

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, 18 Mawrth 2019 Clerc y Pwyllgor
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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 – 6)

CLA(5)–10–19 – Papur 1 – Offerynnau statudol sydd ag adroddiadau clir
Offerynnau'r Weithdrefn Penderfyniad Negyddol

2.1 SL(5)339 – Rheoliadau Trydan (Gorsafoedd Cynhyrchu Alltraeth) (Parthau Diogelwch) (Gweithdrefnau Gwneud Cais a Rheoli Mynediad) (Diwygio) (Cymru) 2019

2.2 SL(5)340 – Rheoliadau Trydan (Gorsafoedd Cynhyrchu Alltraeth) (Ffioedd) (Cymru) 2019

2.3 SL(5)347 – Gorchymyn Datblygiadau o Arwyddocâd Cenedlaethol (Gweithdrefn) (Cymru) (Diwygio) 2019

2.4 SL(5)361 – Rheoliadau Dileu a Rheoli Afiechydon Milheintiol (Diwygiadau Amrywiol) (Cymru) (Ymadael â'r UE) 2019

2.5 SL(5)387 – Rheoliadau'r Gwasanaeth Iechyd Gwladol (Ffioedd Deintyddol) (Cymru) (Diwygio) 2019



2.6 SL(5)391 – Rheoliadau Pysgota Môr (Trwyddedau a Hysbysiadau) (Cymru) 2019

Offerynnau'r Weithdrefn Penderfyniad Cadarnhaol

2.7 SL(5)371 – Rheoliadau Trefniadau Partneriaeth ac Aseidiadau Poblogaeth (Diwygiadau Amrywiol) (Cymru) 2019

3 Offerynnau a drafodwyd yn flaenorol ar gyfer sifftio ac sydd bellach yn destun gwaith craffu o dan Reolau Sefydlog 21.2 a 21.3
(Tudalennau 7 – 8)

CLA(5)–10–19 – Papur 2 – Adroddiadau clir ac eithrio pwynt rhinweddau sengl o dan Reol Sefydlog 21.3 (wedi bod yn destun sifftio)

3.1 SL(5)379 – Rheoliadau Cymwysterau Athrawon (Diwygio) (Cymru) (Ymadael â'r UE) 2019

4 Offerynnau sy'n cynnwys materion i gyflwyno adroddiad arnynt i'r Cynulliad o dan Reol Sefydlog 21.2 neu 21.3

Offerynnau'r Weithdrefn Penderfyniad Negyddol

4.1 SL(5)343 – Rheoliadau Trydan (Gorsafoedd Cynhyrchu Alltraeth) (Gweithdrefn Ymchwiliadau) (Cymru) 2019

(Tudalennau 9 – 53)

CLA(5)–10–19 – Papur 3 – Adroddiad

CLA(5)–10–19 – Papur 4 – Rheoliadau

CLA(5)–10–19 – Papur 5 – Memorandwm Esboniadol

4.2 SL(5)344 – Rheoliadau Trydan (Gorsafoedd Cynhyrchu Alltraeth) (Amrywio Cydsyniadau) (Cymru) 2019

(Tudalennau 54 – 77)

CLA(5)–10–19 – Papur 6 – Adroddiad

CLA(5)–10–19 – Papur 7 – Rheoliadau

CLA(5)–10–19 – Papur 8 – Memorandwm Esboniadol

4.3 SL(5)345 – Rheoliadau Trydan (Gorsafoedd Cynhyrchu Alltraeth) (Ceisiadau am Gydsyniad) (Cymru) 2019

(Tudalennau 78 – 98)

CLA(5)–10–19 – Papur 9 – Adroddiad

CLA(5)–10–19 – Papur 10 – Rheoliadau

CLA(5)–10–19 – Papur 11 – Memorandwm Esboniadol

4.4 SL(5)348 – Rheoliadau Datblygiadau o Arwyddocâd Cenedlaethol (Cymru) (Diwygio) 2019

(Tudalennau 99 – 144)

CLA(5)–10–19 – Papur 12 – Adroddiad

CLA(5)–10–19 – Papur 13 – Rheoliadau

CLA(5)–10–19 – Papur 14 – Memorandwm Esboniadol

4.5 SL(5)351 – Gorchymyn Cynllunio Gwlad a Thref (Datblygu Cyffredinol a Ganiateir) (Diwygio) (Cymru) 2019

(Tudalennau 145 – 196)

CLA(5)–10–19 – Papur 15 – Adroddiad

CLA(5)–10–19 – Papur 16 – Gorchymyn

CLA(5)–10–19 – Papur 17 – Memorandwm Esboniadol

4.6 SL(5)354 – Gorchymyn Byrddau Iechyd Lleol (Newid Ardaloedd) (Cymru) (Diwygiadau Amrywiol) 2019

(Tudalennau 197 – 215)

CLA(5)–10–19 – Papur 18 – Adroddiad

CLA(5)–10–19 – Papur 19 – Rheoliadau

CLA(5)–10–19 – Papur 20 – Memorandwm Esboniadol

4.7 SL(5)355 – Gorchymyn Pysgota Môr (Hysbysiadau Cosb) (Cymru) 2019
(Tudalennau 216 – 237)

CLA(5)–10–19 – Papur 21 – Adroddiad

CLA(5)–10–19 – Papur 22 – Rheoliadau

CLA(5)–10–19 – Papur 23 – Memorandwm Esboniadol

**4.8 SL(5)357 – Rheoliadau Marchnata Hadau a Deunyddiau Lluosogi Planhigion
(Diwygio) (Cymru) (Ymadael â'r UE) 2019**
(Tudalennau 238 – 271)

CLA(5)–10–19 – Papur 24 – Adroddiad

CLA(5)–10–19 – Papur 25 – Rheoliadau

CLA(5)–10–19 – Papur 26 – Memorandwm Esboniadol

**4.9 SL(5)358 – Rheoliadau'r Fasnach mewn Anifeiliaid a Chynhyrchion Perthynol
(Diwygio) (Cymru) (Ymadael â'r UE) 2019**
(Tudalennau 272 – 292)

CLA(5)–10–19 – Papur 27 – Adroddiad

CLA(5)–10–19 – Papur 28 – Rheoliadau

CLA(5)–10–19 – Papur 29 – Memorandwm Esboniadol

**4.10 SL(5)359 – Rheoliadau Pysgodfeydd a Rheoli Morol (Diwygio) (Cymru)
(Ymadael â'r UE) 2019**
(Tudalennau 293 – 309)

CLA(5)–10–19 – Papur 30 – Adroddiad

CLA(5)–10–19 – Papur 31 – Rheoliadau

CLA(5)–10–19 – Papur 32 – Memorandwm Esboniadol

**4.11 SL(5)360 – Rheoliadau Clefydau Egsotig mewn Anifeiliaid (Diwygiadau
Amrywiol) (Cymru) (Ymadael â'r UE) 2019**
(Tudalennau 310 – 332)

CLA(5)-10-19 – Papur 33 – Adroddiad

CLA(5)-10-19 – Papur 34 – Rheoliadau

CLA(5)-10-19 – Papur 35 – Memorandwm Esboniadol

4.12 SL(5)362 – Rheoliadau Organeddau a Addaswyd yn Enetig (Eu Gollwng yn Fwriadol a’u Symud ar draws Ffin) (Diwygiadau Amrywiol) (Cymru) (Ymadael â’r UE) 2019

(Tudalennau 333 – 362)

CLA(5)-10-19 – Papur 36 – Adroddiad

CLA(5)-10-19 – Papur 37 – Rheoliadau

CLA(5)-10-19 – Papur 38 – Memorandwm Esboniadol

4.13 SL(5)364 – Rheoliadau Gwastraff (Cymru) (Diwygiadau Amrywiol) (Ymadael â’r UE) 2019

(Tudalennau 363 – 396)

CLA(5)-10-19 – Papur 39 – Adroddiad

CLA(5)-10-19 – Papur 40 – Rheoliadau

CLA(5)-10-19 – Papur 41 – Memorandwm Esboniadol

4.14 SL(5)372 – Rheoliadau’r Gwasanaeth Iechyd Gwladol (Cynllun Esgeuluster Clinigol) (Cymru) 2019

(Tudalennau 397 – 423)

CLA(5)-10-19 – Papur 45 – Adroddiad

CLA(5)-10-19 – Papur 46 – Rheoliadau

CLA(5)-10-19 – Papur 47 – Memorandwm Esboniadol

4.15 SL(5)373 Rheoliadau Cynhyrchion Bwyd a Bwyd Anifeiliaid Rheoleiddiedig (Diwygiadau Amrywiol) (Cymru) (Ymadael â’r UE) 2019

(Tudalennau 424 – 448)

CLA(5)-10-19 – Papur 48 – Adroddiad

CLA(5)-10-19 – Papur 49 – Rheoliadau

CLA(5)-10-19 – Papur 50 – Memorandwm Esboniadol

4.16 SL(5)376 – Rheoliadau Cyllid Llywodraeth Leol (Diwygio) (Cymru) (Ymadael â'r UE) 2019

(Tudalennau 449 – 462)

CLA(5)–10–19 – Papur 54 – Adroddiad

CLA(5)–10–19 – Papur 55 – Rheoliadau

CLA(5)–10–19 – Papur 56 – Memorandwm Esboniadol

4.17 SL(5)392 – Gorchymyn Trwyddedu Pysgota Môr (Cymru) 2019

(Tudalennau 463 – 476)

CLA(5)–10–19 – Papur 57 – Adroddiad

CLA(5)–10–19 – Papur 58 – Gorchymyn

CLA(5)–10–19 – Papur 59 – Memorandwm Esboniadol

Offerynnau'r Weithdrefn Penderfyniad Cadarnhaol

4.18 SL(5)335 – Rheoliadau Iechyd Planhigion (Diwygio) (Cymru) (Ymadael â'r UE) 2019

(Tudalennau 477 – 559)

CLA(5)–10–19 – Papur 60 – Adroddiad

CLA(5)–10–19 – Papur 61 – Rheoliadau

CLA(5)–10–19 – Papur 62 – Memorandwm Esboniadol

4.19 SL(5)365 – Rheoliadau Gwasanaethau Rheoleiddiedig (Darparwyr Gwasanaethau ac Unigolion Cyfrifol) (Cymru) (Diwygio) 2019

(Tudalennau 560 – 573)

CLA(5)–10–19 – Papur 63 – Adroddiad

CLA(5)–10–19 – Papur 64 – Rheoliadau

CLA(5)–10–19 – Papur 65 – Memorandwm Esboniadol

**4.20 SL(5)366 – Rheoliadau Bwyd (Diwygiadau Amrywiol) (Cymru) (Ymadael â'r UE)
(Rhif 2) 2019**

(Tudalennau 574 – 606)

CLA(5)–10–19 – Papur 66 – Adroddiad

CLA(5)–10–19 – Papur 67 – Rheoliadau

CLA(5)–10–19 – Papur 68 – Memorandwm Esboniadol

**4.21 SL(5)368 – Rheoliadau Awdurdodau Lleol (Cyllid Cyfalaf a Chyfrifyddu)
(Cymru) (Diwygio) (Ymadael â'r UE) 2019**

(Tudalennau 607 – 619)

CLA(5)–10–19 – Papur 42 – Adroddiad

CLA(5)–10–19 – Papur 43 – Rheoliadau

CLA(5)–10–19 – Papur 44 – Memorandwm Esboniadol

**4.22 SL(5)367 – Rheoliadau Deddfau Trethi Cymru (Diwygiadau Amrywiol)
(Ymadael â'r UE) 2019**

(Tudalennau 620 – 644)

CLA(5)–10–19 – Papur 69 – Adroddiad

CLA(5)–10–19 – Papur 70 – Rheoliadau

CLA(5)–10–19 – Papur 71 – Memorandwm Esboniadol

4.23 SL(5)370 – Rheoliadau Tatws Hadyd (Cymru) (Diwygio) (Ymadael â'r UE) 2019

(Tudalennau 645 – 668)

CLA(5)–10–19 – Papur 72 – Adroddiad

CLA(5)–10–19 – Papur 73 – Rheoliadau

CLA(5)–10–19 – Papur 74 – Memorandwm Esboniadol

**4.24 SL(5)374 – Rheoliadau Iechyd Planhigion (Coedwigaeth) (Diwygiadau
Amrywiol) (Cymru) (Ymadael â'r UE) 2019**

(Tudalennau 669 – 724)

CLA(5)–10–19 – Papur 51 – Adroddiad

CLA(5)–10–19 – Papur 52 – Rheoliadau

CLA(5)–10–19 – Papur 53 – Memorandwm Esboniadol

**4.25 SL(5)375 – Rheoliadau Materion Gwledig (Diwygiadau Amrywiol) (Cymru)
(Ymadael â'r UE) 2019**

(Tudalennau 725 – 751)

CLA(5)–10–19 – Papur 75 – Adroddiad

CLA(5)–10–19 – Papur 76 – Rheoliadau

CLA(5)–10–19 – Papur 77 – Memorandwm Esboniadol

**4.26 SL(5)380 – Rheoliadau Bwyd (Diwygiadau Amrywiol) (Cymru) (Ymadael â'r UE)
2019**

(Tudalennau 752 – 774)

CLA(5)–10–19 – Papur 78 – Adroddiad

CLA(5)–10–19 – Papur 79 – Rheoliadau

CLA(5)–10–19 – Papur 80 – Memorandwm Esboniadol

**4.27 SL(5)381 – Rheoliadau Rheoleiddio ac Arolygu Gofal Cymdeithasol
(Cymwysterau) (Cymru) (Diwygio) (Ymadael â'r UE) 2019**

(Tudalennau 775 – 797)

CLA(5)–10–19 – Papur 81 – Adroddiad

CLA(5)–10–19 – Papur 82 – Rheoliadau

CLA(5)–10–19 – Papur 83 – Memorandwm Esboniadol

**5 Offerynnau nad ydynt yn cynnwys materion i gyflwyno adroddiad
arnynt o dan Reol Sefydlog 21.2 na 21.3 ond sydd â goblygiadau
o ganlyniad i ymadawiad y DU â'r UE**

**5.1 SL(5)341 – Rheoliadau Gweithfeydd Trydan (Asesiad o'r Effaith
Amgylcheddol) (Cymru a Lloegr) (Diwygio) (Cymru) 2019**

(Tudalen 798)

CLA(5)–10–19 – Papur 84 – Adroddiad

5.2 SL(5)346 – Rheoliadau Cynllunio Gwlad a Thref (Asesu Effeithiau Amgylcheddol) (Diwygio) (Cymru) 2019
(Tudalen 799)

CLA(5)–10–19 – Papur 85 – Adroddiad

5.3 SL(5)369 – Rheoliadau Addysg (Cyllid Myfyrwyr) (Diwygiadau Amrywiol) (Cymru) (Ymadael â'r UE) 2019
(Tudalennau 800 – 802)

CLA(5)–10–19 – Papur 86 – Adroddiad

CLA(5)–10–19 – Papur 87 – Llythyr gan y Gweinidog Addysg, 21 Chwefror 2019

5.4 SL(5)377 – Rheoliadau Safonau a Labelu Bwyd (Diwygiadau Amrywiol) (Cymru) (Ymadael â'r UE) 2019
(Tudalen 803)

CLA(5)–10–19 – Papur 88 – Adroddiad

5.5 SL(5)378 – Rheoliadau Hylendid a Diogelwch Bwyd a Bwyd Anifeiliaid (Diwygiadau Amrywiol) (Cymru) (Ymadael â'r UE) 2019
(Tudalen 804)

CLA(5)–10–19 – Papur 89 – Adroddiad

6 Papurau i'w nodi

6.1 Llythyr gan y Prif Weinidog : Craffu ar reoliadau a wnaed o dan Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018: Adroddiad cynnydd
(Tudalennau 805 – 808)

CLA(5)–10–19 – Papur 90 – Llythyr gan y Prif Weinidog, 11 Mawrth 2019

6.2 Llythyr gan Gadeirydd y Pwyllgor Materion Allanol a Deddfwriaeth Ychwanegol at y Prif Weinidog: Craffu ar reoliadau a wnaed o dan Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018: Adroddiad cynnydd
(Tudalennau 809 – 812)

CLA(5)–10–19 – Papur 91 – Llythyr gan Gadeirydd y Pwyllgor Materion Allanol a Deddfwriaeth Ychwanegol, 14 Mawrth 2019

6.3 Llythyr gan y Cwnsler Cyffredinol a'r Gweinidog Brexit at y Pwyllgor Materion Allanol a Deddfwriaeth Ychwanegol: Offerynnau Statudol Cymru mewn perthynas ag ymadael â'r UE

(Tudalennau 813 – 816)

CLA(5)–10–19 – Papur 92 – Llythyr gan y Cwnsler Cyffredinol a'r Gweinidog Brexit, 11 Mawrth 2019

6.4 Llythyr gan y Cwnsler Cyffredinol a'r Gweinidog Brexit: Rheoliadau Rheoliad (EC) rhif 1370/2007 (Rhwymedigaethau Gwasanaeth Cyhoeddus mewn Trafnidiaeth) (Diwygio) (Ymadael â'r UE) 2019

(Tudalennau 817 – 818)

CLA(5)–10–19 – Papur 93 – Llythyr gan y Cwnsler Cyffredinol a'r Gweinidog Brexit, 8 Mawrth 2019

6.5 Llythyr gan y Gweinidog Iechyd a Gwasanaethau Cymdeithasol parthed: Memorandwm Cydsyniad Deddfwriaethol Atodol ar y Bil Gofal Iechyd (Trefniadau Rhyngwladol)

(Tudalennau 819 – 820)

CLA(5)–10–19 – Papur 94 – Llythyr gan y Gweinidog Iechyd a Gwasanaethau Cymdeithasol, 11 Mawrth 2019

6.6 Llythyr gan y Cwnsler Cyffredinol: Bil Deddfwriaeth (Cymru)

(Tudalennau 821 – 828)

CLA(5)–10–19 – Papur 95 – Llythyr gan y Cwnsler Cyffredinol, 8 Mawrth 2019 (+Atodiadau)

6.7 Llythyr gan y Llywydd: Cynhadledd y Llefaryddion

(Tudalen 829)

CLA(5)–10–19 – Papur 96 – Llythyr gan y Llywydd, 13 Mawrth 2019

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

8 Bil Deddfwriaeth (Cymru): Adroddiad drafft

(Tudalennau 830 – 940)

CLA(5)–10–19 – Papur 97 – Adroddiad Drafft

Offerynnau Statudol sydd ag Adroddiadau Clir 18 Mawrth 2019

SL(5)339 – Rheoliadau Trydan (Gorsafoedd Cynhyrchu Alltraeth) (Parthau Diogelwch) (Gweithdrefnau Gwneud Cais a Rheoli Mynediad) (Diwygio) (Cymru) 2019

Gweithdrefn: Negyddol

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Trydan (Gorsafoedd Cynhyrchu Alltraeth) (Parthau Diogelwch) (Gweithdrefnau Gwneud Cais a Rheoli Mynediad) 2007 (O.S. 2007/1948) ("Rheoliadau 2007") o ganlyniad i adran 41 o Ddeddf Cymru 2017. Daw adran 41 i rym ar 1 Ebrill 2019.

Mae adran 41 yn diwygio adrannau 95 a 96 o Ddeddf Ynni 2004 fel y bydd gan Weinidogion Cymru swyddogaethau mewn perthynas â datgan parthau diogelwch o gwmpas gosodiadau ynni adnewyddadwy alltraeth (sydd â gallu cynhyrchu o hyd at 350 megawat) yn nyfroedd Cymru. Mae'n drosedd i longau ddod i mewn neu aros mewn parth diogelwch oni bai y caniateir iddynt wneud hynny drwy hysbysiad parth diogelwch a ddyroddir gan y Gweinidog priodol (yn nyfroedd Cymru, Gweinidogion Cymru fydd hyn).

Mae Rheoliadau 2007 yn nodi'r wybodaeth y mae'n ofynnol iddi fynd gyda chais parth diogelwch, yn ogystal â'r gofynion gweithdrefnol y mae angen eu bodloni. Maent hefyd yn gwneud darpariaeth ar gyfer esemptiadau rhag y gwaharddiad ar fynediad i barth diogelwch a gweithgareddau ynddo.

Rhiant–Ddeddf: Ddeddf Cymru 2017

Fe'u gwnaed ar: 18 Chwefror 2019

Fe'u gosodwyd ar: 20 Chwefror 2019

Yn dod i rym ar: 01 Ebrill 2019



SL(5)340 – Rheoliadau Trydan (Gorsafoedd Cynhyrchu Alltraeth) (Ffioedd) (Cymru) 2019

Gweithdrefn: Negyddol

O 1 Ebrill 2019, Gweinidogion Cymru fydd yr awdurdod priodol mewn perthynas â cheisiadau o dan adrannau 36 a 36A o Ddeddf Trydan 1989 (“Deddf 1989”) sy'n ymwneud â gorsafoedd cynhyrchu yn nyfroedd Cymru sydd â chapasiti nad yw'n fwy na 350 megawat.

Mae'r Rheoliadau hyn yn darparu ar gyfer talu ffioedd mewn cysylltiad â cheisiadau am gydsyniad o dan adran 36 o Ddeddf 1989 i adeiladu, estyn neu weithredu gorsaf gynhyrchu alltraeth.

Rhiant–Ddeddf: Ddeddf Trydan 1989

Fe'u gwnaed ar: 18 Chwefror 2019

Fe'u gosodwyd ar: 20 Chwefror 2019

Yn dod i rym ar: 01 Ebrill 2019

SL(5)347 – Gorchymyn Datblygiadau o Arwyddocâd Cenedlaethol (Gweithdrefn) (Cymru) (Diwygio) 2019

Gweithdrefn: Negyddol

Mae'r Gorchymyn hwn yn diwygio Gorchymyn Datblygiadau o Arwyddocâd Cenedlaethol (Gweithdrefn) (Cymru) 2016 (“y Gorchymyn Gweithdrefn”).

Mae erthygl 2 yn diwygio erthygl 8 (sy'n ymwneud â chyhoeddi ceisiadau arfaethedig) ac erthygl 12 (sy'n darparu gofynion cyffredinol mewn perthynas â cheisiadau) o'r Gorchymyn Gweithdrefn. Mae'r diwygiadau yn ychwanegu gofynion pan fo datblygiad yn cynnwys gosod mathau penodol o linellau trydan uwchben. Mae'r gofynion yn ymwneud â'r wybodaeth y mae'n rhaid i berson sy'n bwriadu gwneud cais am ganiatâd cynllunio ei chyhoeddi, a chynnwys y cais hwnnw.



Mae Atodlenni 1 a 2 yn amnewid y ffurflenni hysbysu yn Atodlenni 1 a 2 i'r Gorchymyn Gweithdrefn er mwyn ystyried y ffaith y caniateir i benderfyniadau ynghylch cydsyniadau sy'n gysylltiedig â datblygu llinellau trydan uwchben penodol gael eu cymryd gan berson a benodir gan Weinidogion Cymru at y diben hwnnw.

Mae Atodlen 3 yn diwygio Atodlen 5 i'r Gorchymyn Gweithdrefn i ddiwygio'r gofynion mewn cysylltiad â'r ymgylgoreion arbenigol y mae'n rhaid i Weinidogion Cymru, o dan erthygl 22 o'r Gorchymyn hwnnw, ymgynghori â hwy cyn rhoi caniatâd cynllunio.

