour or against the closure of any type of school. The first edition of the Code recognises that the prime purpose of schools is the provision of education. However, it also recognises that in rural areas a school may also be the main focal point for community activity and its closure could have implications beyond the issue of the provision of education. When bringing forward proposals to close any school, proposers must give special attention to alternatives and assess the impact of closure on the community through the production of a Community Impact Assessment.

We propose to strengthen the first edition of the Code to include a specific presumption against the closure of rural schools. This will require proposers to follow a more detailed set of procedures and requirements in formulating a rural school proposal and in consulting on and reaching a decision as to whether to implement a rural school closure proposal.

A presumption against closure does not mean that rural schools will never close. The objective is to ensure that the case for closure is strong and that the decision to consult and move forward with closure is not taken until all viable alternatives have been conscientiously considered, including federation. Identifying alternatives to closure must be a two stage process with proposers doing

¹ Education in Wales: Our national mission action plan for 2017-21.

² See sections 38 and 39 of the School Standards and Organisation (Wales) Act 2013

this before they even decide to consult on closure and then considering any other viable alternatives that come forward as part of the consultation. A more open and transparent process will be one in which the proposer is seen to be open to new ideas suggestions and proposals emerging from the consultation.

In order to have a presumption against the closure of rural schools it is necessary to define a rural school for that specific purpose. When considering developing a proposal to close a school the proposer will need to check whether the school is on the list and the further requirements set out in the Code apply. The consultation also therefore sought views on an appropriate designation of rural school, using the National Statistics Urban-Rural Classification.

What is the time frame for achieving this?

Before issuing or revising the School Organisation Code the Welsh Ministers are required to consult with local authorities, governing bodies of maintained schools, Estyn and anyone else they consider appropriate.

A 14 -week web-based public consultation on the revised code ran from 30 June 2017 to 30 September 2017. The consultation sought views on the introduction of a presumption against closure of rural schools, the further requirements and procedures proposers would need to follow and the designation of rural schools and list of rural schools that derived from it. A total of 70 responses were received from a wide representative range of key stakeholders including local authorities, diocesan authorities, school governing bodies, parents and individuals, teaching unions, community and town councils, Estyn and others. A full summary of consultation responses can be accessed at: <https://beta.gov.wales/school-organisation-code>

There was broad support for all of the proposals. However, some respondents suggested other schools that should also be designated as rural. Taking into account consultation responses the designation of rural schools was extended to include a further category of the Urban-Rural Classification.

The draft Code has been updated to reflect consultation responses. In accordance with section 39 of the School Standards and Organisation (Wales) Act 2013 the draft Code was laid before the National Assembly for Wales for 40 days on 17 September 2018. The Code is expected to come into force on 1 November 2018 unless the National Assembly for Wales resolves not to approve it.

Who are the intended beneficiaries?

Pupils, parents and families, teachers and rural communities

Is it likely that the piece of work will specifically affect children?

Yes. The Welsh Government is bringing forward these proposals to protect and potentially benefit the well-being of all children who attend maintained rural schools in Wales, recognising that all children and young people deserve an equal opportunity - regardless of their background or where they live - to reach the highest possible standards.

The duty of implementing the proposals will usually be on local authorities, but may also fall on the governing bodies of foundation and voluntary aided schools where those governing bodies have proposed the closure of their schools.

Will the piece of work have an effect on a particular group of children, if so, describe the group affected?

Our proposals will have an effect on those children who live in rural areas and attend schools designated as rural schools. The Code already has a focus on vulnerable groups, including children with Special Educational Needs and the impact that school organisation proposals may have on them and this will continue to be the case in the 2nd edition of Code.

Step 2. Analysing the impact

We envisage that the more open and transparent process introduced by the presumption against closure, will benefit pupils, their parents and the wider community. The two stage process of identifying and considering alternatives to closure will give all those who have an interest in proposals more trust and confidence in the process.

Where a viable alternative is identified which results in a rural school remaining open, for example federation with another school and/or use of community buildings or shared services on site to make the school more viable, it has potential benefits for the schools concerned, their pupils and the wider community.