Rhiant–Ddeddf: Ddeddf Cynllunio Gwlad a Thref 1990

Fe'u gwnaed ar: 4 Mawrth 2019

Fe'u gosodwyd ar: 5 Mawrth 2019

Yn dod i rym ar: 01 Ebrill 2019

SL(5)361 – Rheoliadau Dileu a Rheoli Afiechydon Milheintiol (Diwygiadau Amrywiol) (Cymru) (Ymadael â'r UE) 2019

Gweithdrefn: Negyddol

Mae'r Rheoliadau hyn yn gwneud mân ddiwygiadau technegol i'r is-ddeddfwriaeth ganlynol, sy'n gymwys mewn perthynas â Chymru mewn perthynas â monitro a rheoli afiechydon milheintiol a thwbercwlosis:

Rheoliadau Milheintiau (Monitro) (Cymru) 2007 (OS 2007/2459)

Gorchymyn Twbercwlosis (Cymru) 2010 (OS 2010/1379)

Diben y diwygiadau hyn yw sicrhau bod y llyfr statud yn parhau i fod yn weithredadwy ar ôl i'r DU ymadael â'r UE ac y bydd yn ymdrin â diffygion mewn deddfwriaeth ddomestig sy'n deillio o adael yr UE.

Rhiant–Ddeddf: Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018

Fe'u gwnaed ar: 25 Chwefror 2019



Fe'u gosodwyd ar: 27 Chwefror 2019

Yn dod i rym a: rheoliadau 1(2)

SL(5)387 – Rheoliadau'r Gwasanaeth Iechyd Gwladol (Ffioedd Deintyddol) (Cymru) (Diwygio) 2019

Gweithdrefn: Negyddol

Mae'r Rheoliadau hyn yn diwygio Rheoliadau'r Gwasanaeth Iechyd Gwladol (Ffioedd Deintyddol) (Cymru) 2006 ("Rheoliadau 2006").

Mae rheoliad 2 yn diwygio rheoliad 4 o Rheoliadau 2006 (cyfrifo ffioedd) drwy gynyddu'r ffi gymwysadwy sydd i'w thalu am gwrs o driniaeth Band 1, Band 2 a Band 3.

Rhiant-Ddeddf: Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006

Fe'u gwnaed ar: 5 Mawrth 2019

Fe'u gosodwyd ar: 6 Mawrth 2019

Yn dod i rym ar: 01 Ebrill 2019

SL(5)391 – Rheoliadau Pysgota Môr (Trwyddedau a Hysbysiadau) (Cymru) 2019

Gweithdrefn: Negyddol

Mae'r Rheoliadau hyn yn ymwneud â thrwyddedau a roddir mewn perthynas â chychod pysgota Cymreig o dan adrannau 4 a 4A o Ddeddf Pysgota Môr (Cadwraeth) 1967, ac â hysbysiadau sy'n amrywio, yn atal neu'n dirymu trwyddedau o'r fath. Mewn perthynas â'r trwyddedau a'r hysbysiadau hyn, mae'r Rheoliadau hyn yn dirymu ac yn disodli Rheoliadau Pysgota Môr (Trwyddedau a Hysbysiadau) 1994.

Maent yn darparu ar gyfer y modd y mae trwyddedau o'r fath i gael eu rhoi, eu hamrywio, eu hatal neu eu dirymu, ac ar gyfer yr amser y mae rhoi, amrywio, atal neu ddirymu trwydded i ddod yn effeithiol.



Rhiant–Ddeddf: Ddeddf Pysgod Môr (Cadwraeth) 1967

Fe’u gwnaed ar: 6 Mawrth 2019

Fe’u gosodwyd ar: 7 Mawrth 2019

Yn dod i rym a: rheoliadau 1(1)

SL(5)371 – Rheoliadau Trefniadau Partneriaeth ac Aseidiadau Poblogaeth (Diwygiadau Amrywiol) (Cymru) 2019

Gweithdrefn: Cadarnhaol

Mae'r Rheoliadau drafft hyn yn diwygio Rheoliadau Partneriaeth (Cymru) 2015 (“y Rheoliadau Partneriaeth”) a Rheoliadau Gofal a Chymorth (Trefniadau Partneriaeth ar gyfer Aseidiadau Poblogaeth) (Cymru) 2015 (“y Rheoliadau Aseidiadau Poblogaeth”) er mwyn ystyried newidiadau i ffiniau byrddau iechyd a fydd yn dod i rym o 1 Ebrill 2019.

The draft Regulations amend the Partnership Regulations in order to:

- Change the partners included in both the Cwm Taf and Western Bay Regional Partnership Board areas to take account of the change to the boundaries of Abertawe Bro Morgannwg and Cwm Taf health boards;
- Change the names of the regional partnership boards affected by this health board boundary change to reflect the new names of the Swansea Bay and Cwm Taf Morgannwg health boards;
- Clarify requirements for regional partnership boards to establish regional pooled funds in relation to care home places for older People;
- Require housing and education representation on regional partnership boards;
- Clarify when regional partnership boards must produce annual reports.

They also amend the Population Assessments Regulations in order to:



- Change the partnership arrangements for population assessments to take account of the health board boundary change;
- Change references to the names of the health boards above to reflect changes to those names as a result of the boundary change. **Rhiant–Ddeddf:**
Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014

Fe'u gwnaed ar:

Fe'u gosodwyd ar:

Yn dod i rym ar:



Offerynnau Statudol sydd ag adroddiadau clir, a ystyriwyd yn flaenrol ar gyfer sifftio ac sydd bellach yn ddarostyngedig i graffu o dan Reolau Sefydlog 21.2 a 21.3

18 Mawrth 2019

Cafodd yr offerynnau canlynol eu hystyried yn flaenrol i'w sifftio yn unol â Rheol Sefydlog 21.3B. Yn y broses sifft, cytunodd y Pwyllgor ym mhob achos mai'r weithdrefn briodol ar gyfer y Rheoliadau oedd y weithdrefn penderfyniad negyddol. Bellach mae'r offerynnau yn ddarostyngedig i graffu arferol yn unol â Rheolau Sefydlog 21.2 a 21.3. Er bod gan yr holl offerynnau adroddiadau clir, maent hefyd yn cynnwys pwynt o ran rhinweddau i amlygu'r broses sifftio:

Rheol Sefydlog 21.3(ii) - ei fod o bwysigrwydd gwleidyddol neu gyfreithiol neu ei fod yn codi materion polisi cyhoeddus sy'n debyg o fod o ddiddordeb i'r Cynulliad. Gosodwyd drafft o'r Rheoliadau hyn gerbron y Cynulliad ar gyfer sifftio yn unol â pharagraff 4 o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018. Cytunodd y Pwyllgor mai'r weithdrefn negyddol yw'r weithdrefn briodol ar gyfer y Rheoliadau hyn.

SL(5)379 – Rheoliadau Cymwysterau Athrawon (Diwygio) (Cymru)

(Ymadael â'r UE) 2019

Gweithdrefn: Negyddol

Mae'r Rheoliadau hyn wedi eu gwneud o dan baragraff 1 o Atodlen 2 a pharagraff 21 o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018, er mwyn ymdrin ag unrhyw fethiant yng nghyfraith yr UE a ddargedwir i weithredu'n effeithiol a diffygion eraill sy'n deillio o ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd.

Maent hefyd wedi eu gwneud o dan adrannau 132 a 135 o Ddeddf Addysg 2002.

Mae'r Rheoliadau hyn yn gwneud diwygiadau i is-ddeddfwriaeth sy'n berthnasol i gydnabod cymwysterau athrawon yng Nghymru.



Rhiant–Ddeddf: Deddf yr Undeb Ewropeaidd (Ymadael) 2018

Gofynion sifftio wedi eu bodloni: 18 Chwefror 2019

Fe’u gwnaed ar: 4 Mawrth 2019

Fe’u gosodwyd ar: 5 Mawrth 2019

Yn dod i rym â: rheoliad 1(2)



SL(5)343 - Rheoliadau Trydan (Gorsafoedd Cynhyrchu Alltraeth) (Gweithdrefn Ymchwiliadau) (Cymru) 2019

Cefndir a Diben

Mae'r Rheoliadau hyn yn gwneud darpariaeth ynghylch ymchwiliadau y mae Gweinidogion Cymru yn perididnt gael eu cynnal mewn perthynas â cheisiadau:

- am gydsyniad o dan adran 36 o Ddeddf Trydan 1989 i adeiladu, estyn neu weithredu gorsaf gynhyrchu alltraeth yn nyfroedd Cymru sydd â chapasiti nad yw'n fwy na 350 megawat, neu a fydd â chapasiti nad yw'n fwy na hynny.
- o dan adran 36C o Ddeddf Trydan 1989 i amrywio cydsyniad adran 36.

Gweithdrefn

Negyddol

Materion Technegol: craffu

Nodwyd tri phwynt i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.2 mewn perthynas â'r offeryn hwn.

1. Rheol Sefydlog 21.2 (vi) – ei bod yn ymddangos bod gwaith drafftio'r offeryn neu'r drafft yn ddiffygiol neu ei fod yn methu â bodloni gofynion statudol

Mae'r Rheoliadau'n cynnwys nifer o wallau teipograffyddol. Dylai Rheoliad 2(4)(a)(ii) (yn y fersiwn Saesneg) ddechrau gyda 'where' yn hytrach na 'were'. Yn Rheoliad 3(3) (fersiwn Saesneg) mae 'be' diangen ar ôl 'requirement is'. Yn rheoliad 16(3) (fersiwn Saesneg), ymddengys fod 'to be' diangen. Er ein bod yn derbyn mai mân wallau yw'r rhain sy'n annhebygol o achosi dryswch, maent yn wallau drafftio fodd bynnag.

2. Rheol Sefydlog 21.2(v) – bod angen eglurhad pellach ynglŷn â'i ffurf neu ei ystyr am unrhyw reswm penodol. Rheol Sefydlog 21.2 (vi) – ei bod yn ymddangos bod gwaith drafftio'r offeryn neu'r drafft yn ddiffygiol neu ei fod yn methu â bodloni gofynion statudol

Mae Rheoliad 16(1) yn nodi "rhaid i'r ceisydd gyhoeddi hysbysiad mewn dwy wythnos olynol sy'n datgan..." - Nid yw'n glir pryd y bydd y cyhoeddiad yn digwydd. Mae rheoliad 16(1)(d) yn darparu bod yn rhaid i'r hysbysiad gynnwys lleoliad, dyddiad ac amser yr ymchwiliad. Mae hyn yn golygu y byddai'n rhaid i gyhoeddiad ddigwydd ar ôl i'r ceisydd gael hysbysiad o'r ymchwiliad o dan reoliad 15. Fodd bynnag, ymddengys na fyddai dim i atal ceisydd rhag rhoi hysbysiad naill ai yn union cyn yr ymchwiliad neu yn ystod yr ymchwiliad. Gan mai un o ddibenion yr hysbysiad yw gwneud lleoliad, dyddiad ac amser yr ymchwiliad yn hysbys i bersonau y mae unrhyw ganiatâd y gwneir cais amdano yn debygol o effeithio arnynt (fel y gallant fod yn bresennol mae'n debyg), gall cyflwyno'r rhybudd yn union cyn neu yn ystod yr ymchwiliad olygu bod pobl o'r fath yn methu â bod yn bresennol gan nad ydynt wedi cael digon o rybudd.



3. Rheol Sefydlog 21.2(v) – bod angen eglurhad pellach ynglŷn â'i ffurf neu ei ystyr am unrhyw reswm penodol. Rheol Sefydlog 21.2 (vi) – ei bod yn ymddangos bod gwaith drafftio'r offeryn neu'r drafft yn ddiffygiol neu ei fod yn methu â bodloni gofynion statudol

Yn rheoliad 16(2) nid yw'n glir pam na ddefnyddir y diffiniad o "drwy hysbyseb leol" sy'n cael ei ddefnyddio mewn mannau eraill yn y rheoliadau ac a ddiffinnir yn rheoliad 2. Nid yw'n glir felly a yw rheoliad 16(2) yn ei gwneud yn ofynnol i'r ceisydd wneud rhywbeth ar wahân i gyhoeddi "drwy hysbyseb leol."

Rhinweddau: craffu

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.

Y goblygiadau yn sgil gadael yr Undeb Ewropeaidd

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.

Ymateb y Llywodraeth

Mae elfen craffu technegol yr adroddiad drafft yn cyfeirio at dri gwall drafftio, a derbynnir pob un.

Pwynt 1 – gwallau teipograffyddol

Mae'r pwynt adrodd wedi ei nodi a'i dderbyn. Bydd y llywodraeth yn mynd ati i gywiro'r pwynt hwn drwy gyfrwng slip cywiro.

Pwynt 2 – nid yw Rheoliad 16(1) yn nodi'n glir pryd y mae angen cyhoeddi'r hysbysiad

Mae geiriad rheoliad 16(1) yn deillio o baragraff 4 o Atodlen 8 i Ddeddf Trydan 1989 ("Atodlen 8") ac mae'n gweithredu ers peth amser, a hynny, mae'n debyg, heb ddim problem. Derbynnir, er hynny, y byddai darparu amserlen ar gyfer cyhoeddi'r hysbysiad yn cynnig eglurder. Caiff offeryn diwygio ei wneud a'i osod cyn gynted ag y bo hynny'n rhesymol ymarferol.

Pwynt 3 – yn Rheoliad 16(2) nid yw'n glir pam na ddefnyddiwyd y diffiniad o "drwy hysbyseb leol" a ddefnyddir mewn mannau eraill yn y rheoliadau ac a ddiffinnir yn rheoliad 2.

Mae'r ddarpariaeth hon yn deillio o baragraff 4 o Atodlen 8. Mae'r geiriad yn fras yr un fath â'r diffiniad o "drwy hysbyseb leol". Er hynny, derbynnir y byddai'n ddefnyddiol er cysondeb pe bai rheoliad 16(1) yn cyfeirio at gyhoeddi hysbysiad "drwy hysbyseb leol", gan hepgor 16(2). Caiff offeryn diwygio ei wneud a'i osod cyn gynted ag y bo hynny'n rhesymol ymarferol.

Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol



12 Mawrth 2019



OFFERYNNAU STATUDOL
CYMRU

2019 Rhif 304 (Cy. 77)

TRYDAN, CYMRU

**Rheoliadau Trydan (Gorsafoedd
Cynhyrchu Alltraeth) (Gweithdrefn
Ymchwiliadau) (Cymru) 2019**

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn yn gwneud darpariaeth ynghylch ymchwiliadau y mae Gweinidogion Cymru yn peri iddynt gael eu cynnal mewn perthynas â cheisiadau:

- am gydsyniad o dan adran 36 o Ddeddf Trydan 1989 (“Deddf 1989” a'r cydsyniad hwnnw yn “cydsyniad adran 36”) i adeiladu, estyn neu weithredu gorsaf gynhyrchu alltraeth;
- o dan adran 36C o Ddeddf 1989, i amrywio cydsyniad adran 36.

At ddibenion y Rheoliadau hyn mae cyfeiriadau at gais am gydsyniad adran 36 yn cynnwys unrhyw gais o dan adran 36A o Ddeddf 1989 am ddatganiad sy'n ymwneud â hawliau mordwyo cyhoeddus a wneir gyda chais am gydsyniad adran 36.

Gweinidogion Cymru yw'r awdurdod priodol mewn perthynas â cheisiadau a wneir ar ôl 1 Ebrill 2019 o dan adrannau 36 a 36C o Ddeddf 1989 sy'n ymwneud â gorsafoedd cynhyrchu (neu orsafoedd cynhyrchu arfaethedig) yn nyfroedd Cymru sydd â chapasiti nad yw'n fwy na 350 megawat, neu a fydd â chapasiti nad yw'n fwy na hynny.

Ystyr “dyfroedd Cymru” yw hynny o ddyfroedd mewnol a môr tiriogaethol y Deyrnas Unedig sy'n gyfagos i Gymru, a pharth Cymru. Mae i “parth Cymru” yr ystyr a roddir i “Welsh zone” yn adran 158 o Ddeddf Llywodraeth Cymru 2006.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Aseidiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, ystyriwyd nad oedd yn angenrheidiol cynnal asesiad effaith

rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn.

OFFERYNNAU STATUDOL
CYMRU

2019 Rhif 304 (Cy. 77)

TRYDAN, CYMRU

**Rheoliadau Trydan (Gorsafodd
Cynhyrchu Alltraeth) (Gweithdrefn
Ymchwiliadau) (Cymru) 2019**

Gwnaed 18 Chwefror 2019

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru* 20 Chwefror 2019

Yn dod i rym 1 Ebrill 2019

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir iddynt gan adrannau 36(8A), 36C(2) a (6) a 60 o Ddeddf Trydan 1989(1), yn gwneud y Rheoliadau a ganlyn:

Enwi, cychwyn a chymhwyso

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Trydan (Gorsafodd Cynhyrchu Alltraeth) (Gweithdrefn Ymchwiliadau) (Cymru) 2019 a deuant i rym ar 1 Ebrill 2019.

(2) Mae'r Rheoliadau hyn yn gymwys mewn perthynas ag unrhyw ymchwiliad y mae Gweinidogion Cymru yn peri iddynt gael eu cynnal ar neu ar ôl 1 Ebrill 2019 i gais neu gais i amrywio.

Dehongli

2.—(1) Yn y Rheoliadau hyn—

mae “arolygydd” (“*inspector*”) yn cynnwys arolygydd arweiniol ac arolygydd ychwanegol;

ystyr “arolygydd arweiniol” (“*lead inspector*”) yw person a benodir gan Weinidogion Cymru i gynnal ymchwiliad neu ymchwiliad a ailagorir;

(1) 1989 p. 29. Mewnosodwyd adran 36(8A) gan baragraff 47 o Atodlen 6 i Ddeddf Cymru 2017 (p. 4) (“Deddf 2017”). Mewnosodwyd adran 36C gan adran 20(1) a (2) o Ddeddf Twf a Seilwaith 2013 (p. 27) (“Deddf 2013”) ac fe'i diwygiwyd gan adran 39(12) o Ddeddf 2017, a pharagraff 48 o Atodlen 6 iddi. Mae diwygiadau eraill i adran 36C a diwygiadau i adran 60 nad ydynt yn berthnasol i'r Rheoliadau hyn.

ystyr “arolygydd ychwanegol” (“*additional inspector*”) yw arolygydd a benodir gan Weinidogion Cymru o dan reoliad 7(2)(a);

ystyr “asesydd” (“*assessor*”) yw person a benodir gan Weinidogion Cymru i eistedd gydag arolygydd mewn ymchwiliad neu ymchwiliad a ailagorir i gynghori'r arolygydd ynghylch unrhyw faterion sy'n codi a bennir gan Weinidogion Cymru;

ystyr “awdurdod â buddiant” (“*interested authority*”) yw unrhyw awdurdod cynllunio lleol yng Nghymru y mae'r ceisydd wedi cyflwyno hysbysiad am y cais iddo yn unol â rheoliad 5 o'r Rheoliadau Ceisiadau am Gydsyniad;

ystyr “awdurdod cynllunio cymwys” (“*qualifying planning authority*”) yw—

- (a) pan fo Gweinidogion Cymru wedi peri i ymchwiliad gael ei gynnal o dan reoliad 9(1) o'r Rheoliadau Ceisiadau am Gydsyniad, unrhyw awdurdod cynllunio perthnasol sydd wedi gwrthwynebu'r cais yn unol â rheoliad 8(2) o'r Rheoliadau hynny ac nad yw ei wrthwynebiad wedi ei dynnu yn ôl;
- (b) pan fo Gweinidogion Cymru wedi peri i ymchwiliad gael ei gynnal o dan reoliad 6 o'r Rheoliadau Amrywio Cydsyniadau, unrhyw awdurdod cynllunio perthnasol, os yw wedi cyflwyno sylwadau (nad ydynt wedi eu tynnu yn ôl) yn gwrthwynebu cais i amrywio;

mae i “awdurdod cynllunio lleol” yr un ystyr ag a roddir i “local planning authority” yn Rhan I o Ddeddf 1990;

mae i “awdurdod cynllunio perthnasol” (“*relevant planning authority*”) yn achos—

- (a) ymchwiliad i gais, yr un ystyr ag a roddir yn rheoliad 2(1) o'r Rheoliadau Ceisiadau am Gydsyniad;
- (b) ymchwiliad i gais i amrywio, yr un ystyr ag a roddir yn rheoliad 2 o'r Rheoliadau Amrywio Cydsyniadau;

ystyr “cais” (“*application*”), ac eithrio pan fo ystyr arall yn ofynnol yn ôl y cyd-destun, yw cais i Weinidogion Cymru am gydsyniad o dan adran 36(1) i adeiladu, estyn neu weithredu gorsaf gynhyrchu(2), ynghyd ag unrhyw gais o dan adran

(1) Diwygiwyd adran 36 gan adran 93 o Ddeddf Ynni 2004 (p. 20), paragraff 32 o Atodlen 2 i Ddeddf Cynllunio 2008 (p. 29), adran 12(7) ac (8) o Ddeddf y Môr a Mynediad i'r Arfordir 2009 (p. 23) (“Deddf 2009”), adran 78 o Ddeddf Ynni 2016 (p. 20) ac adran 39(7) i (11) o Ddeddf 2017, a pharagraff 47 o Atodlen 6 iddi. Mae diwygiadau eraill nad ydynt yn berthnasol i'r Rheoliadau hyn.

(2) Gweler adran 64(1) o Ddeddf Trydan 1989 (p. 29) (“Deddf 1989”) am y diffiniad o “generating station” (“gorsaf gynhyrchu”).

36A(1) am ddatganiad sy'n ymwneud â hawliau mordwyo a wneir gyda'r cais o dan adran 36;

mae i "cais i amrywio" ("*variation application*") yr un ystyr ag a roddir yn rheoliad 2 o'r Rheoliadau Amrywio Cydsyniadau;

ystyr "ceisydd" ("*applicant*") yw'r person sy'n gwneud cais neu gais i amrywio;

ystyr "cyfarfod rhagymchwiliad" ("*pre-inquiry meeting*") yw cyfarfod a gynhelir cyn ymchwiliad i ystyried beth y gellir ei wneud gyda'r nod o sicrhau y cynhelir yr ymchwiliad yn effeithlon ac yn hwylus, a phan gynhelir dau neu ragor o'r cyfarfodydd hynny ynghylch yr un ymchwiliad, mae cyfeiriadau at gyfarfod rhagymchwiliad yn dod i ben yn gyfeiriadau at y cyfarfod rhagymchwiliad terfynol yn dod i ben;

mae i "cyfathrebiad electronig" yr un ystyr ag a roddir i "electronic communication" yn adran 15(1) o Ddeddf Cyfathrebiadau Electronig 2000(2);

ystyr "cyfryngwr" ("*mediator*") yw person a benodir gan Weinidogion Cymru o dan reoliad 9;

ystyr "cynghorydd technegol" ("*technical adviser*") yw person a benodir gan Weinidogion Cymru o dan reoliad 8;

ystyr "datblygiad adran 90" ("*section 90 development*") yw unrhyw ddatblygiad y mae'r ceisydd, wrth wneud cais neu gais i amrywio, yn gofyn i Weinidogion Cymru roi cyfarwyddyd o dan adran 90(2) neu (2ZA) o Ddeddf 1990(3) (caniatâd cynllunio tybiedig ar gyfer datblygu gydag awdurdodiad llywodraeth) mewn cysylltiad ag ef;

ystyr "datganiad achos" ("*statement of case*") yw datganiad ysgrifenedig sy'n cynnwys—

- (a) manylion llawn yr achos y mae person yn bwriadu ei gyflwyno mewn ymchwiliad;
- (b) rhestr o unrhyw ddogfennau y mae'r person hwnnw yn bwriadu cyfeirio atynt neu eu cyflwyno fel tystiolaeth;
- (c) rhestr o'r unigolion y mae'r person hwnnw yn bwriadu eu galw fel tystion; a
- (d) pwnc tystiolaeth pob un o'r tystion hynny;

ystyr "datganiad amlinellol" ("*outline statement*") yw datganiad ysgrifenedig o'r prif sylwadau y mae

(1) Mewnosodwyd adran 36A yn Neddf 1989 gan adran 99(1) o Ddeddf Ynni 2004 (p. 20) ac fe'i diwygiwyd gan adran 12(7) ac (8) o Ddeddf 2009 ac adran 40(1) i (5) o Ddeddf 2017.

(2) 2000 p. 7. Diwygiwyd adran 15(1) gan baragraff 158 o Atodlen 17 i Ddeddf Cyfathrebiadau 2003 (p. 21).

(3) Amnewidiwyd adran 90(2) a (2ZA) gan adran 21(2) o Ddeddf 2013 (p. 27) ac fe'i diwygiwyd gan adran 39(13) o Ddeddf 2017.

person yn bwriadu eu cyflwyno mewn ymchwiliad;

ystyr “datganiad tir cyffredin” (“*statement of common ground*”) yw datganiad ysgrifenedig a lunnir ar y cyd gan yr awdurdod cynllunio perthnasol (pan fo’n awdurdod cynllunio lleol yng Nghymru) a’r ceisydd, sy’n cynnwys gwybodaeth ffeithiol gytunedig am y cynnig sy’n destun y cais neu’r cais i amrywio;

ystyr “Deddf 1990” (“*the 1990 Act*”) yw Deddf Cynllunio Gwlad a Thref 1990(1);

mae “dogfen” (“*document*”) yn cynnwys ffotograff, map neu blan;

ystyr “drwy hysbyseb leol” (“*by local advertisement*”) mewn perthynas â hysbysiad, yw drwy gyhoeddi’r hysbysiad mewn un papur newydd o leiaf, fel bod yr hysbysiad yn debygol o ddod i sylw’r rheini sy’n debygol o gael eu heffeithio gan y cydsyniad y gwneir cais amdano os y’i rhoddir;

ystyr “ffurflen gofrestru” (“*registration form*”) yw ffurflen i’w chwblhau gan bersonau sy’n dymuno cymryd rhan yn yr ymchwiliad;

ystyr “gwrthwynebydd cymwys” (“*qualifying objector*”) yw—

- (a) pan fo Gweinidogion Cymru wedi peri i ymchwiliad gael ei gynnal o dan reoliad 9(1) neu 10 o’r Rheoliadau Ceisiadau am Gydsyniad, unrhyw un a wrthwynebodd y cais erbyn y dyddiad y darperir ar ei gyfer yn rheoliad 8(1) o’r Rheoliadau hynny ac yn y dull y darperir ar ei gyfer yn y rheoliad hwnnw;
- (b) pan fo Gweinidogion Cymru wedi peri i ymchwiliad gael ei gynnal o dan reoliad 6 o’r Rheoliadau Amrywio Cydsyniad, unrhyw berson a gyflwynodd sylwadau yn gwrthwynebu’r cais i amrywio erbyn y dyddiad y darperir ar ei gyfer yn rheoliad 5(6)(b)(iii) o’r Rheoliadau hynny,

ac nad yw ei wrthwynebiad wedi ei dynnu yn ôl;

ystyr “hysbysiad perthnasol” (“*relevant notice*”) yw hysbysiad ysgrifenedig Gweinidogion Cymru o dan reoliad 4(1);

ystyr “lle” (“*place*”), oni bai bod ystyr arall yn ofynnol yn unol â’r cyd-destun, yw’r lle y mae ymchwiliad yn ymwneud ag ef, hynny yw, y lle—

- (a) y bwriedir adeiladu’r orsaf gynhyrchu, y lle y bydd yr estyniad arfaethedig neu’r lle y mae’r orsaf y bwriedir ei gweithredu wedi ei lleoli; a

(1) 1990 p. 8.

(b) y bydd unrhyw ddatblygiad adran 90 wedi ei leoli.

ystyr “person sydd â hawl i ymddangos” (“*person entitled to appear*”) yw person a ddisgrifir yn rheoliad 17(1), ac mae ymadroddion cytras i’w dehongli yn unol â hynny;

ystyr “y Rheoliadau Amrywio Cydsyniadau” (“*the Variation of Consents Regulations*”) yw Rheoliadau Trydan (Gorsafodd Cynhyrchu Alltraeth) (Amrywio Cydsyniadau) (Cymru) 2019(1);

ystyr “y Rheoliadau Ceisiadau am Gydsyniad” (“*the Applications for Consent Regulations*”) yw Rheoliadau Trydan (Gorsafodd Cynhyrchu Alltraeth) (Ceisiadau am Gydsyniad) (Cymru) 2019(2);

ystyr “ymchwiliad” (“*inquiry*”) yw ymchwiliad y mae’r Rheoliadau hyn yn gymwys mewn perthynas ag ef; a phan fo ymchwiliad yn cael ei gynnal drwy sesiynau cydredol, mae’n cynnwys unrhyw sesiwn o’r fath.

(2) Oni nodir fel arall, mae unrhyw gyfeiriad yn y Rheoliadau hyn at adran â rhif yn gyfeiriad at yr adran honno o Ddeddf Trydan 1989.

(3) Yn ddarostyngedig i baragraff (5), mae gofyniad a osodir gan y Rheoliadau hyn ar Weinidogion Cymru neu’r arolygydd i gylchredeg dogfen wedi ei fodloni drwy anfon copi o’r ddogfen honno—

- (a) i’r awdurdod cynllunio perthnasol;
- (b) at y ceisydd; ac
- (c) at bob gwrthwynebydd cymwys sydd wedi nodi yn unol â rheoliad 6(4)(b)(iv) ei fod yn debygol o fod eisiau cael ei gynrychioli yn ffurfiol a chwarae rhan sylweddol yn yr ymchwiliad.

(4) Yn ddarostyngedig i baragraff (5), mae gofyniad a osodir gan y Rheoliadau hyn ar Weinidogion Cymru neu’r arolygydd i adneuo dogfen wedi ei fodloni drwy anfon copi ohoni—

- (a) yn achos ymchwiliad i gais—
 - (i) pan fo rhan o’r man y mae’r cais yn ymwneud ag ef o fewn ardal awdurdod cynllunio perthnasol, i’r awdurdod cynllunio perthnasol; neu
 - (ii) pan na fo unrhyw ran o’r man y mae’r cais yn ymwneud ag ef o fewn ardal awdurdod cynllunio perthnasol, i’r awdurdod â buddiant; a

(1) O.S. 2019/297 (Cy. 75).

(2) O.S. 2019/295 (Cy. 73).

- (b) yn achos ymchwiliad i gais i amrywio, i unrhyw awdurdod cynllunio perthnasol sy'n awdurdod cynllunio lleol yng Nghymru.

(5) Nid oes dim ym mharagraff (3) neu (4) yn ei gwneud yn ofynnol i Weinidogion Cymru neu'r arolygydd anfon copi o ddogfen at y person y cafwyd y ddogfen oddi wrtho.

(6) Mae gofyniad a osodir gan y Rheoliadau hyn ar Weinidogion Cymru i gyhoeddi hysbysiad ar wefan wedi ei fodloni—

- (a) drwy gyhoeddi'r hysbysiad, neu'r manylion y mae'n ofynnol eu cynnwys yn yr hysbysiad hwnnw, ar wefan a gynhelir gan Weinidogion Cymru; neu
- (b) drwy gyhoeddi dolen ar wefan a gynhelir gan Weinidogion Cymru i wefan arall lle y mae'r hysbysiad wedi ei gyhoeddi neu lle y mae'r manylion y mae'n ofynnol eu cynnwys yn yr hysbysiad hwnnw wedi eu cyhoeddi.

Cyfathrebiadau electronig

3.—(1) Yn y Rheoliadau hyn, ac mewn perthynas â defnyddio cyfathrebiadau electronig at unrhyw ddiben o'r Rheoliadau hyn y gellir ei gyflawni yn electronig—

- (a) mae'r ymadrodd “cyfeiriad” yn cynnwys unrhyw rif neu gyfeiriad a ddefnyddir at ddibenion cyfathrebiadau o'r fath, ac eithrio pan fo unrhyw un neu ragor o ddarpariaethau'r Rheoliadau hyn yn ei gwneud yn ofynnol i unrhyw berson ddarparu enw a chyfeiriad i unrhyw berson arall, nid yw'r gofyniad wedi ei fodloni oni bai bod y person sy'n ddarostyngedig i'r gofyniad yn darparu cyfeiriad post;
- (b) mae cyfeiriadau at ddatganiadau, hysbysiau neu ddogfennau eraill, neu at gopiau o'r dogfennau hynny, yn cynnwys cyfeiriadau at y dogfennau hynny, neu gopiau ohonynt, ar ffurf electronig.

(2) Mae paragraffau (3) i (7) yn gymwys pan fo cyfathrebiad electronig yn cael ei ddefnyddio gan berson at ddiben cyflawni unrhyw un neu ragor o ofynion y Rheoliadau hyn i roi neu anfon unrhyw ddatganiad, hysbysiad neu ddogfen arall at unrhyw berson arall (“y derbynydd”).

(3) Ystyrir bod y gofyniad wedi ei gyflawni pan fo'r datganiad, yr hysbysiad neu'r ddogfen arall a drosglwyddir drwy gyfrwng y cyfathrebiad electronig—

- (a) yn un y gall y derbynydd ei gyrchu neu ei chyrcu;
- (b) yn ddarllenadwy ym mhob modd perthnasol; ac

(c) yn ddigon parhaol fel bod modd cyfeirio ato neu ati yn nes ymlaen.

(4) Ym mharagraff (3), ystyr “yn ddarllenadwy ym mhob modd perthnasol” yw bod yr wybodaeth a gynhwysir yn y datganiad, yr hysbysiad neu’r ddogfen ar gael i’r derbynnydd i’r un graddau â phe bai’r wybodaeth wedi ei hanfon neu ei rhoi drwy gyfrwng dogfen ar ffurf brintiedig.

(5) Pan fo’r derbynnydd yn cael y cyfathrebiad electronig y tu allan i oriau busnes y derbynnydd, ystyrir ei fod wedi ei gael ar y diwrnod gwaith nesaf; ac at y diben hwn ystyr “diwrnod gwaith” yw diwrnod nad yw’n ddydd Sadwrn, yn ddydd Sul, yn Ddydd Nadolig, yn Ddydd Gwener y Groglith nac yn wyl y banc yng Nghymru a Lloegr o dan Ddeddf Bancio a Thrafodion Ariannol 1971(1).

(6) Mae gofyniad yn y Rheoliadau hyn bod rhaid i unrhyw ddogfen fod yn ysgrifenedig wedi ei fodloni pan fo’r ddogfen honno yn bodloni’r meini prawf ym mharagraff (3).

(7) Caniateir cydymffurfio â gofyniad yn y Rheoliadau hyn i anfon mwy nag un copi o ddatganiad, hysbysiad neu ddogfen arall drwy drosglwyddo un copi yn unig o’r datganiad, yr hysbysiad neu’r ddogfen arall dan sylw.

Hysbysiad gan Weinidogion Cymru

4.—(1) Rhaid i Weinidogion Cymru anfon y canlynol yn ysgrifenedig at y ceisydd a’r awdurdod cynllunio perthnasol—

- (a) hysbysiad bod ymchwiliad i’w gynnal;
- (b) hysbysiad y bydd cyfarfod rhagymchwiliad neu hysbysiad eu bod wedi penderfynu peidio â chynnal cyfarfod o’r fath yn unol â rheoliad 10(2); ac
- (c) datganiad ynghylch y materion sydd, yn eu barn hwy, yn faterion i’w hystyried yn yr ymchwiliad.

(2) Caiff Gweinidogion Cymru ar unrhyw adeg addasu’r datganiad y cyfeirir ato ym mharagraff (1)(c) ac os ydynt yn gwneud hynny, rhaid iddynt anfon y datganiad addasedig at y ceisydd, a rhaid i’r ceisydd gyhoeddi drwy hysbyseb leol hysbysiad o’r addasiad a wneir.

(3) Pan fo Gweinidogion Cymru wedi addasu’r datganiad y cyfeirir ato ym mharagraff (1)(c) o dan baragraff (2), rhaid iddynt gyhoeddi hysbysiad ar wefan am yr addasiad a wneir.

(1) 1971 p. 80.

Gwybodaeth ragarweiniol sydd i'w darparu

5. Rhaid i Weinidogion Cymru, cyn gynted ag y bo'n ymarferol ar ôl dyroddi hysbysiad perthnasol, hysbysu'r ceisydd ac unrhyw awdurdod cynllunio cymwys yn ysgrifenedig am enw a chyfeiriad unrhyw wrthwynebydd cymwys.

Cofrestru

6.—(1) Rhaid i Weinidogion Cymru, cyn gynted ag y bo'n ymarferol ar ôl dyroddi hysbysiad perthnasol, anfon at bob person sydd â hawl i ymddangos neu bob person y gwyddant bod ganddynt fuddiant yn y cynnig, gopi o'r datganiad a anfonir gan Weinidogion Cymru o dan reoliad 4(1)(c) a ffurflen gofrestru yn y ffurf y darperir ar ei chyfer ym mharagraff (4).

(2) Ar ôl cael yr hysbysiad perthnasol, rhaid i'r ceisydd gyhoeddi drwy hysbyseb leol hysbysiad yn datgan—

- (a) bod y Rheoliadau hyn yn gymwys i'r ymchwiliad;
- (b) y materion sydd wedi eu cynnwys yn y datganiad a anfonir gan Weinidogion Cymru o dan reoliad 4(1)(c);
- (c) y trefniadau ar gyfer y cyfarfod rhagymchwiliad cyntaf, os oes un; a
- (d) bod rhaid i bersonau sydd â diddordeb mewn cymryd rhan yn yr ymchwiliad gael ffurflen gofrestru oddi wrth Weinidogion Cymru.

(3) Rhaid i Weinidogion Cymru, cyn gynted ag y bo'n ymarferol ar ôl i'r ceisydd gydymffurfio â pharagraff (2), gyhoeddi'r hysbysiad y cyfeirir ato yn y paragraff hwnnw ar wefan.

(4) Rhaid i'r ffurflen gofrestru—

- (a) cynnwys y cyfeiriad y mae rhaid dychwelyd ffurflenni wedi eu llenwi iddo a'r dyddiad erbyn pryd y mae rhaid gwneud hynny, na chaiff fod yn ddim hwyrach nag wyth wythnos ar ôl dyddiad yr hysbysiad perthnasol;
- (b) gofyn am yr wybodaeth a ganlyn—
 - (i) enw, cyfeiriad a rhif ffôn y person sy'n cofrestru;
 - (ii) enw, cyfeiriad a rhif ffôn unrhyw asiant, neu, yn achos sefydliad, y person cyswllt;
 - (iii) pa un a oes gan y person sy'n cofrestru fuddiant ai peidio yn unrhyw dir y mae'r ymchwiliad yn ymwneud ag ef a gaiff ei effeithio gan y cynnig;
 - (iv) pa un a yw'r person sy'n cofrestru yn debygol o fod eisiau cael ei gynrychioli

yn ffurfiol a chwarae rhan sylweddol yn yr ymchwiliad ai peidio;

(v) os na fydd yn debygol o fod eisiau hynny, pa un a yw'r person sy'n cofrestru yn dymuno rhoi tystiolaeth lafar yn yr ymchwiliad ai peidio, neu ond yn dymuno cyflwyno sylwadau ysgrifenedig; ac

(c) gofyn bod dau gopi o ddatganiad amlinellol gan y person sy'n cofrestru yn mynd gyda'r ffurflen gofrestru wedi ei llenwi.

(5) Rhaid i Weinidogion Cymru, cyn gynted ag y bo'n ymarferol ar ôl y dyddiad erbyn pryd y mae rhaid dychwelyd y ffurflen gofrestru o dan baragraff (4)(a), gylchredeg pob datganiad amlinellol a geir ganddynt fel y crybwyllir ym mharagraff (4)(c).

Arolygwyr ychwanegol

7.—(1) Ar unrhyw adeg ar ôl penodi'r arolygydd arweiniol, caiff Gweinidogion Cymru gyfarwyddo'r arolygydd arweiniol i—

(a) ystyried unrhyw faterion sy'n ymwneud â chynnal yr ymchwiliad a bennir yn y cyfarwyddyd;

(b) gwneud argymhellion i Weinidogion Cymru ynghylch y materion hynny.

(2) Ar ôl ystyried argymhellion yr arolygydd arweiniol, caiff Gweinidogion Cymru—

(a) penodi at ddibenion yr ymchwiliad y nifer hwnnw o arolygwyr ychwanegol y maent yn meddwl sy'n briodol; a

(b) cyfarwyddo bod rhaid i bob arolygydd ychwanegol ystyried unrhyw faterion y mae'r ymchwiliad yn ymwneud â hwy a ddyrennir i'r arolygydd ychwanegol hwnnw gan yr arolygydd arweiniol.

(3) Rhaid i arolygydd ychwanegol—

(a) cydymffurfio â phob cyfarwyddyd o ran materion gweithdrefnol a roddir i'r arolygydd ychwanegol hwnnw gan yr arolygydd arweiniol; a

(b) cyflwyno adroddiad i'r arolygydd arweiniol ar bob mater a ddyrennir i'r arolygydd ychwanegol hwnnw.

(4) Rhaid i'r arolygydd arweiniol gyflwyno adroddiad i Weinidogion Cymru ar yr ystyriaeth a roddwyd i—

(a) y materion y mae'r arolygydd arweiniol wedi eu hystyried; a

(b) y materion a ddyrannwyd i'r arolygwyr ychwanegol i'w hystyried.

(5) Caiff Gweinidogion Cymru roi cyfarwyddyd i'r arolygydd arweiniol ar un achlysur neu ragor ar ôl penodi'r arolygydd arweiniol.

(6) Mae'r argymhellion y caiff yr arolygydd arweiniol eu gwneud yn dilyn rhoi cyfarwyddyd yn cynnwys, yn enwedig, argymhelliad i amrywio nifer yr arolygwyr ychwanegol.

(7) Mae pŵer Gweinidogion Cymru i benodi arolygydd ychwanegol yn cynnwys pŵer i ddirymu penodiad.

(8) Caniateir amrywio neu ddirymu cyfarwyddyd a roddir gan Weinidogion Cymru o dan y rheoliad hwn drwy gyfarwyddyd dilynol.

Penodi cynghorydd technegol

8.—(1) Os yw'n ymddangos i Weinidogion Cymru bod dystiolaeth sydd i'w chyflwyno i'r ymchwiliad yn dystiolaeth o'r fath natur dechnegol neu wyddonol y byddai'r ymchwiliad yn cael ei gynnal yn fwy effeithlon ac yn fwy hwylus pe bai asesiad arbenigol ac annibynnol o'r dystiolaeth honno yn cael ei gynnal, neu'n debygol o fod yn dystiolaeth o'r fath, caiff Gweinidogion Cymru ar unrhyw adeg benodi cynghorydd technegol at y diben hwnnw.

(2) Cynghorydd technegol yw person y mae'n ymddangos i Weinidogion Cymru bod ganddo'r cymwysterau hynny a'r profiad hwnnw i alluogi'r cynghorydd technegol i gynnal asesiad arbenigol o'r dystiolaeth wyddonol neu dechnegol sydd i'w chyflwyno i'r ymchwiliad.

(3) Pan fo Gweinidogion Cymru yn penodi cynghorydd technegol, cânt ei gwneud yn ofynnol yn ysgrifenedig i'r ceisydd gyhoeddi drwy hysbyseb leol ac o fewn unrhyw gyfnod a bennir ganddynt, hysbysiad sy'n datgan enw'r person a benodir felly ac yn pennu'r dystiolaeth sydd i'w hasesu.

(4) Pan fo Gweinidogion Cymru yn ei gwneud yn ofynnol i'r ceisydd gyhoeddi hysbysiad o dan baragraff (3), cyn gynted ag y bo'n rhesymol ymarferol ar ôl i'r ceisydd gydymffurfio â'r paragraff hwnnw rhaid i Weinidogion Cymru gyhoeddi'r hysbysiad hwnnw ar wefan.

(5) Rhaid i'r cynghorydd technegol, drwy ymgynghori naill ai ar y cyd neu'n unigol â'r personau sydd â hawl i ymddangos, asesu'r dystiolaeth a bennir felly, a rhaid iddo gyflwyno adroddiad ysgrifenedig ar yr asesiad hwnnw i'r arolygydd.

(6) Rhaid i adroddiad y cynghorydd technegol gynnwys disgrifiad o unrhyw feysydd lle ceir anghytundeb rhwng y partïon a rhaid iddo ddatgan barn y cynghorydd technegol ynghylch pa mor arwyddocaol yw pob anghytundeb o'r fath.

(7) Rhaid i'r arolygydd gylchredeg adroddiad y cynghorydd technegol o fewn saith niwrnod o'i gael.

(8) Rhaid i'r cynghorydd technegol roi tystiolaeth ynghylch ei adroddiad yn yr ymchwiliad, ac mae'n ddarostyngedig i gael ei groesholi i'r un graddau ag unrhyw dyst arall.

(9) Caiff yr arolygydd ganiatáu i'r cynghorydd technegol newid ei adroddiad, neu ychwanegu ato, i'r graddau a all fod yn angenrheidiol at ddibenion yr ymchwiliad; ond rhaid i'r arolygydd (drwy ohirio'r ymchwiliad os oes angen) roi cyfle digonol i bob person arall sydd â hawl i ymddangos gerbron yr ymchwiliad sy'n ymddangos, ystyried unrhyw newid neu ychwanegiad o'r fath.

Cyfyngu

9.—(1) Os yw'n ymddangos i Weinidogion Cymru—

- (a) bod diffyg cytundeb rhwng personau sydd â hawl i ymddangos ynghylch mater sy'n berthnasol i'r ymchwiliad;
- (b) y byddai'r ymchwiliad yn cael ei gynnal yn fwy effeithlon ac yn fwy hwylus pe baent yn gallu dod i gytundeb mewn perthynas â'r mater hwnnw, neu y gellid diffinio a chyfyngu unrhyw anghytundeb mewn perthynas ag ef; ac
- (c) y gellir cyflawni'r canlyniad hwnnw drwy gyfyngu,

yna cânt ar unrhyw adeg benodi cyfyngwr at y diben hwnnw.

(2) Rhaid i gyfyngwr fod yn berson yr ymddengys i Weinidogion Cymru ei fod wedi ei hyfforddi mewn technegau cyfyngu gan sefydliad cyfyngu annibynnol.

(3) Pan fo Gweinidogion Cymru yn penodi cyfyngwr, cânt ei gwneud yn ofynnol yn ysgrifenedig i'r ceisydd gyhoeddi drwy hysbyseb leol ac o fewn unrhyw gyfnod a bennir ganddynt hysbysiad sy'n datgan enw'r person a benodir felly, a'r mater y mae'r person hwnnw i gyfyngu mewn perthynas ag ef.