While introducing a presumption against closure does not mean that rural schools will not close, it improves the chances of such schools remaining open where a viable alternative to closure is identified. Anecdotal evidence is that rural communities with a local school are more likely to thrive as they are better able to attract families with school age children into the area. As a result, other businesses providing services and jobs may be encouraged into the area which could benefit the wider community, including children and their families.

If the chances of rural schools remaining open are improved, it means that the children who attend schools which would previously have closed do not now face the disruption of being moved to another school in a different community.

If children are able to continue to attend their local rural school rather than another school which is further away it will keep their travel time to a minimum, which will be of benefit to children and their families. Local authorities may also benefit from not needing to provide school transport.

Ensuring that all viable options to keep the school open are properly considered may lead not only to the school remaining open but also to increased community use of school facilities by the wider community, which may also be of benefit to some children. For example, part of the school building or grounds may be used to accommodate childcare including wrap around childcare outside school hours, after school clubs, sports facilities, a library or post office.

The requirement that closure of any school – whether or not that school is “rural” - must be in the best interests of educational provision in the area remains unchanged.

A 14 week web-based public consultation on our proposals ran from 30 June 2017 until 30 September 2017. In addition to being publically available on the Welsh Government internet site, it was advertised in Dysg which is available to all schools, links to the consultation were provided to key stakeholders such as Estyn, local authorities and diocesan authorities, a 10% sample of school governing bodies (including various faith and non-faith schools), the Equality and Human Rights Commission, the Children’s Commissioner for Wales and education Consortia.

A children's version of the consultation was not prepared. While the purpose of our proposals is to protect and potentially increase the wellbeing of children who attend rural schools and their families, we are seeking to bring this about by making changes to the statutory School Organisation Code. These changes will apply to local authorities and the governing bodies of foundation and voluntary schools only, as they are the bodies that may propose the closure of a school.

In bringing forward proposals, including proposals to close schools proposers are required to comply with the School Standards and Organisation (Wales) Act 2013 and the School Organisation Code including in respect of consultation. This includes producing a child friendly version of their consultation document and making suitable arrangements to consult with pupils of any affected school, including consultation with the school council. Under the presumption against closure children and young people along with anyone else with an interest, will be able to put forward alternatives to closure as part of the consultation process, which local authorities and other proposers must consider.

Step 3. How does your piece of work support and promote children's rights?

The introduction of a presumption against the closure of rural schools will help to ensure that the well-being of not only the children who attend these schools, but also their families and communities are conscientiously considered and consulted upon. This is because the proposer of the closure will have to consider and consult upon all viable options to keep a school open, which will necessitate the drafting of various impact assessments for all options – including an assessment of the impact on the community. Consideration of alternatives to closure will be a two stage process with the authority or other proposer having to do his before they even decide to consult on closure and for consultees including pupils, their parents and the community to come up with other viable alternatives to closure which the proposer must consider. When people are involved in decisions that affect them locally it improves their sense of wellbeing. There may even be longer term benefits in the form of increased prosperity for rural communities if the continuance of a rural school makes that community more attractive to families and inward investment from businesses. We believe that these proposals will maximise outcomes within the UNCRC articles discussed below.

Article 3

All organisations concerned with children should work towards what is best for each child.

Introducing a presumption against the closure of rural schools will ensure that all viable options to keep a school open are conscientiously considered and consulted upon along with the option to close a school, and the impact of all such options is appropriately assessed. This should mean that the well-being of the children who attend a rural school - as well as their families and wider community – is given appropriate weight whenever school closure is being considered.

Article 12

Children have the right to say what they think should happen when adults are making decisions that affect them, and to have their opinions taken into account

There is an existing duty on proposers to produce a child friendly version of their consultation document and make suitable arrangements to consult with pupils of any schools affected by their

proposals and where possible, with children who are likely to attend those schools. As a minimum this must include consultation with the school councils of the affected schools. This requirement remains unchanged in the second version of the Code. The Welsh Government has issued guidance to local authorities, school governing bodies and other proposers on school organisation consultations with children and young people.