(4) Pan fo Gweinidogion Cymru yn ei gwneud yn ofynnol i'r ceisydd gyhoeddi hysbysiad o dan baragraff (3), cyn gynted ag y bo'n rhesymol ymarferol ar ôl i'r ceisydd gydymffurfio â'r paragraff hwnnw, rhaid i Weinidogion Cymru gyhoeddi'r hysbysiad hwnnw ar wefan.

(5) Rhaid i'r cyfyngwr bennu'r weithdrefn gyfyngu.

(6) O fewn saith niwrnod ar ôl i'r cyfyngu ddod i ben, rhaid i'r cyfyngwr gyflwyno adroddiad i'r arolygydd yn disgrifio'r weithdrefn gyfyngu a chanlyniad y weithdrefn honno, a rhaid i'r arolygydd,

cyn gynted ag y bo'n ymarferol ar ôl ei gael, anfon yr adroddiad at y personau sydd â hawl i ymddangos.

(7) Rhaid i'r arolygydd ganiatáu i unrhyw berson sydd â hawl i ymddangos annerch yr arolygydd ynghylch yr adroddiad y cyfeirir ato ym mharagraff (6), ond nid yw'r cyfryngwr i roi tystiolaeth gerbron yr ymchwiliad.

Gweithdrefn y cyfarfod rhagymchwiliad a chyfarfodydd eraill

10.—(1) Yn ddarostyngedig i baragraff (2), rhaid i Weinidogion Cymru gynnal un cyfarfod rhagymchwiliad neu ragor.

(2) Nid yw paragraff (1) yn gymwys pan fo Gweinidogion Cymru yn ystyried na fyddai cynnal cyfarfod rhagymchwiliad yn golygu bod yr ymchwiliad yn cael ei gynnal yn fwy effeithlon ac yn fwy hwylus, ac os felly, nid yw paragraffau (3) i (9) yn gymwys.

(3) Rhaid cynnal y cyfarfod rhagymchwiliad (neu pan gynhelir mwy nag un, y cyfarfod rhagymchwiliad cyntaf) o fewn deuddeg wythnos i ddyddiad yr hysbysiad perthnasol.

(4) Rhaid i Weinidogion Cymru roi nid llai na thair wythnos o hysbysiad ysgrifenedig ynghylch y cyfarfod rhagymchwiliad (neu, pan gynhelir mwy nag un, y cyfarfod rhagymchwiliad cyntaf) i—

- (a) unrhyw berson sydd â hawl i ymddangos; a
- (b) unrhyw berson arall yr ymddengys i Weinidogion Cymru y byddai'n ddymunol iddynt fod yn bresennol yn y cyfarfod rhagymchwiliad.

(5) Caiff Gweinidogion Cymru ei gwneud yn ofynnol yn ysgrifenedig i'r ceisydd gymryd un neu ragor o'r camau a ganlyn—

- (a) nid llai na dwy wythnos cyn y dyddiad a bennir ar gyfer y cyfarfod rhagymchwiliad cyntaf, gyhoeddi drwy hysbyseb leol hysbysiad am y cyfarfod rhagymchwiliad;
- (b) anfon hysbysiad am y cyfarfod rhagymchwiliad hwnnw at unrhyw bersonau, neu ddsbarthau o bersonau a bennir gan Weinidogion Cymru ac o fewn unrhyw gyfnod a bennir ganddynt;
- (c) gosod hysbysiad am y cyfarfod rhagymchwiliad hwnnw yn y lleoliadau hynny lle y mae'n debygol o ddod i sylw'r rheini y mae'r cydsyniad y gwneir cais amdano yn debygol o effeithio arnynt os y'i roddir, ac o fewn unrhyw gyfnod a bennir ganddynt.

(6) Rhaid i hysbysiad am y cyfarfod rhagymchwiliad a gyhoeddir, a anfonir neu a osodir yn unol â pharagraff (5) ddatgan—

- (a) y ffaith bod y cais, neu'r cais i amrywio, wedi ei wneud a diben y cais hwnnw, ynghyd â disgrifiad o'r man y mae'n ymwneud ag ef;
- (b) pan fo'r ymchwiliad yn ymwneud â chais, y gellir edrych ar gopi o'r cais a'r map y cyfeirir ato ynddo yn yr un lleoliad neu leoliadau ag a ddefnyddir i arddangos y map yn unol â rheoliad 7(2) o'r Rheoliadau Ceisiadau am Gydsyniad neu, os nad yw hynny'n bosibl mewn perthynas ag unrhyw leoliad o'r fath, mewn lleoliad addas arall sydd mor agos at y man hwnnw â phosibl;
- (c) pan fo'r ymchwiliad yn ymwneud â chais i amrywio, man yn yr ardal leol lle y mae'r rheini sy'n debygol o gael eu heffeithio gan y datblygiad arfaethedig yn byw neu'n gweithio ynddo lle y gellir edrych ar gopi o'r cais i amrywio a'r map y cyfeirir ato ynddo; a
- (d) lleoliad, dyddiad ac amser y cyfarfod rhagymchwiliad.

(7) Mewn perthynas â'r arolygydd—

- (a) rhaid iddo lywyddu ym mhob cyfarfod rhagymchwiliad;
- (b) rhaid iddo bennu'r materion sydd i'w trafod a'r weithdrefn sydd i'w dilyn;
- (c) caiff ei gwneud yn ofynnol i unrhyw berson sy'n bresennol yn y cyfarfod rhagymchwiliad sydd, ym marn yr arolygydd, yn ymddwyn mewn modd aflonyddgar, ymadael; a
- (d) caiff wrthod caniatáu i'r person hwnnw ddychwelyd neu fynychu unrhyw gyfarfod rhagymchwiliad pellach, neu caiff ond caniatáu i'r person hwnnw ddychwelyd neu fod yn bresennol o dan unrhyw amodau a bennir gan yr arolygydd.

(8) Os yw Gweinidogion Cymru yn gofyn am ragor o wybodaeth oddi wrth y ceisydd, unrhyw awdurdod cynllunio cymwys, unrhyw wrthwynebydd cymwys neu unrhyw berson arall yn y cyfarfod rhagymchwiliad, rhaid i'r person hwnnw sicrhau bod Gweinidogion Cymru yn cael dau gopi o'r wybodaeth (yn achos y ceisydd neu unrhyw awdurdod cynllunio cymwys) neu dri chopi o'r wybodaeth (yn achos unrhyw berson arall) o fewn unrhyw gyfnod a bennir gan Weinidogion Cymru.

(9) Rhaid i Weinidogion Cymru, cyn gynted ag y bo'n ymarferol ar ôl ei chael, gylchredeg yr holl wybodaeth a geir ganddynt o dan baragraff (8).

(10) Caiff yr arolygydd ar unrhyw adeg ac at unrhyw ddiben sy'n gysylltiedig â'r ymchwiliad, gynnal

unrhyw gyfarfodydd eraill y mae'r arolygydd yn ystyried eu bod yn angenrheidiol.

(11) Rhaid i'r arolygydd drefnu i hysbysiad gael ei roi am y cyfarfodydd hynny a gynhelir yn unol â pharagraff (10) fel y mae'r arolygydd yn ystyried yn angenrheidiol.

(12) Mae paragraff (7) yn gymwys i unrhyw gyfarfodydd a gynhelir yn unol â pharagraff (10).

Cyhoedduswydd i nodiadau'r arolygydd ynghylch cyfarfodydd rhagymchwiliad ac argymhellion yr arolygydd

11.—(1) Cyn gynted ag y bo'n ymarferol ar ôl i bob cyfarfod rhagymchwiliad ddod i ben, rhaid i'r arolygydd lunio nodyn am y trafodion yn y cyfarfod hwnnw, ac anfon copi o'r nodyn hwnnw at Weinidogion Cymru.

(2) Cyn gynted ag y bo'n ymarferol ar ôl anfon copi o'r nodyn at Weinidogion Cymru, rhaid i'r arolygydd ei gylchredeg.

(3) Cyn gynted ag y bo'n ymarferol ar ôl gwneud argymhellion i Weinidogion Cymru ynghylch y materion y cyfarwyddir yr arolygydd i'w hystyried o dan reoliad 7(1)(a), rhaid i'r arolygydd gylchredeg copi o'r argymhellion hynny.

Cael y datganiadau achos etc.

12.—(1) Rhaid i'r ymgeisydd—

- (a) sicrhau bod Gweinidogion Cymru yn cael dau gopi o ddatganiad achos y ceisydd o fewn y cyfnod a bennir ym mharagraff (3); a
- (b) cyn gynted ag y bo'n rhesymol ymarferol ar ôl anfon y datganiad achos at Weinidogion Cymru, anfon copi ohono at bob person arall y mae'r ceisydd yn gwybod bod ganddynt hawl i ymddangos.

(2) Rhaid i'r personau y mae'r paragraff hwn yn gymwys iddynt—

- (a) sicrhau bod Gweinidogion Cymru yn cael dau gopi o'u datganiadau achos o fewn y cyfnod a bennir ym mharagraff (3); a
- (b) cyn gynted ag y bo'n rhesymol ymarferol ar ôl anfon y datganiad achos at Weinidogion Cymru, anfon copi ohono at bob person arall maent yn gwybod bod ganddynt hawl i ymddangos.

(3) Oni bai bod Gweinidogion Cymru yn pennu cyfnod arall drwy hysbysiad ysgrifenedig, y cyfnodau y mae rhaid i Weinidogion Cymru gael datganiadau achos o'u mewn yw—

- (a) yn achos ceisydd—

- (i) pan gynhelir cyfarfod rhagymchwiliad, bedair wythnos ar ôl i'r cyfarfod ddod i ben;
 - (ii) fel arall, ddeuddeg wythnos o ddyddiad yr hysbysiad perthnasol;
- (b) yn achos unrhyw berson y mae paragraff (2) yn gymwys iddo—
- (i) pan gynhelir cyfarfod rhagymchwiliad, chwe wythnos ar ôl i'r cyfarfod ddod i ben;
 - (ii) fel arall bedair wythnos ar ddeg o ddyddiad yr hysbysiad perthnasol.

(4) Y personau y mae paragraff (2) yn gymwys iddynt yw—

- (a) unrhyw awdurdod cynllunio cymwys;
- (b) unrhyw wrthwynebydd cymwys a nododd yn unol â rheoliad 6(4)(b)(iv) ei fod yn debygol o eisiau cael ei gynrychioli'n ffurfiol a chwarae rhan sylweddol yn yr ymchwiliad; ac
- (c) unrhyw berson arall y mae'n ofynnol iddo anfon datganiad achos yn unol â pharagraff (5).

(5) Caiff Gweinidogion Cymru ei gwneud yn ofynnol yn ysgrifenedig i unrhyw berson arall sydd wedi eu hysbysu ei fod yn bwriadu ymddangos gerbron yr ymchwiliad neu ei fod yn dymuno gwneud hynny, anfon dau gopi o'i ddatganiad achos at Weinidogion Cymru, ac mewn achosion o'r fath rhaid i Weinidogion Cymru—

- (a) anfon at y person hwnnw ddatganiad o'r materion y cyfeirir atynt yn rheoliad 4(1)(c); a
- (b) cyn gynted ag y bo'n ymarferol, hysbysu'r person hwnnw am enw a chyfeiriad pob person y mae'n ofynnol anfon datganiad achos y person hwnnw atynt.

(6) Pan fo'n ofynnol i awdurdod cynllunio perthnasol sy'n awdurdod cynllunio lleol yng Nghymru anfon datganiad achos o dan y rheoliad hwn, rhaid i'r datganiad achos hwnnw gynnwys manylion yr amser a'r lleoliad lle y bydd y cyfle i edrych ar gopïau a chymryd y copïau a ddisgrifir ym mharagraff (13) ar gael.

(7) Rhaid i unrhyw berson y cyfeirir ato ym mharagraff (4)(a) neu (b) nodi yn ei ddatganiad achos bob rhan o ddatganiad achos y ceisydd y maent yn cytuno â hi a phob rhan nad ydynt yn cytuno â hi, a rhaid iddynt ddatgan y rhesymau dros bob achos o anghytuno.

(8) Rhaid i Weinidogion Cymru adneuo pob datganiad achos a chopïau o unrhyw ddogfennau neu rannau perthnasol o unrhyw ddogfennau cyn gynted ag y bo'n ymarferol ar ôl eu cael.

(9) Caiff y ceisydd ac unrhyw berson y cyfeirir ato ym mharagraff (4)(a) neu (b) ofyn yn ysgrifenedig i unrhyw berson arall y mae'n ofynnol iddo ddarparu datganiad achos am gopi o unrhyw ddogfen, neu ran berthnasol o unrhyw ddogfen, y cyfeirir ati yn y rhestr o ddogfennau sydd wedi ei chynnwys yn natganiad achos y person hwnnw; a rhaid anfon unrhyw ddogfen o'r fath, neu unrhyw ran berthnasol o'r fath, cyn gynted ag y bo'n ymarferol, at y person a ofynnodd amdani.

(10) Caiff Gweinidogion Cymru neu'r arolygydd ei gwneud yn ofynnol yn ysgrifenedig i unrhyw berson sydd wedi anfon datganiad achos yn unol â'r rheoliad hwn ddarparu—

- (a) nifer penodedig o gopïau ychwanegol o'r datganiad; neu
- (b) unrhyw wybodaeth bellach am y materion sydd wedi eu cynnwys yn y datganiad a bennir ganddynt,

a rhaid iddynt bennu o fewn pa gyfnod y mae rhaid iddynt gael y copïau neu'r wybodaeth.

(11) Rhaid i unrhyw berson y mae'n ofynnol iddo ddarparu copïau ychwanegol neu wybodaeth bellach—

- (a) sicrhau bod Gweinidogion Cymru neu'r arolygydd wedi cael y copïau ychwanegol o fewn y cyfnod penodedig;
- (b) sicrhau bod Gweinidogion Cymru neu'r arolygydd wedi cael dau gopi o'r wybodaeth bellach o fewn y cyfnod penodedig; a rhaid i Weinidogion Cymru neu'r arolygydd, cyn gynted ag y bo'n ymarferol ar ôl ei chael, adneuo'r wybodaeth bellach honno; ac
- (c) cyn gynted ag y bo'n rhesymol ymarferol ar ôl anfon yr wybodaeth bellach at Weinidogion Cymru neu'r arolygydd, anfon copi ohoni at bob person arall y mae'r person sy'n darparu'r wybodaeth yn gwybod bod ganddynt hawl i ymddangos.

(12) Rhaid i unrhyw berson sy'n anfon datganiad achos at Weinidogion Cymru anfon copi o'r canlynol gyda'r datganiad hwnnw—

- (a) unrhyw ddogfen; neu
- (b) y rhan berthnasol o unrhyw ddogfen,

y cyfeirir ati yn y rhestr sydd wedi ei chynnwys yn y datganiad achos hwnnw, oni bai bod copi o'r ddogfen neu'r rhan o'r ddogfen dan sylw eisoes ar gael i edrych arni yn unol â pharagraff (13).

(13) Pan fo'r awdurdod cynllunio perthnasol yn awdurdod cynllunio lleol yng Nghymru, rhaid iddo roi i unrhyw berson sy'n gofyn am hynny gyfle rhesymol i edrych ar gopïau a, lle y bo'n ymarferol, gymryd copïau o—

- (a) unrhyw ddatganiad achos, sylwadau ysgrifenedig, wybodaeth ysgrifenedig neu ddogfen arall yr adneuwyd copi ohono, ohonynt neu ohoni yn unol â'r rheoliad hwn; a
- (b) datganiad achos, os oes un, yr awdurdod cynllunio perthnasol ac unrhyw sylwadau ysgrifenedig, wybodaeth ysgrifenedig neu ddogfennau eraill a anfonir gan yr awdurdod cynllunio perthnasol yn unol â'r rheoliad hwn,

yn ddarostyngedig i dalu tâl rhesymol gan y person hwnnw.

(14) Pan na fo unrhyw ran o'r man y mae cais yn ymwneud ag ef o fewn ardal awdurdod cynllunio perthnasol—

- (a) mae paragraff (6) yn gymwys fel pe bai "Pan fo'n ofynnol i awdurdod â buddiant" wedi ei roi yn lle "Pan fo'n ofynnol i awdurdod cynllunio lleol sy'n awdurdod cynllunio lleol yng Nghymru";
- (b) mae paragraff (13) yn gymwys fel pe bai "Rhaid i'r awdurdod â buddiant" wedi ei roi yn lle "Pan fo'r awdurdod cynllunio perthnasol yn awdurdod cynllunio lleol yng Nghymru, rhaid iddo".

(15) Os yw unrhyw berson sy'n anfon datganiad achos o dan y rheoliad hwn yn dymuno gwneud sylw am ddatganiad achos person arall, rhaid iddo—

- (a) sicrhau o fewn pedair wythnos o gael y datganiad hwnnw bod Gweinidogion Cymru yn cael dau gopi o'i sylwadau ysgrifenedig; a rhaid i Weinidogion Cymru, cyn gynted ag y bo'n ymarferol ar ôl eu cael, adneuo'r sylwadau hynny; a
- (b) cyn gynted ag y bo'n ymarferol ar ôl anfon ei sylwadau at Weinidogion Cymru, anfon copi ohonynt at bob person arall y mae'n gwybod bod ganddynt hawl i ymddangos.

(16) Rhaid i Weinidogion Cymru, cyn gynted ag y bo'n ymarferol ar ôl ei gael neu ei chael, anfon at yr arolygydd unrhyw ddatganiad achos, ddogfen, wybodaeth bellach neu sylwadau ysgrifenedig a gafwyd ganddynt yn unol â'r rheoliad hwn.

Amserlen yr ymchwiliad

13.—(1) Rhaid i'r arolygydd, mewn cyfarfod rhagymchwiliad a gynhelir yn unol â rheoliad 10—

- (a) trefnu amserlen ar gyfer y trafodion mewn ymchwiliad, neu mewn rhan o ymchwiliad; a
- (b) pennu'r dyddiad erbyn pryd y mae rhaid i Weinidogion Cymru gael unrhyw broflen dystiolaeth a chrynodeb a anfonir yn unol â rheoliad 18, ac unrhyw ddatganiad tir cyffredin a anfonir yn unol â rheoliad 19,

a rhaid iddo roi hysbysiad ysgrifenedig am y dyddiad a bennir felly i bob person sydd â hawl i ymddangos.

(2) Rhaid i'r arolygydd, nid hwyrach na phedair wythnos cyn dechrau'r ymchwiliad, anfon copi o'r amserlen at bob person sydd â hawl i ymddangos.

(3) Pan na fo cyfarfod rhagymchwiliad yn cael ei gynnal—

- (a) caiff yr arolygydd drefnu amserlen ar gyfer y trafodion mewn ymchwiliad, neu mewn rhan o ymchwiliad; a
- (b) rhaid i'r arolygydd bennu'r dyddiad erbyn pryd y mae rhaid i Weinidogion Cymru gael unrhyw broflen dystiolaeth a chrynodeb a anfonir yn unol â rheoliad 18, ac unrhyw ddatganiad tir cyffredin a anfonir yn unol â rheoliad 19,

a rhaid iddo roi hysbysiad ysgrifenedig am yr amserlen, os oes un, a'r dyddiad a bennir felly, i bob person sydd â hawl i ymddangos o fewn deg wythnos o ddyddiad yr hysbysiad perthnasol.

(4) Caiff yr arolygydd ar unrhyw adeg amrywio'r amserlen a drefnir o dan y rheoliad hwn, a rhaid hysbysu pob person sydd â hawl i ymddangos am unrhyw newidiadau i'r amserlen.

Hysbysu am benodi asesydd

14. Pan fo Gweinidogion Cymru yn penodi asesydd, rhaid iddynt hysbysu yn ysgrifenedig bob person sydd â hawl i ymddangos am—

- (a) enw'r asesydd; a
- (b) y materion y mae'r asesydd i gynghori'r arolygydd yn eu cylch.

Dyddiad ymchwiliad a hysbysu am ymchwiliad

15.—(1) Yn ddarostyngedig i baragraff (2), ni chaiff y dyddiad a bennir gan Weinidogion Cymru ar gyfer cynnal ymchwiliad fod yn ddiweddarach na—

- (a) deg wythnos ar ôl i'r cyfarfod rhagymchwiliad ddod i ben, os cynhelir un;
- (b) fel arall, ddeunaw wythnos o ddyddiad yr hysbysiad perthnasol.

(2) Pan fo Gweinidogion Cymru yn ystyried nad yw'n ymarferol pennu dyddiad yn unol â pharagraff (1), rhaid i'r dyddiad a bennir fod y dyddiad cynharaf y maent yn ystyried ei fod yn ymarferol.

(3) Oni bai bod Gweinidogion Cymru yn cytuno ar gyfnod hysbysu byrrach gyda'r ceisydd ac unrhyw awdurdod cynllunio cymwys, rhaid iddynt roi dim llai na phedair wythnos o hysbysiad ysgrifenedig am y

dyddiad, yr amser a'r lleoliad a bennir ar gyfer yr ymchwiliad i bob person sydd â hawl i ymddangos.

(4) Caiff Gweinidogion Cymru amrywio'r dyddiad a bennir ar gyfer yr ymchwiliad, pa un a yw'r dyddiad a amrywir o fewn y cyfnod sy'n gymwys o dan baragraff (1) ai peidio.

(5) Mae paragraff (3) yn gymwys i ddyddiad a amrywir fel yr oedd yn gymwys i'r dyddiad a bennwyd yn wreiddiol.

(6) Caiff Gweinidogion Cymru amrywio'r amser neu'r lleoliad ar gyfer cynnal ymchwiliad, a rhaid iddynt roi unrhyw hysbysiad am unrhyw amrywiad yr ymddengys yn rhesymol iddynt hwy.

(7) Cymerir bod hysbysiad ysgrifenedig wedi ei roi gan Weinidogion Cymru at ddibenion paragraff (3) pan fônt hwy ac unrhyw berson sydd â hawl i ymddangos wedi cytuno y caiff y person hwnnw yn hytrach gyrchu hysbysiad am y materion a grybwyllir yn y paragraff hwnnw drwy wefan, a—

- (a) pan fo Gweinidogion Cymru wedi cyhoeddi'r hysbysiad hwnnw ar y wefan; a
- (b) nid llai na phedair wythnos cyn y dyddiad a bennir gan Weinidogion Cymru ar gyfer cynnal yr ymchwiliad, yr hysbysir y person am—
 - (i) cyhoeddi'r hysbysiad ar y wefan;
 - (ii) cyfeiriad y wefan; a
 - (iii) ymhle ar y wefan y gellir cyrchu'r hysbysiad, a sut y gellir ei gyrchu.

Hysbysiad am ymchwiliad

16.—(1) Rhaid i'r ceisydd gyhoeddi hysbysiad mewn dwy wythnos olynol sy'n datgan—

- (a) y ffaith bod y cais neu'r cais i amrywio wedi ei wneud, a'i ddiben, ynghyd â disgrifiad o'r man y mae'n ymwneud ag ef;
- (b) pan fo'r ymchwiliad yn ymwneud â chais, y gellir edrych ar gopi o'r cais a'r map y cyfeirir ato ynddo, yn yr un lleoliad neu leoliadau ag a ddefnyddir i arddangos y map yn unol â rheoliad 7(2) o'r Rheoliadau Ceisiadau am Gydsyniad neu, os nad yw hynny'n bosibl mewn perthynas ag unrhyw leoliad o'r fath, mewn lleoliad addas arall mor agos ato â phosibl;
- (c) pan fo'r ymchwiliad yn ymwneud â chais i amrywio, man yn yr ardal leol lle y mae'r rheini sy'n debygol o gael eu heffeithio gan y datblygiad arfaethedig yn byw neu'n gweithio lle y gellir edrych ar gopi o'r cais i amrywio a'r map y cyfeirir ato ynddo; a
- (d) lleoliad, dyddiad ac amser yr ymchwiliad.

(2) Rhaid cyhoeddi hysbysiad o dan baragraff (1) mewn un papur newydd lleol o leiaf, fel bod yr hysbysiad yn debygol o ddod i sylw'r rheini sy'n debygol o gael eu heffeithio gan y datblygiad arfaethedig.

(3) Os yw'n ymddangos i Weinidogion Cymru y dylid, yn ogystal â chyhoeddi hysbysiad yn unol â pharagraffau (1) a (2), roi hysbysiad pellach am yr ymchwiliad (naill ai drwy gyflwyno hysbysiadau, neu drwy hysbyseb, neu mewn unrhyw ffordd arall) er mwyn sicrhau bod yr wybodaeth a bennir ym mharagraff (1) wedi ei hysbysu yn ddigonol i bersonau sy'n debygol o gael eu heffeithio gan y cydsyniad y gwneir cais ar ei gyfer os y'i rhoddir, caiff Gweinidogion Cymru gyfarwyddo'r ceisydd i gymryd unrhyw gamau pellach a bennir at y diben hwnnw yn y cyfarwyddyd.

Ymddangos gerbron ymchwiliad

17.—(1) Y personau sydd â hawl i ymddangos gerbron ymchwiliad yw—

- (a) y ceisydd;
- (b) awdurdod cynllunio cymwys;
- (c) unrhyw un neu ragor o'r cyrff a ganlyn os yw tir y mae'r ymchwiliad yn ymwneud ag ef wedi ei leoli yn ei ardal neu ei hardal ac nid hwythau yw'r awdurdod cynllunio perthnasol—
 - (i) bwrdd cydgynllunio a gyfansoddir o dan adran 2(1B) o Ddeddf 1990(1) (byrddau cydgynllunio);
 - (ii) corfforaeth datblygu trefol a sefydlir gan Weinidogion Cymru drwy orchymyn o dan adran 135(1) o Ddeddf Llywodraeth Leol, Cynllunio a Thir 1980(2) (corfforaethau datblygu trefol);
- (d) gwrthwynebydd cymwys sydd wedi dychwelyd ffurflen gofrestru yn unol â rheoliad 6(4)(a);
- (e) unrhyw berson arall sydd wedi anfon datganiad achos yn unol â rheoliad 12(2).

(2) Nid oes dim ym mharagraff (1) yn atal yr arolygydd rhag caniatáu i unrhyw berson arall ymddangos gerbron ymchwiliad, ac ni chaniateir atal caniatâd o'r fath yn afresymol.

(3) Caiff unrhyw berson sydd â hawl i ymddangos gerbron ymchwiliad neu y caniateir iddo ymddangos

(1) Diwygiwyd is-adran (1) gan baragraff 1 o Atodlen 18 i Ddeddf Llywodraeth Leol (Cymru) 1994 (p. 19) a mewnosodwyd is-adran (1B) yn adran 2 gan adran 19(1) o'r Ddeddf honno.

(2) 1980 p. 65.

wneud hynny ar ei ran ei hun neu gael ei gynrychioli gan unrhyw berson arall.

(4) Caiff arolygydd ganiatáu i un person neu ragor ymddangos er budd rhai o'r personau, neu'r holl bersonau, sydd â buddiant tebyg yn y mater sy'n destun ymchwiliad.

Proflenni tystiolaeth

18.—(1) Rhaid i unrhyw berson sydd â hawl i ymddangos sy'n bwriadu rhoi tystiolaeth, neu alw person arall i roi tystiolaeth, yn yr ymchwiliad drwy ddarllen proflen dystiolaeth anfon dau gopi o'r broflen dystiolaeth (yn achos awdurdod cynllunio cymwys â'r ceisydd) neu dri chopi (yn unrhyw achos arall) at Weinidogion Cymru.

(2) Pan fo copi o broflen dystiolaeth a anfonir o dan baragraff (1) yn cynnwys mwy na 1,500 o eiriau, rhaid i grynodeb ysgrifenedig fynd gydag ef, ac ni chaiff y crynodeb hwnnw gynnwys mwy na 1,500 o eiriau, oni bai bod yr arolygydd yn caniatáu fel arall.

(3) Pan fo person yn anfon copïau o broflen dystiolaeth a chrynodeb (os oes un), rhaid i'r person hwnnw ar yr un pryd anfon copi at bob person arall y mae'r person hwnnw yn gwybod bod ganddynt hawl i ymddangos, oni bai bod person o'r fath wedi nodi yn ysgrifenedig nad oes angen anfon copi ato.

(4) Rhaid i Weinidogion Cymru gael y broflen dystiolaeth ac unrhyw grynodeb nid hwyrach na'r dyddiad a bennir gan yr arolygydd yn unol â rheoliad 13(1)(b) neu reoliad 13(3)(b), a chyn gynted ag y bo'n ymarferol ar ôl eu cael, rhaid i Weinidogion Cymru adneuo pob proflen dystiolaeth o'r fath a phob crynodeb o'r fath.

(5) Rhaid i Weinidogion Cymru anfon at yr arolygydd, cyn gynted ag y bo'n ymarferol ar ôl eu cael, unrhyw broflen dystiolaeth ynghyd ag unrhyw grynodeb a anfonir atynt yn unol â'r rheoliad hwn.

(6) Rhaid i unrhyw berson y mae paragraff (1) yn ei gwneud yn ofynnol iddo anfon copïau o broflen dystiolaeth at Weinidogion Cymru anfon yr un nifer o gopïau o unrhyw ddogfen gyfan y cyfeirir ati yn y broflen dystiolaeth, neu'r rhan berthnasol o unrhyw ddogfen o'r fath, gyda'r proflenni tystiolaeth hynny, oni bai bod copi o'r ddogfen neu ran o'r ddogfen dan sylw eisoes ar gael i edrych arno yn unol â rheoliad 12(13).

(7) Caiff Gweinidogion Cymru neu'r arolygydd ei gwneud yn ofynnol yn ysgrifenedig i unrhyw berson sydd wedi anfon copi o broflen dystiolaeth neu grynodeb yn unol â'r rheoliad hwn ddarparu'r nifer hwnnw o gopïau ychwanegol o'r broflen neu'r crynodeb a bennir ganddynt, a rhaid iddynt bennu o fewn pa gyfnod y mae rhaid iddynt gael y copi o'r broflen neu'r crynodeb.

(8) Rhaid i unrhyw berson y mae'n ofynnol iddo ddarparu copïau ychwanegol sicrhau bod Gweinidogion Cymru neu'r arolygydd yn cael y copïau hynny o fewn y cyfnod penodedig.

Datganiad tir cyffredin

19.—(1) Caiff Gweinidogion Cymru ei gwneud yn ofynnol yn ysgrifenedig i'r awdurdod cynllunio perthnasol (pan fo'n awdurdod cynllunio lleol yng Nghymru) a'r ceisydd lunio datganiad tir cyffredin gyda'i gilydd.

(2) Pan fo datganiad tir cyffredin cytunedig yn cael ei lunio yn unol â pharagraff (1), rhaid i'r ceisydd—

- (a) sicrhau bod Gweinidogion Cymru wedi cael dau gopi o'r datganiad erbyn y dyddiad a bennir gan yr arolygydd o dan reoliad 13(1)(b) neu 13(3)(b); a rhaid i Weinidogion Cymru adneuo'r datganiad hwnnw cyn gynted â phosibl ar ôl ei gael;
- (b) ar yr un pryd ag y mae'r ceisydd yn anfon y datganiad at Weinidogion Cymru, anfon copi ohono at bob person arall y mae'n gwybod bod ganddynt hawl i ymddangos, ac eithrio'r awdurdod cynllunio perthnasol (pan fo'n awdurdod cynllunio lleol yng Nghymru); ac
- (c) rhoi cyfle rhesymol i unrhyw berson arall sy'n gofyn am edrych ar y datganiad i wneud hynny, a phan fo'n ymarferol ac ar ôl talu tâl rhesymol, i gymryd copïau ohono.

Gweithdrefn ymchwiliad

20.—(1) Ac eithrio fel y darperir fel arall, rhaid i'r arolygydd bennu gweithdrefn ymchwiliad.

(2) Ar ddechrau'r ymchwiliad—

- (a) rhaid i'r arolygydd nodi—
 - (i) y materion sydd i'w hystyried yn yr ymchwiliad; a
 - (ii) unrhyw faterion y mae'r arolygydd angen esboniad pellach yn eu cylch oddi wrth y personau sydd â hawl i ymddangos neu a ganiateir i ymddangos;
- (b) caiff yr arolygydd gyfarwyddo, mewn perthynas â'r materion hynny a bennir gan yr arolygydd, bod y naill neu'r llall o'r canlynol yn gymwys, neu'r ddau ohonynt—
 - (i) nid yw tystiolaeth i gael ei darllen yn uchel yn yr ymchwiliad (neu pan anfonir crynodeb o'r dystiolaeth yn unol â rheoliad 18(4), mai dim ond y crynodeb sydd i'w darllen yn uchel); a

- (ii) nid yw personau sy'n rhoi tystiolaeth yn ddarostyngedig i gael eu croesholi ynghylch y materion hynny.

(3) Nid oes dim ym mharagraff (2) yn atal unrhyw berson sydd â hawl i ymddangos neu a ganiateir i ymddangos rhag—

- (a) cyfeirio at faterion y maent yn ystyried eu bod yn berthnasol o ran ystyried y cais neu'r cais i amrywio ond nad oeddent yn faterion a nodwyd gan yr arolygydd yn unol â pharagraff (2)(a); a
- (b) cyflwyno sylwadau llafar ar unrhyw faterion sy'n ddarostyngedig i gyfarwyddyd o dan baragraff (2)(b).

(4) Oni bai bod yr arolygydd yn pennu fel arall mewn unrhyw achos penodol—

- (a) y ceisydd sy'n cychwyn ac mae ganddo'r hawl i ymateb yn derfynol; a
- (b) mae'r personau eraill sydd â'r hawl i ymddangos neu a ganiateir i ymddangos i gael gwrandawriad yn y drefn honno a bennir gan yr arolygydd.

(5) Yn ddarostyngedig i unrhyw gyfarwyddyd o dan baragraff (2)(b), mae gan berson sydd â'r hawl i ymddangos yr hawl i alw tystiolaeth, ac mae gan y ceisydd ac awdurdod cynllunio cymwys yr hawl i groesholi personau sy'n rhoi tystiolaeth.

(6) Caiff yr arolygydd wrthod caniatáu—

- (a) rhoi neu gyflwyno tystiolaeth;
- (b) croesholi personau sy'n rhoi tystiolaeth; neu
- (c) cyflwyno unrhyw fater arall,

y mae'r arolygydd yn ystyried ei fod yn amherthnasol neu'n ailadroddus; ond pan fo'r arolygydd yn gwrthod caniatáu rhoi tystiolaeth lafar, caiff y person sy'n dymuno rhoi'r dystiolaeth gyflwyno unrhyw dystiolaeth neu unrhyw fater arall yn ysgrifenedig i'r arolygydd cyn i'r ymchwiliad gau.

(7) Caiff yr arolygydd wrthod caniatáu croesholi personau sy'n rhoi tystiolaeth, neu caiff ei gwneud yn ofynnol i groesholi o'r fath ddod i ben, os yw'n ymddangos i'r arolygydd y byddai caniatáu croesholi o'r fath, neu ganiatáu iddo barhau, yn golygu na fyddai'n bosibl cadw at yr amserlen a drefnir gan yr arolygydd o dan reoliad 13.

(8) Ni chaiff yr arolygydd ei gwneud yn ofynnol i roi unrhyw dystiolaeth, neu ganiatáu rhoi neu gyflwyno unrhyw dystiolaeth, pa un ai'n ysgrifenedig neu ar lafar, y mae'r arolygydd yn ystyried y byddai'n groes i fudd y cyhoedd; ond fel arall, caiff yr arolygydd gyfarwyddo y caiff unrhyw berson sydd â hawl i ymddangos gerbron yr ymchwiliad, neu a ganiateir i ymddangos, edrych ar ddogfennau a gyflwynir fel tystiolaeth.

(9) Pan fo person yn rhoi tystiolaeth mewn ymchwiliad drwy ddarllen crynodeb o'i broflen dystiolaeth a gafwyd gan Weinidogion Cymru o dan reoliad 18—

- (a) mae'r broflen dystiolaeth i'w thrin fel pe bai wedi ei chyflwyno fel tystiolaeth, oni bai bod y person y mae'n ofynnol iddo ddarparu'r crynodeb yn hysbysu'r arolygydd ei fod bellach yn dymuno dibynnu ar gynnwys y crynodeb hwnnw yn unig; a
- (b) yn ddarostyngedig i unrhyw gyfarwyddyd o dan baragraff (2)(b)(ii), mae'r person y mae ei dystiolaeth wedi ei chynnwys ar y broflen dystiolaeth i fod yn ddarostyngedig i gael ei groesholi yn ei chylch i'r un graddau â phe bai'r dystiolaeth wedi ei rhoi ar lafar.

(10) Pan fo'r arolygydd yn rhoi cyfarwyddyd o dan baragraff (2)(b)(i), rhaid trin unrhyw broflen dystiolaeth a geir gan Weinidogion Cymru o dan reoliad 18 sy'n ymdrin â materion sy'n ddarostyngedig i'r cyfarwyddyd hwnnw, i'r graddau y mae'n ymdrin â'r materion hynny, fel pe bai wedi ei chyflwyno fel tystiolaeth, oni bai—

- (a) bod y person wedi darparu crynodeb yn unol â rheoliad 18 a bod y person hwnnw wedi hysbysu'r arolygydd ei fod bellach yn dymuno dibynnu ar gynnwys y crynodeb hwnnw yn unig, ac os felly, mae'r crynodeb i'w drin fel pe bai wedi ei gyflwyno fel tystiolaeth i'r graddau y mae'n ymdrin â'r materion sy'n ddarostyngedig i'r cyfarwyddyd;
- (b) bod y person yn addasu'r broflen dystiolaeth neu'n ychwanegu ati o dan baragraff (13), ac os felly, mae'r broflen dystiolaeth, fel y'i haddaswyd neu yr ychwanegwyd ati, i'w thrin fel pe bai wedi ei chyflwyno fel tystiolaeth i'r graddau y mae'n ymdrin â'r materion sy'n ddarostyngedig i'r cyfarwyddyd; neu
- (c) bod y person sydd wedi anfon y broflen dystiolaeth yn hysbysu'r arolygydd nad yw'n dymuno rhoi neu alw'r dystiolaeth honno mwyach.

(11) Caiff yr arolygydd gyfarwyddo bod cyfleusterau i fod ar gael i unrhyw berson sy'n ymddangos gerbron ymchwiliad i gymryd copïau o dystiolaeth ddogfennol sydd ar gael i'r cyhoedd edrych arni, neu gael copïau o'r dystiolaeth honno.

(12) Caiff yr arolygydd—

- (a) ei gwneud yn ofynnol i unrhyw berson sy'n ymddangos gerbron ymchwiliad neu sy'n bresennol yno sydd, ym marn yr arolygydd, yn ymddwyn mewn modd aflonyddgar, ymadael; a

- (b) gwrthod caniatáu i'r person hwnnw ddychwelyd; neu
- (c) ond caniatáu iddynt ddychwelyd o dan yr amodau hynny a bennir gan yr arolygydd,

ond caiff unrhyw berson o'r fath gyflwyno unrhyw dystiolaeth neu unrhyw fater arall yn ysgrifenedig i'r arolygydd cyn i'r ymchwiliad gau.

(13) Caiff yr arolygydd ganiatáu i unrhyw berson addasu neu ychwanegu at ddatganiad achos a geir gan Weinidogion Cymru o dan reoliad 12 neu broflen dystiolaeth a geir gan Weinidogion Cymru o dan reoliad 18, i'r graddau y bo hynny'n angenrheidiol at ddibenion yr ymchwiliad; ond rhaid i'r arolygydd (drwy ohirio'r ymchwiliad os yw hynny'n angenrheidiol) roi i bob person arall sydd â'r hawl i ymddangos sy'n ymddangos gerbron yr ymchwiliad gyfle digonol i ystyried unrhyw addasiad neu ychwanegiad o'r fath.

(14) Caiff yr arolygydd fwrw ymlaen gydag ymchwiliad yn absenoldeb unrhyw berson sydd â hawl i ymddangos ger ei fron.

(15) Caiff yr arolygydd ystyried unrhyw sylwadau ysgrifenedig neu dystiolaeth ysgrifenedig neu unrhyw ddogfen arall a geir gan yr arolygydd oddi wrth unrhyw berson arall cyn i ymchwiliad ddechrau neu yn ystod yr ymchwiliad ar yr amod bod yr arolygydd yn datgelu hynny yn yr ymchwiliad.

(16) Caiff yr arolygydd o bryd i'w gilydd ohirio ymchwiliad ac, os cyhoeddir dyddiad, amser a lleoliad yr ymchwiliad gohiriedig yn yr ymchwiliad cyn y gohirriad, nid oes angen rhoi unrhyw hysbysiad pellach.

(17) Rhaid i unrhyw berson sy'n ymddangos gerbron ymchwiliad sy'n gwneud sylwadau i gloi ddarparu copi ysgrifenedig o'u sylwadau i gloi i'r arolygydd erbyn i'r ymchwiliad gau.

Arolygiadau safle

21.—(1) Caiff yr arolygydd gynnal arolygiad o'r man ar ei ben ei hun cyn ymchwiliad neu yn ystod ymchwiliad heb roi hysbysiad am fwriad yr arolygydd i'r personau sydd â hawl i ymddangos.

(2) Yn ystod ymchwiliad neu ar ôl iddo gau, caiff yr arolygydd arolygu'r man yng nghwmni'r ceisydd, unrhyw awdurdod cynllunio cymwys, ac, yn ddarostyngedig i baragraff (3), unrhyw wrthwynebydd cymwys sydd wedi dychwelyd ffurflen gofrestru yn unol â rheoliad 6(4)(a).

(3) Pan fo'r arolygydd yn arolygu'r man ar ôl i ymchwiliad gau, nid oes gan wrthwynebydd cymwys yr hawl i fynd gyda'r arolygydd ar yr arolygiad hwnnw oni bai ei fod wedi ymddangos gerbron yr ymchwiliad.

(4) Ym mhob achos pan fo'r arolygydd yn bwriadu cynnal arolygiad safle yng nghwmni eraill, rhaid i'r

arolygydd gyhoeddi yn ystod yr ymchwiliad y dyddiad a'r amser y mae'r arolygydd yn bwriadu cynnal yr arolygiad hwnnw.

(5) Nid yw'r arolygydd wedi ei rwymo i ohirio arolygiad o'r math y cyfeirir ato ym mharagraff (2) pan na fo unrhyw berson a grybwyllir yn y paragraff hwnnw yn bresennol ar yr adeg benodedig.

Y weithdrefn ar ôl ymchwiliad

22.—(1) Ar ôl i ymchwiliad gau, rhaid i'r arolygydd arweiniol gyflwyno adroddiad ysgrifenedig i Weinidogion Cymru, a rhaid i'r adroddiad hwnnw gynnwys—

- (a) ystyriaeth yr arolygydd arweiniol o'r cais neu'r cais i amrywio;
- (b) yr ystyriaeth gan unrhyw arolygwr ychwanegol o'r materion sy'n ymwneud â'r cais neu'r cais i amrywio y mae'r arolygydd ychwanegol wedi ei gyfarwyddo i'w hystyried;
- (c) casgliadau'r arolygydd arweiniol; a
- (d) argymhellion yr arolygydd arweiniol, neu ei resymau dros beidio â gwneud unrhyw argymhellion.

(2) Pan fo asesydd wedi ei benodi, caiff yr asesydd, ar ôl i'r ymchwiliad gau, gyflwyno adroddiad ysgrifenedig i'r arolygydd mewn cysylltiad â'r materion y penodwyd yr asesydd i roi cyngor yn eu cylch.

(3) Pan fo asesydd yn cyflwyno adroddiad yn unol â pharagraff (2), rhaid i'r arolygydd atodi'r adroddiad hwnnw i'w adroddiad ei hun, a rhaid i'r arolygydd ddatgan yn yr adroddiad hwnnw i ba raddau y mae'n cytuno neu'n anghytuno ag adroddiad yr asesydd a, phan fo'r arolygydd yn anghytuno â'r asesydd, y rhesymau dros yr anghytuno hwnnw.

(4) Wrth wneud eu penderfyniad, caiff Gweinidogion Cymru ddiystyru unrhyw sylwadau ysgrifenedig, unrhyw dystiolaeth ysgrifenedig neu unrhyw ddogfen arall a geir ar ôl i'r ymchwiliad gau.

(5) Os yw Gweinidogion Cymru, ar ôl i ymchwiliad gau—

- (a) yn anghydweld ag arolygydd ynghylch unrhyw fater o ffaith a grybwyllir mewn casgliad a lunnir gan yr arolygydd, neu yr ymddengys iddynt hwy ei fod yn berthnasol i gasgliad o'r fath; neu
- (b) yn ystyried unrhyw dystiolaeth newydd neu unrhyw fater o ffaith newydd (nad yw'n fater o bolisi Gweinidogion Cymru),

ac oherwydd hynny yn penderfynu anghytuno ag argymhelliad a wneir gan yr arolygydd arweiniol, ni

chânt ddod i benderfyniad sy'n groes i'r argymhelliad hwnnw heb yn gyntaf hysbysu yn ysgrifenedig y personau a oedd â hawl i ymddangos a ymddangosodd gerbron yr ymchwiliad eu bod yn anghytuno, a'r rhesymau dros hynny; a rhoi cyfle iddynt gyflwyno sylwadau ysgrifenedig iddynt hwy neu (os yw Gweinidogion Cymru wedi ystyried unrhyw dystiolaeth newydd neu unrhyw fater o ffaith newydd, nad yw'n fater o bolisi Gweinidogion Cymru) ofyn am ailagor yr ymchwiliad.

(6) Rhaid i'r personau hynny sy'n cyflwyno sylwadau ysgrifenedig neu'n gofyn am ailagor yr ymchwiliad o dan baragraff (5) sicrhau bod Gweinidogion Cymru yn cael y sylwadau hynny neu'r archiadau hynny o fewn tair wythnos o ddyddiad hysbysiad Gweinidogion Cymru o dan y paragraff hwnnw.

(7) Caiff Gweinidogion Cymru, fel y gwelant yn dda, beri i ymchwiliad gael ei ailagor, a rhaid iddynt wneud hynny os gofynnir iddynt wneud hynny gan y ceisydd neu awdurdod cynllunio cymwys o dan yr amgylchiadau a grybwyllir ym mharagraff (5) ac o fewn y cyfnod a grybwyllir ym mharagraff (6).