Under the presumption against closure of rural schools the decision to consult and move to closure must not be taken until all viable alternatives to closure have been conscientiously considered, Under the new arrangements consideration of alternatives is a two-stage process, with the proposer doing this before they even decide to proceed to consultation and an opportunity for anyone with an interest, which includes children and young people and their parents to put forward suggestions for alternatives as part of the consultation, which the proposer must consider.

Article 27

Children have a right to a standard of living that is good enough to meet their physical and mental needs. The Government should help families who cannot afford to provide this.

Rural poverty is often hidden. Village schools can act as the lynchpin for extended services in a community through the provision of other public services. By doing this they give us the best chance of reaching all people, but particularly those most at risk of social exclusion. Based in isolated communities small schools may hold the key to engaging the most disadvantaged families. Village schools have a role to play in supporting individual families in need, or as a hub for activities that will promote learning economic well-being and social cohesion. Maintaining small village schools in rural areas and extending their provision of services and we tackle the problems of poverty, aspiration and lack of economic opportunities for these areas. Rural Schools are often critical in engaging pupils and families from the most disadvantaged backgrounds.

As rural schools often play a pivotal role in the life of their communities, having a presumption against their closure will result in fewer rural schools closing and may help to encourage families and businesses into rural areas. This may give rural communities a better chance to thrive, and to have improved facilities and job prospects which will benefit the children - and their families – who live in such communities.

Step 4. Advising the Minister and Ministerial decision

The advice to the Minister for Education & Skills confirms that this CRIA has been completed.

Step 5. Recording and communicating the outcome

This CRIA will be sent to the Measure Implementation Team for monitoring purposes, listed in the Welsh Government CRIA newsletter and made available on request. The final CRIA will be published once the revised School Organisation Code comes into force.

Step 6. Revisiting the piece of work as and when needed

The presumption against the closure of rural schools will be monitored on an ongoing basis and will be reviewed a year after implementation and as part of a wider review of the Code following three years of operation.

Budgets

<p>Does the piece of work have any associated allocation of budget?</p> <p>It is important that where any changes are made to spending plans, including where additional allocations or savings have been made, that this has been assessed and evidenced as part of the CRIA process.</p>	<p>No</p>
<p>Please give any details:</p> <p>The funding for the consultation on the school organisation code was met from DRCs within the BEL 5120 within the Education and Public Services MEG during 2017/18.</p>	

Monitoring & Review

<p>Do we need to monitor / review the proposal?</p>	<p>Yes</p>
<p>If applicable: set the review date</p>	<p>Month / Year November 2019 We expect that a review of the impact of the introduction of a presumption against the closure of rural schools will be undertaken following the first year in which this presumption has effect.</p>

Please forward a copy of this CRIA to CRIA@wales.gsi.gov.uk for monitoring purposes

THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD

www.uncrcletsgetitright.co.uk

The United Nations Convention on the Rights of the Child is an international agreement that protects the human rights of the children under the age of 18. On 16 December 1991, the United Kingdom of Great Britain and Northern Ireland formally agreed to make sure that every child in the UK has all the rights as listed in the convention. The Welsh Government has shown its commitment to the convention by adopting it as the basis for policy making for children in Wales.

Altogether there are 54 articles in the convention. Articles 43-54 are about how adults and governments should work together to make sure all children are entitled to their rights. The information contained here is about articles 1-42 which set out how children should be treated.



Llywodraeth Cymru
Welsh Government

www.cymru.gov.uk

Article 1

Everyone under 18 years of age has all the rights in this Convention.

Article 2

The Convention applies to everyone whatever their race, religion, abilities, whatever they think or say and whatever type of family they come from.

Article 3

All organisations concerned with children should work towards what is best for each child.

Article 4

Governments should make these rights available to children.

Article 5

Governments should respect the rights and responsibilities of families to direct and guide their children so that, as they grow, they learn to use their rights properly.

Article 6

All children have the right to life. Governments should ensure that children survive and develop healthily.

Article 7

All children have the right to a legally registered name, the right to a nationality and the right to know and, as far as possible, to be cared for by their parents.

Article 8

Governments should respect children's right to a name, a nationality and family ties.