(8) Pan fo ymchwiliad yn cael ei ailagor (pa un ai gan yr un arolygydd arweiniol neu gan arolygydd arweiniol gwahanol)—

- (a) rhaid i Weinidogion Cymru anfon at y personau a oedd â hawl i ymddangos a ymddangosodd gerbron yr ymchwiliad ddatganiad ysgrifenedig o'r materion y gwahoddir cyflwyno rhagor o dystiolaeth yn eu cylch;
- (b) mae paragraffau (3) i (7) o reoliad 15 yn gymwys mewn perthynas â'r ymchwiliad a ailagorir fel pe bai cyfeiriadau at ymchwiliad yn y paragraffau hynny yn gyfeiriadau at yr ymchwiliad a ailagorir; ac
- (c) mae paragraffau (5) a (6) o reoliad 10 yn gymwys mewn perthynas â'r ymchwiliad a ailagorir fel pe bai'r cyfeiriadau yn y paragraffau hynny at y cyfarfod rhagymchwiliad yn gyfeiriadau at yr ymchwiliad a ailagorir.

Hysbysu am benderfyniad

23.—(1) Rhaid i Weinidogion Cymru, cyn gynted ag y bo'n ymarferol, anfon hysbysiad ysgrifenedig am eu penderfyniad ynghylch cais neu gais i amrywio, a'u rhesymau dros ddod i'r penderfyniad hwnnw, at—

- (a) y ceisydd;
- (b) pob person a oedd â hawl i ymddangos a ymddangosodd; ac

- (c) unrhyw berson arall a oedd wedi ymddangos gerbron yr ymchwiliad, sydd wedi gofyn am gael ei hysbysu am y penderfyniad.

(2) Tybir bod hysbysiad ysgrifenedig am benderfyniad a'r rhesymau drosto wedi ei roi i berson at ddibenion y rheoliad hwn pan fo—

- (a) Gweinidogion Cymru a'r person wedi cytuno y caiff y penderfyniadau a'r rhesymau y mae'n ofynnol eu rhoi yn ysgrifenedig o dan y rheoliad hwn gael eu cyrchu yn hytrach gan y person hwnnw drwy wefan;
- (b) y penderfyniad a'r rhesymau yn benderfyniad a rhesymau y mae'r cytundeb hwnnw yn gymwys iddynt;
- (c) Gweinidogion Cymru wedi cyhoeddi'r penderfyniad a'r rhesymau ar wefan; a
- (d) y person yn cael ei hysbysu, yn y dull y cytunir arno am y tro rhwng y person hwnnw a Gweinidogion Cymru, am—
 - (i) cyhoeddi'r penderfyniad a'r rhesymau ar wefan;
 - (ii) cyfeiriad y wefan; a
 - (iii) ymhle ar y wefan y gellir cyrchu'r penderfyniad a'r rhesymau, a sut y gellir eu cyrchu.

(3) Pan na fo copi o adroddiad yr arolygydd arweiniol wedi ei anfon gyda'r hysbysiad am y penderfyniad, rhaid i ddatganiad o gasgliadau'r arolygydd arweiniol ac unrhyw argymhellion a wneir ganddo fynd gyda'r hysbysiad, ac os nad yw person sydd â hawl i gael ei hysbysu am y penderfyniad wedi cael copi o'r adroddiad hwnnw, rhaid anfon copi ohono at y person hwnnw ar gais ysgrifenedig i Weinidogion Cymru.

(4) Yn y rheoliad hwn mae "adroddiad" yn cynnwys unrhyw adroddiad asesydd a atodir i adroddiad arolygydd ac adroddiad arolygydd ychwanegol a atodir i adroddiad yr arolygydd arweiniol, ond nid yw'n cynnwys unrhyw ddogfennau eraill a atodir felly; ond caiff unrhyw berson sydd wedi cael copi o'r adroddiad wneud cais ysgrifenedig i Weinidogion Cymru, o fewn chwe wythnos o ddyddiad penderfyniad Gweinidogion Cymru, am gyfle i edrych ar unrhyw ddogfennau o'r fath, a rhaid i Weinidogion Cymru roi'r cyfle hwnnw i'r person hwnnw.

(5) Rhaid i unrhyw berson sy'n gwneud cais i Weinidogion Cymru o dan baragraff (3) sicrhau bod Gweinidogion Cymru yn cael y cais o fewn pedair wythnos o ddyddiad penderfyniad Gweinidogion Cymru.

Y weithdrefn yn dilyn dileu penderfyniad

24.—(1) Pan fo penderfyniad Gweinidogion Cymru ynghylch cais neu gais i amrywio y cynhelir ymchwiliad mewn cysylltiad ag ef yn cael ei ddileu mewn achos gerbron unrhyw lys—

- (a) rhaid i Weinidogion Cymru anfon at y personau a oedd â hawl i ymddangos a ymddangosodd gerbron yr ymchwiliad ddatganiad ysgrifenedig o'r materion y gwahoddir rhagor o sylwadau mewn cysylltiad â hwy at ddibenion ystyried ymhellach y cais neu'r cais i amrywio;
- (b) rhaid i Weinidogion Cymru roi cyfle i'r personau hynny gyflwyno sylwadau ysgrifenedig iddynt hwy mewn cysylltiad â'r materion hynny neu ofyn am ailagor yr ymchwiliad; ac
- (c) caiff Gweinidogion Cymru, fel y gwelant yn dda, beri i'r ymchwiliad gael ei ailagor (pa un ai gan yr un arolygydd arweiniol neu arolygydd gwahanol).

(2) Pan fo Gweinidogion Cymru yn peri i ymchwiliad gael ei ailagor—

- (a) mae paragraffau (3) i (7) o reoliad 15 yn gymwys mewn perthynas â'r ymchwiliad a ailagorir fel pe bai cyfeiriadau at ymchwiliad yn y paragraffau hynny yn gyfeiriadau at yr ymchwiliad a ailagorir; a
- (b) mae paragraffau (5) a (6) o reoliad 10 yn gymwys mewn perthynas â'r ymchwiliad a ailagorir fel pe bai cyfeiriadau yn y paragraffau hynny at y cyfarfod rhagymchwiliad yn gyfeiriadau at yr ymchwiliad a ailagorir.

(3) Rhaid i'r personau hynny sy'n cyflwyno sylwadau neu'n gofyn am ailagor yr ymchwiliad o dan baragraff (1)(b) sicrhau bod Gweinidogion Cymru yn cael y sylwadau hynny neu'r archiadau hynny o fewn tair wythnos o ddyddiad y datganiad ysgrifenedig a anfonwyd o dan baragraff (1)(a).

Caniatáu rhagor o amser

25. Caiff Gweinidogion Cymru ar unrhyw adeg mewn unrhyw achos penodol ganiatáu rhagor o amser ar gyfer cymryd unrhyw gam sy'n ofynnol, neu y galluogir ei gymryd, yn rhinwedd y Rheoliadau hyn, ac mae cyfeiriadau yn y Rheoliadau hyn at ddiwrnod erbyn pryd y mae'n ofynnol cymryd unrhyw gam, neu y galluogir cymryd unrhyw gam, neu at gyfnod y mae'n ofynnol gwneud hynny o'i fewn, i'w dehongli yn unol â hynny.

Copïau ychwanegol

26.—(1) Caiff Gweinidogion Cymru, ar unrhyw adeg cyn i ymchwiliad gau, ofyn am gopïau o'r canlynol oddi wrth unrhyw berson sydd â hawl i ymddangos neu a ganiateir i ymddangos—

- (a) datganiad amlinellol (fel y crybwyllir yn rheoliad 6(4)(c)) a anfonir yn unol â rheoliad 6(4)(a);
- (b) datganiad achos neu sylwadau a anfonir yn unol â rheoliad 12;
- (c) proflen dystiolaeth a anfonir yn unol â rheoliad 18; neu
- (d) unrhyw ddogfen arall neu wybodaeth arall a anfonir at Weinidogion Cymru cyn ymchwiliad neu yn ystod ymchwiliad,

a rhaid iddynt bennu'r cyfnod y mae rhaid iddynt gael y dogfennau hynny ynddo.

(2) Rhaid i unrhyw berson y gofynnir iddo wneud hynny sicrhau bod Gweinidogion Cymru yn cael y copïau o fewn y cyfnod penodedig.

Anfon hysbysiadau ac edrych ar ddogfennau

27.—(1) Caniateir anfon hysbysiadau neu ddogfennau y mae'n ofynnol eu hanfon neu yr awdurdodir eu hanfon o dan y Rheoliadau hyn—

- (a) drwy'r post; neu
- (b) drwy ddefnyddio cyfathrebiadau electronig i anfon neu gyflenwi'r hysbysiad neu'r ddogfen i berson yn y cyfeiriad hwnnw a bennir am y tro gan y person at y diben hwnnw.

(2) Pan fo rhwymedigaeth ar awdurdod cynllunio perthnasol neu, yn ôl y digwydd, awdurdod â buddiant, i roi cyfle i unrhyw berson sy'n gofyn am hynny edrych ar unrhyw ddogfen a chymryd copïau o unrhyw ddogfen, tybir bod cyfle wedi ei roi i berson pan fo'r person yn cael ei hysbysu am—

- (a) cyhoeddi'r ddogfen berthnasol ar wefan;
- (b) cyfeiriad y wefan; ac
- (c) ymhle ar y wefan y gellir cyrchu'r ddogfen, a sut y gellir ei chyrchu.

Julie James

Y Gweinidog Tai a Llywodraeth Leol, un o
Weinidogion Cymru
18 Chwefror 2019

Explanatory Memorandum to:

- 1) The Electricity (Offshore Generating Stations) (Applications for Consent) (Wales) Regulations 2019.**
- 2) The Electricity (Offshore Generating Stations) (Variation of Consents) (Wales) Regulations 2019.**
- 3) The Electricity (Offshore Generating Stations (Inquiries Procedure) (Wales) Regulations 2019.**
- 4) The Electricity Works (Environmental Impact Assessment) (England and Wales) (Amendment) (Wales) Regulations 2019.**
- 5) The Electricity (Offshore Generating Stations) (Safety Zones) (Application Procedures and Control of Access) (Amendment) (Wales) Regulations 2019.**

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the:

- 1) The Electricity (Offshore Generating Stations) (Applications for Consent) (Wales) Regulations 2019;
- 2) The Electricity (Offshore Generating Stations) (Variation of Consents) (Wales) Regulations 2019;
- 3) The Electricity (Offshore Generating Stations (Inquiries Procedure) (Wales) Regulations 2019;
- 4) The Electricity Works (Environmental Impact Assessment) (England and Wales) (Amendment) (Wales) Regulations 2019; and
- 5) The Electricity (Offshore Generating Stations) (Safety Zones) (Application Procedures and Control of Access) (Amendment) (Wales) Regulations 2019.

Julie James

Minister for Housing and Local Government

20 February 2019

PART 1

1. Description

1.1 Sections 39 to 41 of the Wales Act 2017 (“the 2017 Act”) among other things, devolve to the Welsh Ministers:

- responsibility for the consenting of offshore generating stations in Welsh waters with a capacity up to and including 350MW; and
- other associated functions such as the ability to extinguish public rights of navigation and provision relating to safety zones around renewable energy installations.

These provisions will be fully commenced on 1 April 2019.

1.2 As a result of amendments to the Electricity Act 1989 (“the 1989 Act”) and the Planning Act 2008 (“the 2008 Act”) made by the 2017 Act the Welsh Ministers are the appropriate (consenting) authority in relation to applications made after 1 April 2019 under sections 36 and 36C of the 1989 Act relating to generating stations (or proposed generating stations) in Welsh waters (as defined in section 36 of the 1989 Act) which have or will have a capacity not exceeding 350MW.

1.3 The Electricity (Offshore Generating Stations) (Applications for Consent) (Wales) Regulations 2019 make provision about the grant of consents under section 36 of the 1989 Act (“ a section 36 consent”) in relation to generating stations in respect of which the Welsh Ministers are the appropriate authority. These Regulations include provision about the making of applications, service and publicity requirements, the circumstances in which public inquiries are to be held and the scope of public inquiries where there is more one or more relevant planning authority. They also make consequential amendments to the Conservation of Habitats and Species Regulations 2017.

1.4 The Electricity (Offshore Generating Stations) (Variation of Consents) (Wales) Regulations 2019 make provision about applications to vary a section 36 consent under section 36C of the 1989 Act where the Welsh Ministers are the appropriate authority. These Regulations include provision about what must be included in or accompany a variation application, notification and publicity requirements, when public inquiries are to be held and the withdrawal of variation application. They also revoke the Electricity Generating Stations (Variation of Consents) (England and Wales) Regulations 2013 in so far as they apply to an application to the Welsh Ministers under section 36C of the 1989 Act.

- 1.5 The Electricity (Offshore Generating Stations) (Inquiries Procedure) (Wales) Regulations 2019 make provision about inquiries caused to be held by the Welsh Ministers in relation to applications under sections 36 and 36C of the 1989 Act.
- 1.6 The Electricity Works (Environmental Impact Assessment) (England and Wales) (Amendment) (Wales) Regulations 2019 amend the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2017 to provide the Welsh Ministers are the 'relevant authority' where an application under section 36 or 36C of the 1989 Act is made (or to be made) to the Welsh Ministers. They also amend the meaning of consultation body and insert reference to the Electricity (Offshore Generating Stations) (Variation of Consents) (Wales) Regulations 2019 in two regulations.
- 1.7 The Electricity (Offshore Generating Stations) (Safety Zones) (Application Procedures and Control of Access) (Amendment) (Wales) Regulations 2019 make minor amendments to the Electricity (Offshore Generating Stations) (Safety Zones) (Application Procedures and Control of Access) Regulations 2007 to reflect the change in responsibilities from the Secretary of State to the Welsh Ministers for declaring safety zones in Welsh waters.

2. Matters of special interest to the Constitutional and legislative Affairs Committee

- 2.1 There are no matters of special interest to the Constitutional and Legislative Affairs Committee.

3. Legislative Background

Electricity Act 1989 SIs

The Electricity (Offshore Generating Stations) (Applications for Consent) (Wales) Regulations 2019

- 3.1 These Regulations are made in exercise of the powers conferred on the Welsh Ministers by sections 36(8A) (which is inserted into section 36 by paragraph 47 of Schedule 6 to the 2017 Act) and 60 of the 1989 Act.
- 3.2 Section 36(8A) gives the Welsh Ministers power to make provision about the grant of consents under section 36 of the 1989 Act in relation to generating stations in respect of which they are the appropriate authority.

- 3.3 Section 60 of the 1989 Act contains supplemental powers in relation to regulations made under Part 1 of the 1989 Act, regulations made under section 36(8A) of the 1989 Act are made under Part 1 of that Act.
- 3.4 These Regulations are made using the negative resolution procedure.

The Electricity (Offshore Generating Stations) (Variation of Consents) (Wales) Regulations 2019

- 3.5 These Regulations are made in exercise of the powers conferred on the Welsh Ministers by section 36C(2) and (6) (as amended by section 39(12) of the 2017 Act) and 60 of the 1989 Act.
- 3.6 Section 36C(2) and (6) give the Welsh Ministers power to make provision about the variation of a consent under Section 36 of the 1989 Act relating to generating stations (or proposed generating stations) in Welsh waters that do not or will not when constructed or extended exceed 350MW.
- 3.7 As mentioned at paragraph 3.3 above section 60 of the 1989 Act contains supplemental powers in relation to regulations made under Part 1 of the 1989 Act, regulations made under section 36C of the 1989 Act are regulations made under Part 1 of that Act.
- 3.8 These Regulations are made using the negative resolution procedure.

The Electricity (Offshore Generating Stations) (Inquiries Procedure) (Wales) Regulations 2019

- 3.9 These Regulations are made in exercise of the powers conferred on the Welsh Ministers by sections 36(8A), 36C(2) and(6) and 60 of the 1989 Act. These provisions are described at paragraphs 3.1 to 3.8 above.
- 3.10 These Regulations are made using the negative resolution procedure.

The Electricity Works (Environmental Impact Assessment) (England and Wales) (Amendment) (Wales) Regulations 2019

- 3.11 These Regulations are made in exercise of the powers conferred on the Welsh Ministers by sections 36(8A), 36C(2) and (6) and 60 of the 1989 Act. These provisions are described at paragraphs 3.1 to 3.8 above.
- 3.12 These Regulations are made using the negative resolution procedure.

Energy Act 2004 SI

The Electricity (Offshore Generating Stations) (Safety Zones) (Application Procedures and Control of Access) (Amendment) (Wales) Regulations 2019

- 3.13 These Regulations are made in exercise of the powers conferred on the Welsh Ministers by sections 96 and 192 of, and paragraph 4(1) of Schedule 16 to, the Energy Act 2004 (“the 2004 Act”).
- 3.14 Section 41 of the 2017 Act amends sections 95, 96 and 104 of the Energy Act 2004 to enable the Welsh Ministers to exercise functions in relation to declaring safety zones around offshore renewable energy installations with a capacity of up to 350MW in Welsh waters.
- 3.15 Sections 95-98 of, and Schedule 16 to, the 2004 Act make provision for safety zones applying to offshore renewable energy installations. The essence of a safety zone is it is a criminal offence for vessels to enter or remain in a safety zone unless permitted to do so by means of a safety zone notice issued by the appropriate Minister (in Welsh waters, the Welsh Ministers).
- 3.16 Section 96 prohibits vessels from entering or remaining in a safety zone and carrying out activities except where permitted to do so by a notice declaring a safety zone. Section 41 of the Wales Act 2017 amends section 96 so that the Welsh Ministers can make regulations setting out general permissions allowing vessels to enter any safety zone and carry out activities. This is in addition to any individual permissions granted in the notice declaring that safety zone.
- 3.17 Section 192 sets out supplemental powers in relation to regulations made under the Energy Act 2004.
- 3.18 Schedule 16 to the Energy Act 2004 sets out the process for applying for a safety zone notice under section 95. Paragraph 4(1) of Schedule 16, among other things, enables the Welsh Ministers to prescribe the circumstances where notice should be served on persons specified either in regulations or in directions.
- 3.19 These Regulations are made using the negative resolution procedure.

4. Purpose and Effect

- 4.1 The Wales Act 2017 (Commencement No.4) Regulations 2017 fully commences the relevant sections of the 2017 Act, in relation to the consenting of generating stations in Welsh waters up to and including 350MW, on 1 April 2019.

- 4.2 Section 36 of the 1989 Act has historically been the relevant consenting route for offshore generating stations in Welsh waters between 1MW and 100MW, albeit decisions are made by the Marine Management Organisation on behalf of the Secretary of State prior to 1 April 2019. For offshore generating stations of between 100MW and 350MW, developers have been required to obtain a Development Consent Order under the 2008 Act. The 2017 Act makes amendments to the 1989 Act and the 2008 Act which apply the section 36 consent process under the 1989 Act to offshore generating stations in Welsh waters (as defined in section 36 of the 1989 Act) which have or will have a capacity not exceeding 350MW. The Welsh Ministers will be the appropriate consenting authority for such consents.
- 4.3 The procedure for determining applications for a section 36 consent is currently set out at Schedule 8 of the 1989 Act, along with accompanying regulations. As a consequence of the 2017 Act, Schedule 8 will not apply to applications made to the Welsh Ministers. The purpose of the following SIs made under the 1989 Act is to provide a procedure for applications for section 36 consents and variation of section 36 consents. For continuity and to provide a known operable process, it is intended to restate with minor amendments the existing procedures for such applications.

Electricity Act 1989 SIs

The Electricity (Offshore Generating Stations) (Applications for Consent) (Wales) Regulations 2019

- 4.4 Schedule 8 of the 1989 Act (amongst other matters) sets out the procedure for applications for section 36 consents. This is supplemented by the Electricity (Offshore Generating Stations) (Applications for Consent) Regulations 2006. As a consequence of paragraph 8(1A) of Schedule 8 to the 1989 Act (as inserted by the Wales Act 2017), Schedule 8 will not apply to applications to the Welsh Ministers. The 2006 Regulations were made under powers in Schedule 8. Therefore, the procedures in Schedule 8 and the 2006 Regulations will not apply to applications for a section 36 consent made to the Welsh Ministers.
- 4.5 The Electricity (Offshore Generating Stations) (Applications for Consent) (Wales) Regulations 2019 make provision about the grant of section 36 consents Act to construct, extend or operate an offshore generating station. They make equivalent provision to relevant provisions in Schedule 8 to the 1989 Act and the 2006 Regulations with minor amendments to reflect the Welsh Ministers' role as appropriate (consenting) authority.

- 4.6 The purpose of these Regulations is purely for operability and will not introduce new policy or changes to the existing procedure followed in relation to applications under section 36 of the 1989 Act. This approach provides continuity for those developments between 1MW and 100MW which would be dealt with under the 1989 Act. Some minor changes are required to reflect the consenting role being undertaken by the Welsh Ministers and to reflect the existence of different consultation bodies in Wales.

The Electricity (Offshore Generating Stations) (Variation of Consents) (Wales) Regulations 2019

- 4.7 The Electricity (Offshore Generating Stations) (Variation of Consents) (England and Wales) Regulations 2013 (“the 2013 Regulations”) set out the procedure for applications to vary a section 36 consent under section 36C of the 1989 Act. Prior to amendments made to sections 36 and 36C of the 1989 Act by the 2017 Act all applications under section 36C were made to the Marine Management Organisation or the Secretary of State.
- 4.8 The Electricity (Offshore Generating Stations) (Variation of Consents) (Wales) Regulations 2019 make provision about applications to the Welsh Ministers under section 36C of the 1989 Act where the Welsh Ministers are the appropriate (consenting) authority. They make equivalent provision to the 2013 Regulations with minor amendments to reflect the Welsh Ministers’ role as appropriate (consenting) authority. The Regulations will not introduce new policy or changes to the existing procedure followed in relation to applications under section 36C of the 1989 Act.

The Electricity (Offshore Generating Stations) (Inquiries Procedure) (Wales) Regulations 2019

- 4.9 The Electricity Generating Stations and Overhead Lines (Inquiries Procedure) (England and Wales) Rules 2007 (“the 2007 Rules”) set out the procedure where an inquiry is caused to be held by the Secretary of State into an application under sections 36 of the 1989 Act. The 2007 Rules are applied (with modifications) to an inquiry into a section 36C application by the 2013 Regulations.
- 4.10 The Electricity (Offshore Generating Stations) (Inquiries Procedure) (Wales) Regulations 2019 set out the procedure to be followed where the Welsh Ministers cause an inquiry to be held into an application under section 36 or 36C of the 1989 Act. They make equivalent provision to that found in the 2007 Rules with minor amendments to reflect the Welsh Ministers’ role as appropriate (consenting) authority.

The Electricity Works (Environmental Impact Assessment) (England and Wales) (Amendment) (Wales) Regulations 2019

- 4.11 The effect of these Regulations is to amend the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2017 to provide the Welsh Ministers are the ‘relevant authority’ where an application under section 36 or 36C of the 1989 Act is made (or to be made) to the Welsh Ministers. A number of minor amendments are also made. The amendments have been made a result of the amendments to section 36 and 36C of the 1989 Act by the 2017 Act to reflect the Welsh Ministers new consenting role under those provisions.