Article 9

Children should not be separated from their parents unless it is for their own good, for example if a parent is mistreating or neglecting a child. Children whose parents have separated have the right to stay in contact with both parents, unless this might hurt the child.

Article 10

Families who live in different countries should be allowed to move between those countries so that parents and children can stay in contact or get back together as a family.

Article 11

Governments should take steps to stop children being taken out of their own country illegally.

Article 12

Children have the right to say what they think should happen, when adults are making

decisions that affect them, and to have their opinions taken into account.

Article 13

Children have the right to get and to share information as long as the information is not damaging to them or to others.

Article 14

Children have the right to think and believe what they want and to practise their religion, as long as they are not stopping other people from enjoying their rights. Parents should guide their children on these matters.

Article 15

Children have the right to meet together and to join groups and organisations, as long as this does not stop other people from enjoying their rights.

Article 16

Children have a right to privacy. The law should protect them from attacks against their way of life, their good name, their families and their homes.

Article 17

Children have the right to reliable information from the mass media. Television, radio and newspapers should provide information that children can understand, and should not promote materials that could harm children.

Article 18

Both parents share responsibility for bringing up their children, and should always consider what is best for each child. Governments should help parents by providing services to support them, especially if both parents work.

Article 19

Governments should ensure that children are properly cared for, and protect them from violence, abuse and neglect by their parents or anyone else who looks after them.

Article 20

Children who cannot be looked after by their own family must be looked after properly, by people who respect their religion, culture and language.

Article 21

When children are adopted the first concern must be what is best for them. The same rules should apply whether the children are adopted in the country where they were born or taken to live in another country.

Article 22

Children who come into a country as refugees should have the same rights as children born in that country.

Article 23

Children who have any kind of disability should have special care and support so that they can lead full and independent lives.

Article 24

Children have the right to good quality health care and to clean water, nutritious food and a clean environment so that they will stay healthy. Rich countries should help poorer countries achieve this.

Article 25

Children who are looked after by their local authority rather than their parents should have their situation reviewed regularly.

Article 26

The Government should provide extra money for the children of families in need.

Article 27

Children have a right to a standard of living that is good enough to meet their physical and mental needs. The Government should help families who cannot afford to provide this.

Article 28

Children have a right to an education. Discipline in schools should respect children's human dignity. Primary education should be free. Wealthy countries should help poorer countries achieve this.

Article 29

Education should develop each child's personality and talents to the full. It should encourage children to respect their parents, and their own and other cultures.

Article 30

Children have a right to learn and use the language and customs of their families, whether these are shared by the majority of people in the country or not.

Article 31

All children have a right to relax and play, and to join in a wide range of activities.

Article 32

The Government should protect children from work that is dangerous or might harm their health or their education.

Article 33

The Government should provide ways of protecting children from dangerous drugs.

Article 34

The Government should protect children from sexual abuse.

Article 35

The Government should make sure that children are not abducted or sold.

Article 36

Children should be protected from any activities that could harm their development.

Article 37

Children who break the law should not be treated cruelly. They should not be put in prison with adults and should be able to keep in contact with their families.

Article 38

Governments should not allow children under 15 to join the army. Children in war zones should receive special protection.

Article 39

Children who have been neglected or abused should receive special help to restore their self respect.

Article 40

Children who are accused of breaking the law should receive legal help. Prison sentences for children should only be used for the most serious offences.

Article 41

If the laws of a particular country protect children better than the articles of the Convention, then those laws should stay.

Article 42

The Government should make the Convention known to all parents and children.

For further information on the United Nations Convention on the Rights of the Child please visit: The Welsh Government's UNCRC Website: www.uncrcletsgetitright.co.uk/

Cic - The National Information and Advice Service for Young People www.ciconline.co.uk/news/



Eitem 6

Yn rhinwedd paragraff(au) vi o Reol Sefydlog 17.42

Mae cyfyngiadau ar y ddogfen hon

Eitem 7

Yn rhinwedd paragraff(au) vi o Reol Sefydlog 17.42

Mae cyfyngiadau ar y ddogfen hon