Energy Act 2004 SI

The Electricity (Offshore Generating Stations) (Safety Zones) (Application Procedures and Control of Access) (Amendment) (Wales) Regulations 2019

- 4.12 The Electricity (Offshore Generating Stations) (Safety Zones) (Application Procedures and Control of Access) Regulations 2007 (“the 2007 Regulations”) set out procedural requirements in respect of a safety zone application, as well as prescribing categories of vessels and activities permitted in safety zones.
- 4.13 The purpose of these Regulations is to make amendments to the 2007 Regulations for operability and to reflect the change in responsibilities where the Welsh Ministers are the appropriate Minister.
- 4.14 The effect of the Regulations is to provide that the Welsh Ministers do not need to be notified of a safety zone application in Welsh waters where they are the appropriate Minister, and they set out additional vessels permitted in safety zones where they are the appropriate Minister.

5. Consultation

- 5.1 A 12 week consultation ran from 30 April to 23 July 2018 on changes to the consenting of infrastructure in Wales. The consultation was drawn to the attention of a wide range of stakeholders including LPAs, generating station operators and their representatives, businesses, planning consultants, interest groups and other public sector agencies. A total of 47 responses were received.
- 5.2 Question 4 related to proposed arrangements for offshore generating stations. A number of respondents, while agreeing with the logic of the approach in the short-term, commented the long term vision must be to unify consenting

regimes on and offshore. A number of respondents commented the interaction between the consent under the Electricity Act 1989 and the associated marine licence must be reviewed by the Welsh Government, to ensure a good level of service, concurrent decision and to reduce duplication of workload. In response, it is intended to continue to work with Natural Resources Wales to establish appropriate working arrangements.

5.3 A summary of the consultation responses is available at:

<https://beta.gov.wales/changes-approval-infrastructure-development> .

6. Regulatory Impact Assessment

6.1 The requirement for a Regulatory Impact Assessment (“RIA”) has been assessed against the RIA code for subordinate legislation. In this instance, an RIA was not considered necessary.

6.2 These statutory instruments are made as a consequence of sections 39 to 41 of the 2017 Act insofar as they affect the devolution of the consenting of offshore generating stations. These sections will be fully commenced on 1 April 2019.

6.3 The Electricity (Offshore Generating Stations) (Applications for Consent) (Wales) Regulations 2019, the Electricity (Offshore Generating Stations) (Variation of Consents) (Wales) Regulations 2019 and the Electricity (Offshore Generating Stations) (Inquiries Procedure) (Wales) Regulations 2019 make equivalent provision to relevant provisions of the Schedule 8 to the 1989 Act, the 2006 Regulations, the 2013 Regulations and the 2007 Rules with minor amendments to reflect the Welsh Ministers consenting role. The Electricity (Offshore Generating Stations) (Safety Zones) (Application Procedures and Control of Access) (Amendment) (Wales) Regulations 2019 and the Electricity Works (Environmental Impact Assessment) (England and Wales) (Amendment) (Wales) Regulations 2019 make minor amendments to the procedure in relation safety zones under section 95 of the Energy Act 2004 and to the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2017.

6.4 Accordingly, as these statutory instruments comprise routine technical and consequential amendments to the existing procedures under the 1989 Act and the Energy Act 2004 which have no policy impact, no RIA is required.

6.5 The 2017 Act, which made amendments to the 1989 Act, the 2004 Act and 2008 Act, however, was accompanied by an RIA which assessed the costs

and benefits of the devolution of energy consenting functions under the 1989 Act and the 2004 Act.

6.6 The RIA which accompanied the 2017 Act during its passage is available at:

https://webarchive.nationalarchives.gov.uk/20160611073307/https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/527740/Wales_Bill_impact_assessment.pdf .

Item 4.2 Rheoliadau Trydan (Gorsafoedd Cynhyrchu Alltraeth) (Amrywio Cydsyniadau) (Cymru)

Cefndir a Diben

Mae'r Rheoliadau hyn yn gwneud darpariaeth ynghylch ceisiadau i Weinidogion Cymru amrywio cydsyniadau i adeiladu, estyn a gweithredu gorsafoedd cynhyrchu trydan alltraeth penodol yn nyfroedd Cymru sydd wedi eu rhoi o dan adran 36 o Ddeddf Trydan 1989 ("Deddf 1989").

Bydd adran 36C o Ddeddf 1989 yn caniatáu, o 1 Ebrill 2019, i berson sydd â'r hawl i gael budd o'r cydsyniad adran 36 i wneud cais i Weinidogion Cymru, amrywio'r cydsyniad hwnnw o dan amgylchiadau penodol. Bydd hyn yn bosibl pan fo'r cydsyniad yn ymwneud â gorsaf gynhyrchu (neu orsaf gynhyrchu arfaethedig) yn nyfroedd Cymru nad yw'n fwy na 350 megawatt (neu na fydd yn fwy na hynny).

Mae'r Rheoliadau hyn yn gwneud darpariaeth ynghylch gwneud ceisiadau amrywio i Weinidogion Cymru. Mae hyn yn cynnwys:

- yr hyn y mae'n rhaid ei gynnwys mewn cais amrywio neu y mae'n rhaid iddo fynd gyda chais amrywio;
- gofynion hysbysu a chyhoedduswydd;
- pryd y mae ymchwiliadau cyhoeddus i'w cynnal;
- tynnu ceisiadau amrywio yn ôl; ac
- estyn yr amser a ganiateir ar gyfer cam penodol o dan y Rheoliadau hyn.

Mae'r Rheoliadau hyn hefyd yn dirymu Rheoliadau Gorsafoedd Cynhyrchu Trydan (Amrywio Cydsyniadau) (Cymru a Lloegr) 2013 i'r graddau y maent yn gymwys i gais i Weinidogion Cymru o dan adran 36C o Ddeddf 1989.

Gweithdrefn

Negyddol.

Materion technegol: craffu

Nodir un pwynt i gyflwyno adroddiad arno o dan Reol Sefydlog 21.2 mewn perthynas â'r offeryn hwn.

Rheol Sefydlog 21.2(v) – bod angen eglurhad pellach ynglŷn â'i ffurf neu ei ystyr am unrhyw reswm penodol

Mae Rheoliad 5(5)(c) yn nodi bod yn rhaid cyhoeddi cais amrywio "...mewn un neu ragor o bapurau newydd cenedlaethol". Fodd bynnag, nid yw'r Rheoliadau yn nodi a yw "cenedlaethol" yn cyfeirio at bapur newydd cenedlaethol yng Nghymru neu bapur newydd yn y DU.

Rhinweddau: craffu

Nodir un pwynt i gyflwyno adroddiad arno o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.

Rheol Sefydlog 21.3(ii) – ei fod o bwysigrwydd gwleidyddol neu gyfreithiol neu ei fod yn codi materion polisi cyhoeddus sy'n debyg o fod o ddiddordeb i'r Cynulliad



Mae Rheoliad 2 yn cynnwys diffiniadau amrywiol a ddefnyddir yn y Rheoliadau. Dywedir bod y diffiniad o "awdurdod cynllunio perthnasol" yn cynnwys (o dan yr amgylchiadau a restrir yn y Rheoliadau) awdurdod cynllunio lleol yng Nghymru a Lloegr ac Adran yr Amgylchedd yng Ngogledd Iwerddon, (fel y nodir gan yr ymgeisydd o dan Reoliad 3(1)(e) neu gan Weinidogion Cymru o dan Reoliad 4(7), fel cyrff sy'n debygol o fod â buddiant yn y cais amrywio). Nid yw'r diffiniad hwn yn cynnwys cyfeiriadau at gyrff cyfatebol priodol yn yr Alban nac yn Ynys Manaw. Deallwn mai'r rheswm dros beidio â chynnwys yr Alban yn y darpariaethau hyn yw'r pellter rhwng dyfroedd Cymru a'r Alban. Fodd bynnag, nid yw'n glir pam nad yw Ynys Manaw wedi'i chynnwys yn y diffiniad hwn.

Y goblygiadau yn sgil gadael yr Undeb Ewropeaidd

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.

Ymateb y Llywodraeth

Craffu Technegol

Mae rhan o'r adroddiad sy'n ymdrin â chraffu technegol yn cyfeirio at un gwall drafftio. Mae'r adroddiad drafft yn nodi bod rheoliad 5(5)(c) yn darparu bod rhaid cyhoeddi cais amrywio... "mewn un neu ragor o bapurau newydd cenedlaethol". Nid yw'r Rheoliadau yn nodi a yw "cenedlaethol" yn cyfeirio at bapurau newydd cenedlaethol Cymru ynteu bapurau newydd y DU, fodd bynnag.

Dyma safbwynt y Llywodraeth.

Mae rheoliad 5(5)(c) o'r Rheoliadau yn darparu bod rhaid i'r ymgeisydd gyhoeddi hysbysiad am y cais amrywio "yn Lloyd's List ac mewn un neu ragor o bapurau newydd cenedlaethol". Gan fod Lloyd's List yn gyhoeddiad ar gyfer y DU mae'r cyfeiriad at "bapurau newydd cenedlaethol", yn ei gyd-destun, yn gyfeiriad at bapurau newydd y DU.

Mae'r Rheoliadau hefyd yn egluro y gallai cyrff y tu allan i Gymru fod â buddiant mewn cais amrywio (gweler y diffiniad o "caniatâd cynllunio perthnasol" yn rheoliad 2). Felly yng nghyd-destun y Rheoliadau cyfan, mae'r cyfeiriad at "bapurau newydd cenedlaethol" yn rheoliad 5(5)(c) yn gyfeiriad at bapurau newydd y DU.

O ganlyniad, nid ydym o'r farn fod angen diwygiad er mwyn ymdrin â'r pwynt craffu technegol.

Craffu ar Rinweddau

Mae'r rhan o'r adroddiad drafft sy'n ymdrin â chraffu ar rinweddau yn ymwneud â'r diffiniad o "awdurdod cynllunio perthnasol" yn rheoliad 2. Nodir nad yw'n eglur pam na chynhwyswyd corff cyfatebol ar Ynys Manaw yn y diffiniad hwn.

Fel yr eglurir ym mharagraff 4.8 o'r Memorandwm Esboniadol i'r Rheoliadau, bwriad y polisi yw gwneud darpariaeth sy'n cyfateb i'r hyn a geir yn Rheoliadau Trydan (Gorsafoedd Cynhyrchu Alltraeth) (Amrywio Cydsyniadau) (Cymru a Lloegr) 2013 ("Rheoliadau 2013"), ynghyd â mân ddiwygiadau, er mwyn adlewyrchu rôl Gweinidogion Cymru fel yr awdurdod (cydsynio) priodol. Nid yw'r Rheoliadau yn cyflwyno polisi newydd na newidiadau i'r weithdrefn bresennol. Nid yw corff ar Ynys Manaw yn awdurdod cynllunio perthnasol at ddibenion Rheoliadau 2013. Mae'r diffiniad o "awdurdod cynllunio perthnasol" yn y Rheoliadau yn gyson â'r diffiniad yn Rheoliadau 2013 ac felly mae'n cyd-fynd â bwriad y polisi.



Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

13 Mawrth 2019



National Assembly for Wales

Constitutional and Legislative Affairs Committee

Tudalen y pecyn 56

OFFERYNNAU STATUDOL
CYMRU

2019 Rhif 297 (Cy. 75)

TRYDAN, CYMRU

**Rheoliadau Trydan (Gorsafoedd
Cynhyrchu Alltraeth) (Amrywio
Cydsyniadau) (Cymru) 2019**

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn yn gwneud darpariaeth ynghylch ceisiadau i Weinidogion Cymru i amrywio cydsyniadau i adeiladu, estyn a gweithredu gorsafoedd cynhyrchu trydan alltraeth penodol yn nyfroedd Cymru sydd wedi eu rhoi o dan adran 36 o Ddeddf Trydan 1989 (“Deddf 1989” a chydsyniadau o'r fath “cydsyniadau adran 36”).

O dan adran 36C o Ddeddf 1989, caiff y person sydd am y tro â'r hawl i gael budd o'r cydsyniad adran 36, o 1 Ebrill 2019, wneud cais i Weinidogion Cymru i amrywio'r cydsyniad hwnnw pan fo'n ymwneud â gorsaf gynhyrchu (neu orsaf gynhyrchu arfaethedig) yn nyfroedd Cymru nad yw'n fwy na 350 megawat, neu na fydd yn fwy na 350 megawat pan fydd wedi ei hadeiladu neu wedi ei hestyn.

Ystyr “dyfroedd Cymru” yw hynny o ddyfroedd mewnol a môr tiriogaethol y Deyrnas Unedig sy'n gyfagos i Gymru, a pharth Cymru (o fewn ystyr Deddf Llywodraeth Cymru 2006).

Mae'r Rheoliadau hyn yn gwneud darpariaeth ynghylch—

- (a) yr hyn y mae rhaid ei gynnwys mewn cais amrywio neu y mae rhaid mynd gyda chais amrywio;
- (b) gofynion hysbysu a chyhoeddusrwydd;
- (c) pryd y mae ymchwiliadau cyhoeddus i'w cynnal;
- (d) tynnu ceisiadau amrywio yn ôl; ac
- (e) estyn yr amser a ganiateir ar gyfer cam penodol o dan y Rheoliadau hyn.

Mae Rheoliadau Gorsafoedd Cynhyrchu Trydan (Amrywio Cydsyniadau) (Cymru a Lloegr) 2013 wedi

eu dirymu i'r graddau y maent yn gymwys i gais i Weinidogion Cymru o dan adran 36C o Ddeddf 1989.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Aseidiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, ystyriwyd nad oedd yn angenrheidiol cynnal asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn.

OFFERYNNAU STATUDOL
CYMRU

2019 Rhif 297 (Cy. 75)

TRYDAN, CYMRU

Rheoliadau Trydan (Gorsafoedd
Cynhyrchu Alltraeth) (Amrywio
Cydsyniadau) (Cymru) 2019

Gwnaed 18 Chwefror 2019

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru* 20 Chwefror 2019

Yn dod i rym 1 Ebrill 2019

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir iddynt gan adrannau 36C(2) a (6) a 60 o Ddeddf Trydan 1989(1), yn gwneud y Rheoliadau a ganlyn:

Enwi a chychwyn

1. Enw'r Rheoliadau hyn yw Rheoliadau Trydan (Gorsafoedd Cynhyrchu Alltraeth) (Amrywio Cydsyniadau) (Cymru) 2019 a deuant i rym ar 1 Ebrill 2019.

Dehongli

2. Yn y Rheoliadau hyn—

ystyr “awdurdod cynllunio perthnasol” (“*relevant planning authority*”) yn achos cais amrywio, neu wrth ofyn am gyfarwyddyd adran 90 i fynd gyda chais amrywio, yw unrhyw un o'r cyrff a ganlyn—

- (a) awdurdod cynllunio lleol (o fewn ystyr Rhan 1 o Ddeddf 1990 (awdurdodau cynllunio lleol: cyffredinol)) yng Nghymru a Lloegr;
- (b) Adran yr Amgylchedd yng Ngogledd Iwerddon,

(1) 1989 p. 29. Mewnosodwyd adran 36C gan adran 20(1) a (2) o Ddeddf Twf a Seilwaith 2013 (p. 27) (“Deddf 2013”) ac fe'i diwygiwyd gan adran 39(12) o Ddeddf Cymru 2017 (p. 4) (“Deddf 2017”) a pharagraff 48 o Atodlen 6 iddi. Mae diwygiadau i adran 60 nad ydynt yn berthnasol i'r Rheoliadau hyn.

sydd wedi eu nodi gan y ceisydd o dan reoliad 3(1)(e) neu gan Weinidogion Cymru o dan reoliad 4(7);

ystyr “cais amrywio” (“*variation application*”) yw cais i Weinidogion Cymru i amrywio cydsyniad adran 36 a wneir o dan adran 36C(1) o’r Ddeddf;

ystyr “ceisydd” (“*applicant*”) yw person sy’n cael budd o’r cydsyniad adran 36 ac sy’n gwneud cais amrywio mewn cysylltiad ag ef;

ystyr “cydsyniad adran 36” (“*section 36 consent*”) yw cydsyniad o dan adran 36 o’r Ddeddf⁽¹⁾ (cydsyniad sy’n ofynnol ar gyfer adeiladu etc. gorsafodd cynhyrchu) gan gynnwys unrhyw amrywiadau i’r cydsyniad hwnnw a wneir o dan adran 36C(4) o’r Ddeddf sy’n ymwneud â gorsaf gynhyrchu yn nyfroedd Cymru (o fewn ystyr adran 36 o’r Ddeddf) nad yw’n fwy na 350 megawat neu na fydd yn fwy na 350 megawat pan fydd wedi ei hadeiladu neu wedi ei hestyn;

ystyr “cydsyniad adran 36 perthnasol” (“*relevant section 36 consent*”) yw’r cydsyniad adran 36 y gwneir cais amrywio mewn cysylltiad ag ef;

ystyr “cyfarwyddyd adran 90” (“*section 90 direction*”) yw cyfarwyddyd o dan adran 90(2) neu (2ZA) o Ddeddf 1990⁽²⁾ (caniatâd cynllunio tybiedig ar gyfer datblygu gydag awdurdodiad llywodraeth);

mae i “datblygiad” yr ystyr a roddir i “development” yn adran 55 o Ddeddf 1990⁽³⁾ (ystyr “development” a “new development”);

ystyr “datblygiad adran 90” (“*section 90 development*”) yw unrhyw ddatblygiad—

(a) y rhoddwyd cyfarwyddyd adran 90 mewn cysylltiad ag ef wrth roi’r cydsyniad adran 36 perthnasol; neu

(b) y mae’r ceisydd, wrth wneud cais amrywio, yn gofyn i Weinidogion Cymru roi cyfarwyddyd adran 90 mewn cysylltiad ag ef;

ystyr “datblygiad arfaethedig” (“*proposed development*”) yw—

(a) yr orsaf gynhyrchu, neu’r estyniad i orsaf gynhyrchu, y byddai gan y ceisydd

(1) Diwygiwyd adran 36 gan adran 93 o Ddeddf Ynni 2004 (p. 20), paragraffau 31 a 32 o Atodlen 2 i Ddeddf Cynllunio 2008 (p. 29), adran 12(7) ac (8) o Ddeddf y Môr a Mynediad i’r Arfordir 2009 (p. 23), adran 78 o Ddeddf Ynni 2016 (p. 20) ac adran 39(7) i (11) o Ddeddf 2017 a pharagraff 47 o Atodlen 6 iddi. Nid yw’r diwygiadau eraill yn berthnasol i’r Rheoliadau hyn.

(2) Amnewidiwyd adran 90(2) a (2ZA) gan adran 21(2) o Ddeddf 2013 ac fe’i diwygiwyd gan adran 39(13) o Ddeddf 2017.

(3) Diwygiwyd adran 55 gan adrannau 13(1) a (2) a 14 o Ddeddf Cynllunio a Digolledu 1991 (p. 34), a pharagraff 9 o Atodlen 6, ac Atodlen 19 iddi, adran 49(1) o Ddeddf Cynllunio a Phrynu Gorfodol 2004 (p. 5), a pharagraffau 1 a 2 o Atodlen 6, ac Atodlen 9 iddi, a chan O.S. 1999/293.

awdurdodiad i'w hadeiladu neu i'w adeiladu o dan gydsyniad adran 36 perthnasol pe bai'r cydsyniad hwnnw wedi ei amrywio fel y gofynnir mewn cais amrywio;

- (b) y ffordd y byddai gorsaf gynhyrchu sydd wedi ei hadeiladu neu ei hestyn felly yn cael ei hawdurdodi i weithredu o dan y cydsyniad adran 36 perthnasol a amrywiwyd felly; ac
- (c) unrhyw ddatblygiad adran 90 nad yw'n ofynnol cael cydsyniad adran 36 mewn cysylltiad ag ef;

ystyr "Deddf 1990" ("*the 1990 Act*") yw Deddf Cynllunio Gwlad a Thref 1990(1);

ystyr "y Ddeddf" ("*the Act*") yw Deddf Trydan 1989;

mae "gorsaf gynhyrchu" ("*generating station*") yn cynnwys gorsaf gynhyrchu arfaethedig(2);

ystyr "y Rheoliadau AEA" ("*the EIA Regulations*") yw Rheoliadau Gwaith Trydan (Asesiad o'r Effaith Amgylcheddol) (Cymru a Lloegr) 2017(3).

Cynnwys ceisiadau amrywio

3.—(1) Rhaid i gais amrywio—

- (a) cael ei wneud yn ysgrifenedig;
- (b) disgrifio lleoliad y datblygiad arfaethedig drwy gyfeirio at fap;
- (c) datgan—
 - (i) pam y cynigir y dylid amrywio'r cydsyniad adran 36 perthnasol;
 - (ii) pa ystyriaeth sydd wedi ei rhoi i farn a fynegwyd gan bersonau y mae'r ceisydd wedi ymgynghori â hwy ynghylch yr amrywiad arfaethedig;
- (d) cynnwys—
 - (i) drafft o'r amrywiadau y mae'r ceisydd yn cynnig y dylid eu gwneud i'r cydsyniad adran 36 perthnasol; a
 - (ii) copïau o unrhyw fapiau neu blaniau na chyfeirir atynt yn y cydsyniad adran 36 perthnasol ond y mae'r ceisydd yn cynnig y dylai'r cydsyniad adran 36 perthnasol gyfeirio atynt ar ôl ei amrywio; ac

(1) 1990 p. 8.

(2) *Gweler* adran 64(1) o Ddeddf Trydan 1989 ("*Deddf 1989*") am y dehongliad o "*generating station*".

(3) O.S. 2017/580, y mae diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.

- (e) nodi pa un o'r cyrff y cyfeirir atynt yn y diffiniad o "awdurdod cynllunio perthnasol" yn rheoliad 2 sydd, ym marn y ceisydd, yn debygol o fod â buddiant yn y cais amrywio.

(2) Rhaid i gais amrywio gynnwys manylion—

- (a) y cydsyniad adran 36 perthnasol, ac, os na chafodd y cydsyniad hwnnw ei roi i'r ceisydd, sut y mae'r ceisydd yn cael budd o'r cydsyniad hwnnw;
- (b) unrhyw gyfarwyddyd adran 90 a roddir wrth roi'r cydsyniad adran 36 perthnasol;
- (c) unrhyw hawlen, trwydded, cydsyniad neu awdurdodiad arall (ac eithrio'r cydsyniad adran 36 perthnasol) a roddir mewn cysylltiad ag adeiladu neu weithredu'r datblygiad arfaethedig ("awdurdodiad perthnasol"), gan gynnwys unrhyw amrywiad neu amnewidiad o awdurdodiad perthnasol; a
- (d) unrhyw gais sydd wedi ei wneud am awdurdodiad perthnasol neu amrywiad i awdurdodiad perthnasol.

(3) Pan fo'r ceisydd yn gofyn i Weinidogion Cymru roi cyfarwyddyd adran 90 wrth amrywio'r cydsyniad adran 36 perthnasol, rhaid i'r cais—

- (a) nodi'r datblygiad adran 90 y gofynnir am gyfarwyddyd mewn cysylltiad ag ef a disgrifio ei leoliad drwy gyfeirio at fap;
- (b) datgan—
 - (i) pam y cynigir y dylid gwneud y cyfarwyddyd; a
 - (ii) pa ystyriaeth sydd wedi ei rhoi i farn a fynegwyd gan bersonau y mae'r ceisydd wedi ymgynghori â hwy ynghylch y cyfarwyddyd arfaethedig; ac
- (c) cynnwys—
 - (i) drafft o'r cyfarwyddyd arfaethedig; a
 - (ii) copïau o unrhyw fapiau neu blaniau y cynigir y dylai'r cyfarwyddyd adran 90 gyfeirio atynt—
 - (aa) na chyfeirir atynt yn y cydsyniad adran 36 perthnasol nac unrhyw gyfarwyddyd adran 90 a roddir wrth roi'r cydsyniad adran 36 perthnasol; neu
 - (bb) nad ydynt wedi eu cynnwys yn y cais yn unol â pharagraff (1)(d)(ii).

Asesu addasrwydd ar gyfer cyhoeddi

4.—(1) Pan fo Gweinidogion Cymru yn cael cais amrywio, rhaid iddynt—

- (a) ystyried a yw'n addas ar gyfer ei gyhoeddi yn unol â rheoliad 5 ai peidio; a
- (b) rhoi hysbysiad i'r ceisydd o dan baragraff (2) neu (6) o fewn tair wythnos o'i gael.

(2) Os na fydd Gweinidogion Cymru yn ystyried bod y cais yn addas i'w gyhoeddi, rhaid iddynt roi hysbysiad i'r ceisydd—

- (a) am eu penderfyniad a'r rhesymau am y penderfyniad hwnnw; a
- (b) y caiff wneud sylwadau i Weinidogion Cymru gyda golwg ar ddarbwylllo Gweinidogion Cymru bod y cais yn addas i'w gyhoeddi.

(3) Pan fo Gweinidogion Cymru yn rhoi hysbysiad o dan baragraff (2), rhaid iddynt—

- (a) pennu yn ysgrifenedig ddyddiad erbyn pryd y mae unrhyw sylwadau o dan baragraff (2)(b) i'w gwneud; a
- (b) os bydd y ceisydd yn methu â gwneud sylwadau erbyn y dyddiad a bennir felly, rhoi hysbysiad gwrthod i'r ceisydd.

(4) Mae paragraff (5) yn gymwys pan fo'r ceisydd yn gwneud sylwadau i Weinidogion Cymru yn ychwanegol at hysbysiad a roddir iddo o dan baragraff (2)(b).

(5) Os yw Gweinidogion Cymru, ar ôl ystyried sylwadau'r ceisydd—

- (a) yn parhau i ystyried nad yw'r cais yn addas i'w gyhoeddi, rhaid iddynt roi hysbysiad pellach o dan baragraff (2) neu hysbysiad gwrthod; neu
- (b) yn ystyried bod y cais yn addas i'w gyhoeddi, rhaid iddynt roi hysbysiad o dan baragraff (6).

(6) Os yw Gweinidogion Cymru yn ystyried bod y cais yn addas i'w gyhoeddi, rhaid iddynt roi hysbysiad i'r ceisydd am eu penderfyniad.

(7) Pan fo—

- (a) paragraff (6) yn gymwys; a
- (b) cyrff y cyfeirir atynt yn y diffiniad o "awdurdod cynllunio perthnasol" yn rheoliad 2—
 - (i) y mae Gweinidogion Cymru yn ystyried eu bod yn debygol o fod â buddiant yn y cais; a
 - (ii) nad ydynt wedi eu nodi gan y ceisydd o dan reoliad 3(1)(e),

rhaid i Weinidogion Cymru nodi'r cyrff hynny yn yr hysbysiad a roddir o dan baragraff (6).

(8) At ddibenion y rheoliad hwn, mae cais amrywio yn addas i'w gyhoeddi yn unol â rheoliad 5—

- (a) mewn achos pan fo'n ofynnol llunio adroddiad AEA mewn cysylltiad â'r cais

amrywio o dan y Rheoliadau AEA (am fod y cais ar gyfer datblygiad AEA o fewn ystyr y Rheoliadau hynny), os oes adroddiad AEA wedi ei ddarparu i [Weinidogion Cymru]; a

- (b) os ymddengys i Weinidogion Cymru—
- (i) bod y ceisydd yn dymuno adeiladu, gweithredu neu estyn gorsaf gynhyrchu mewn modd nad yw'r cydsyniad adran 36 perthnasol yn ei awdurdodi;
 - (ii) nad yw'r datblygiad arfaethedig yn wahanol i'r orsaf gynhyrchu y mae'r cydsyniad adran 36 perthnasol yn cyfeirio ato i'r graddau (o ran ei adeiladu, ei estyn, ei weithredu neu ei effaith amgylcheddol debygol) y mae awdurdodiad yn ofynnol ar ei gyfer gan—
 - (aa) gorchymyn sy'n rhoi cydsyniad datblygu o fewn ystyr adran 31 o Ddeddf Cynllunio 2008(1) (pa bryd y mae cydsyniad datblygu yn ofynnol); neu
 - (bb) cydsyniad adran 36 newydd (yn hytrach nag amrywiad i'r cydsyniad adran 36 perthnasol); a
 - (iii) bod digon o wybodaeth yn y cais i alluogi Gweinidogion Cymru i wneud penderfyniad am y cais.

(9) Yn y rheoliad hwn—

- (a) mae i “adroddiad AEA” yr ystyr a roddir i “EIA report” yn y Rheoliadau AEA;
- (b) ystyr “hysbysiad gwrthod” yw hysbysiad bod Gweinidogion Cymru wedi penderfynu o dan adran 36C(4) o'r Ddeddf na fyddai'n briodol gwneud unrhyw amrywiad i'r cydsyniad adran 36 perthnasol.

Cyhoeddi

5.—(1) Pan fo ceisydd wedi cael hysbysiad o dan reoliad 4(6), rhaid cyhoeddi'r cais amrywio, a rhaid hysbysebu ei fod yn cael ei gyhoeddi, yn unol â'r rheoliad hwn.

(2) Rhaid i'r ceisydd neu, pan fo paragraff (3) yn gymwys, Weinidogion Cymru gyhoeddi ar wefan (y “gwefan ceisiadau”)—

- (a) crynodeb o'r cais amrywio;
- (b) y cais;
- (c) dolen at y cydsyniad adran 36 perthnasol, unrhyw gyfarwyddyd adran 90 a roddir wrth

(1) 2008 p. 29.

roi'r cydsyniad adran 36 perthnasol ac unrhyw ddatganiad (ar ffurf llythyr penderfyniad, hysbysiad am benderfyniad neu fel arall) a roddir gan yr awdurdod priodol⁽¹⁾ o dan reoliad 10(3) o Reoliadau Gwaith Trydan (Asesiad o'r Effaith Amgylcheddol) (Cymru a Lloegr) 2000⁽²⁾ neu reoliad 33 o'r Rheoliadau AEA wrth roi'r cydsyniad adran 36 perthnasol.

(3) Mae'r paragraff hwn yn gymwys pan fo Gweinidogion Cymru yn hysbysu'r datblygwr yn ysgrifenedig y bydd Gweinidogion Cymru yn cydymffurfio â'r rhwymedigaethau ym mharagraff (2).

(4) Rhaid i'r ceisydd gyflwyno copi o'r cais i'r awdurdod cynllunio perthnasol (os oes un).

(5) Rhaid i'r ceisydd gyhoeddi hysbysiad am y cais amrywio—

- (a) dwy wythnos yn olynol mewn un neu ragor o bapurau newydd lleol sy'n debygol o ddod i sylw'r rheini y mae'r datblygiad arfaethedig yn debygol o effeithio arnynt;
- (b) yn y London Gazette;
- (c) yn Lloyd's List ac mewn un neu ragor o bapurau newydd cenedlaethol; a
- (d) os oes un neu ragor o gyfnodolion masnach pysgota priodol yn cylchredeg a gyhoeddir fesul ysbaid nad yw'n fwy nag un mis, mewn o leiaf un cyfnodolyn masnach o'r fath,

a chyflwyno copi o'r hysbysiad i'r awdurdod cynllunio perthnasol (os oes un).

(6) O ran yr hysbysiad sy'n ofynnol gan baragraff (5)—

- (a) ni chaniateir ei gyhoeddi cyn bod y ceisydd wedi cydymffurfio â pharagraffau (2) a (4) neu, pan fo paragraff (3) yn gymwys, bod Gweinidogion Cymru wedi cydymffurfio â pharagraff (2) a bod y ceisydd wedi cydymffurfio â pharagraff (4);
- (b) rhaid iddo ddatgan—
 - (i) bod cais amrywio wedi ei wneud a bod y ceisydd wedi cael hysbysiad o dan reoliad 4(6);
 - (ii) cyfeiriad y wefan ceisiadau, a bod gwybodaeth ychwanegol ynghylch y cais i'w gweld ar y wefan ceisiadau;
 - (iii) y dyddiad, nid llai na phedair wythnos ar ôl y dyddiad y mae'r hysbysiad olaf i'w

(1) *Gweler* adran 36C(6) o Ddeddf 1989 i gael y diffiniad o "appropriate authority".

(2) O.S. 2000/1927 a ddiwygiwyd gan O.S. 2007/1977 ac a ddirymwyd gan O.S. 2017/580 yn ddarostyngedig i'r ddarpariaeth drosiannol a bennir yn rheoliad 42 o'r offeryn hwnnw.

gyhoeddi, erbyn pryd y mae rhaid i unrhyw berson ac eithrio awdurdod cynllunio perthnasol anfon gwrthwynebiadau i'r datblygiad arfaethedig, neu sylwadau eraill ynghylch y cais, i Weinidogion Cymru; a

(iv) y cyfeiriad y mae unrhyw sylwadau o'r fath i'w hanfon iddo; ac

(c) rhaid iddo nodi—

- (i) y ceisydd;
- (ii) y cydsyniad adran 36 perthnasol;
- (iii) yr orsaf gynhyrchu y mae'n berthnasol iddo; a
- (iv) lle sy'n rhesymol hygyrch i'r rheini y mae'r datblygiad arfaethedig yn debygol o effeithio arnynt ac y gellir gweld copïau o'r cais amrywio.

Ymchwiliadau cyhoeddus i geisiadau amrywio

6.—(1) Caiff Gweinidogion Cymru beri i ymchwiliad cyhoeddus gael ei gynnal ynghylch cais amrywio os ydynt yn ystyried ei bod yn briodol gwneud hynny ar ôl ystyried—

(a) unrhyw sylwadau a wneir ynghylch cais amrywio i Weinidogion Cymru—

- (i) y mae awdurdod cynllunio perthnasol yn eu gwneud o fewn dau fis i'r dyddiad y cyflwynwyd copi o'r cais iddo o dan reoliad 5(4); a
- (ii) y mae unrhyw berson arall yn eu gwneud ar y dyddiad a bennir yn unol â rheoliad 5(6)(b)(iii), neu cyn y dyddiad hwnnw,

pan na fo'r sylwadau hynny'n cael eu tynnu'n ôl; a

(b) pob ystyriaeth berthnasol arall.

(2) Os bydd Gweinidogion Cymru yn peri i ymchwiliad cyhoeddus gael ei gynnal i gais amrywio cânt wneud hynny yn ychwanegol at unrhyw wrandawriad neu gyfle arall i wneud sylwadau ynghylch y cais neu yn lle unrhyw wrandawriad neu gyfle arall o'r fath.

Tynnu ceisiadau amrywio yn ôl

7.—(1) Caiff ceisydd dynnu cais amrywio yn ôl ar unrhyw adeg drwy roi hysbysiad ysgrifenedig i Weinidogion Cymru.

(2) Os caiff cais amrywio ei dynnu'n ôl ar ôl iddo gael ei gyhoeddi yn unol â rheoliad 5, rhaid i Weinidogion Cymru hysbysu'r awdurdod cynllunio perthnasol a'r cyrff ymgynghori o fewn ystyr y Rheoliadau AEA ei fod wedi ei dynnu'n ôl.

Caniatáu amser ychwanegol

8. Caiff Gweinidogion Cymru mewn unrhyw achos penodol ganiatáu amser ychwanegol ar gyfer cymryd unrhyw gam sy'n ofynnol, neu y galluogir ei gymryd, yn rhinwedd y Rheoliadau hyn, ac mae cyfeiriadau yn y Rheoliadau hyn at ddiwrnod erbyn pryd y mae'n ofynnol cymryd unrhyw gam, neu y galluogir cymryd unrhyw gam, neu at gyfnod y mae'n ofynnol gwneud hynny o'i fewn, i'w dehongli yn unol â hynny.

Dirymu

9. Mae Rheoliadau Gorsafoedd Cynhyrchu Trydan (Amrywio Cydsyniadau) (Cymru a Lloegr) 2013⁽¹⁾ wedi eu dirymu i'r graddau y maent yn gymwys i gais amrywio.

Julie James

Y Gweinidog Tai a Llywodraeth Leol, un o
Weinidogion Cymru
18 Chwefror 2019

(1) O.S. 2013/1570 a ddiwygiwyd gan O.S. 2017/580.

Explanatory Memorandum to:

- 1) The Electricity (Offshore Generating Stations) (Applications for Consent) (Wales) Regulations 2019.**
- 2) The Electricity (Offshore Generating Stations) (Variation of Consents) (Wales) Regulations 2019.**
- 3) The Electricity (Offshore Generating Stations (Inquiries Procedure) (Wales) Regulations 2019.**
- 4) The Electricity Works (Environmental Impact Assessment) (England and Wales) (Amendment) (Wales) Regulations 2019.**
- 5) The Electricity (Offshore Generating Stations) (Safety Zones) (Application Procedures and Control of Access) (Amendment) (Wales) Regulations 2019.**

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the:

- 1) The Electricity (Offshore Generating Stations) (Applications for Consent) (Wales) Regulations 2019;
- 2) The Electricity (Offshore Generating Stations) (Variation of Consents) (Wales) Regulations 2019;
- 3) The Electricity (Offshore Generating Stations (Inquiries Procedure) (Wales) Regulations 2019;
- 4) The Electricity Works (Environmental Impact Assessment) (England and Wales) (Amendment) (Wales) Regulations 2019; and
- 5) The Electricity (Offshore Generating Stations) (Safety Zones) (Application Procedures and Control of Access) (Amendment) (Wales) Regulations 2019.

Julie James

Minister for Housing and Local Government

20 February 2019

PART 1

1. Description

1.1 Sections 39 to 41 of the Wales Act 2017 (“the 2017 Act”) among other things, devolve to the Welsh Ministers:

- responsibility for the consenting of offshore generating stations in Welsh waters with a capacity up to and including 350MW; and
- other associated functions such as the ability to extinguish public rights of navigation and provision relating to safety zones around renewable energy installations.

These provisions will be fully commenced on 1 April 2019.

1.2 As a result of amendments to the Electricity Act 1989 (“the 1989 Act”) and the Planning Act 2008 (“the 2008 Act”) made by the 2017 Act the Welsh Ministers are the appropriate (consenting) authority in relation to applications made after 1 April 2019 under sections 36 and 36C of the 1989 Act relating to generating stations (or proposed generating stations) in Welsh waters (as defined in section 36 of the 1989 Act) which have or will have a capacity not exceeding 350MW.

1.3 The Electricity (Offshore Generating Stations) (Applications for Consent) (Wales) Regulations 2019 make provision about the grant of consents under section 36 of the 1989 Act (“ a section 36 consent”) in relation to generating stations in respect of which the Welsh Ministers are the appropriate authority. These Regulations include provision about the making of applications, service and publicity requirements, the circumstances in which public inquiries are to be held and the scope of public inquiries where there is more one or more relevant planning authority. They also make consequential amendments to the Conservation of Habitats and Species Regulations 2017.

1.4 The Electricity (Offshore Generating Stations) (Variation of Consents) (Wales) Regulations 2019 make provision about applications to vary a section 36 consent under section 36C of the 1989 Act where the Welsh Ministers are the appropriate authority. These Regulations include provision about what must be included in or accompany a variation application, notification and publicity requirements, when public inquiries are to be held and the withdrawal of variation application. They also revoke the Electricity Generating Stations (Variation of Consents) (England and Wales) Regulations 2013 in so far as they apply to an application to the Welsh Ministers under section 36C of the 1989 Act.

- 1.5 The Electricity (Offshore Generating Stations) (Inquiries Procedure) (Wales) Regulations 2019 make provision about inquiries caused to be held by the Welsh Ministers in relation to applications under sections 36 and 36C of the 1989 Act.
- 1.6 The Electricity Works (Environmental Impact Assessment) (England and Wales) (Amendment) (Wales) Regulations 2019 amend the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2017 to provide the Welsh Ministers are the 'relevant authority' where an application under section 36 or 36C of the 1989 Act is made (or to be made) to the Welsh Ministers. They also amend the meaning of consultation body and insert reference to the Electricity (Offshore Generating Stations) (Variation of Consents) (Wales) Regulations 2019 in two regulations.
- 1.7 The Electricity (Offshore Generating Stations) (Safety Zones) (Application Procedures and Control of Access) (Amendment) (Wales) Regulations 2019 make minor amendments to the Electricity (Offshore Generating Stations) (Safety Zones) (Application Procedures and Control of Access) Regulations 2007 to reflect the change in responsibilities from the Secretary of State to the Welsh Ministers for declaring safety zones in Welsh waters.

2. Matters of special interest to the Constitutional and legislative Affairs Committee

- 2.1 There are no matters of special interest to the Constitutional and Legislative Affairs Committee.

3. Legislative Background

Electricity Act 1989 SIs

The Electricity (Offshore Generating Stations) (Applications for Consent) (Wales) Regulations 2019

- 3.1 These Regulations are made in exercise of the powers conferred on the Welsh Ministers by sections 36(8A) (which is inserted into section 36 by paragraph 47 of Schedule 6 to the 2017 Act) and 60 of the 1989 Act.
- 3.2 Section 36(8A) gives the Welsh Ministers power to make provision about the grant of consents under section 36 of the 1989 Act in relation to generating stations in respect of which they are the appropriate authority.

3.3 Section 60 of the 1989 Act contains supplemental powers in relation to regulations made under Part 1 of the 1989 Act, regulations made under section 36(8A) of the 1989 Act are made under Part 1 of that Act.

3.4 These Regulations are made using the negative resolution procedure.

The Electricity (Offshore Generating Stations) (Variation of Consents) (Wales) Regulations 2019

3.5 These Regulations are made in exercise of the powers conferred on the Welsh Ministers by section 36C(2) and (6) (as amended by section 39(12) of the 2017 Act) and 60 of the 1989 Act.

3.6 Section 36C(2) and (6) give the Welsh Ministers power to make provision about the variation of a consent under Section 36 of the 1989 Act relating to generating stations (or proposed generating stations) in Welsh waters that do not or will not when constructed or extended exceed 350MW.

3.7 As mentioned at paragraph 3.3 above section 60 of the 1989 Act contains supplemental powers in relation to regulations made under Part 1 of the 1989 Act, regulations made under section 36C of the 1989 Act are regulations made under Part 1 of that Act.

3.8 These Regulations are made using the negative resolution procedure.

The Electricity (Offshore Generating Stations) (Inquiries Procedure) (Wales) Regulations 2019

3.9 These Regulations are made in exercise of the powers conferred on the Welsh Ministers by sections 36(8A), 36C(2) and(6) and 60 of the 1989 Act. These provisions are described at paragraphs 3.1 to 3.8 above.

3.10 These Regulations are made using the negative resolution procedure.

The Electricity Works (Environmental Impact Assessment) (England and Wales) (Amendment) (Wales) Regulations 2019

3.11 These Regulations are made in exercise of the powers conferred on the Welsh Ministers by sections 36(8A), 36C(2) and (6) and 60 of the 1989 Act. These provisions are described at paragraphs 3.1 to 3.8 above.

3.12 These Regulations are made using the negative resolution procedure.

Energy Act 2004 SI

The Electricity (Offshore Generating Stations) (Safety Zones) (Application Procedures and Control of Access) (Amendment) (Wales) Regulations 2019

- 3.13 These Regulations are made in exercise of the powers conferred on the Welsh Ministers by sections 96 and 192 of, and paragraph 4(1) of Schedule 16 to, the Energy Act 2004 (“the 2004 Act”).
- 3.14 Section 41 of the 2017 Act amends sections 95, 96 and 104 of the Energy Act 2004 to enable the Welsh Ministers to exercise functions in relation to declaring safety zones around offshore renewable energy installations with a capacity of up to 350MW in Welsh waters.
- 3.15 Sections 95-98 of, and Schedule 16 to, the 2004 Act make provision for safety zones applying to offshore renewable energy installations. The essence of a safety zone is it is a criminal offence for vessels to enter or remain in a safety zone unless permitted to do so by means of a safety zone notice issued by the appropriate Minister (in Welsh waters, the Welsh Ministers).
- 3.16 Section 96 prohibits vessels from entering or remaining in a safety zone and carrying out activities except where permitted to do so by a notice declaring a safety zone. Section 41 of the Wales Act 2017 amends section 96 so that the Welsh Ministers can make regulations setting out general permissions allowing vessels to enter any safety zone and carry out activities. This is in addition to any individual permissions granted in the notice declaring that safety zone.
- 3.17 Section 192 sets out supplemental powers in relation to regulations made under the Energy Act 2004.
- 3.18 Schedule 16 to the Energy Act 2004 sets out the process for applying for a safety zone notice under section 95. Paragraph 4(1) of Schedule 16, among other things, enables the Welsh Ministers to prescribe the circumstances where notice should be served on persons specified either in regulations or in directions.
- 3.19 These Regulations are made using the negative resolution procedure.

4. Purpose and Effect

- 4.1 The Wales Act 2017 (Commencement No.4) Regulations 2017 fully commences the relevant sections of the 2017 Act, in relation to the consenting of generating stations in Welsh waters up to and including 350MW, on 1 April 2019.

- 4.2 Section 36 of the 1989 Act has historically been the relevant consenting route for offshore generating stations in Welsh waters between 1MW and 100MW, albeit decisions are made by the Marine Management Organisation on behalf of the Secretary of State prior to 1 April 2019. For offshore generating stations of between 100MW and 350MW, developers have been required to obtain a Development Consent Order under the 2008 Act. The 2017 Act makes amendments to the 1989 Act and the 2008 Act which apply the section 36 consent process under the 1989 Act to offshore generating stations in Welsh waters (as defined in section 36 of the 1989 Act) which have or will have a capacity not exceeding 350MW. The Welsh Ministers will be the appropriate consenting authority for such consents.
- 4.3 The procedure for determining applications for a section 36 consent is currently set out at Schedule 8 of the 1989 Act, along with accompanying regulations. As a consequence of the 2017 Act, Schedule 8 will not apply to applications made to the Welsh Ministers. The purpose of the following SIs made under the 1989 Act is to provide a procedure for applications for section 36 consents and variation of section 36 consents. For continuity and to provide a known operable process, it is intended to restate with minor amendments the existing procedures for such applications.

Electricity Act 1989 SIs

The Electricity (Offshore Generating Stations) (Applications for Consent) (Wales) Regulations 2019

- 4.4 Schedule 8 of the 1989 Act (amongst other matters) sets out the procedure for applications for section 36 consents. This is supplemented by the Electricity (Offshore Generating Stations) (Applications for Consent) Regulations 2006. As a consequence of paragraph 8(1A) of Schedule 8 to the 1989 Act (as inserted by the Wales Act 2017), Schedule 8 will not apply to applications to the Welsh Ministers. The 2006 Regulations were made under powers in Schedule 8. Therefore, the procedures in Schedule 8 and the 2006 Regulations will not apply to applications for a section 36 consent made to the Welsh Ministers.
- 4.5 The Electricity (Offshore Generating Stations) (Applications for Consent) (Wales) Regulations 2019 make provision about the grant of section 36 consents Act to construct, extend or operate an offshore generating station. They make equivalent provision to relevant provisions in Schedule 8 to the 1989 Act and the 2006 Regulations with minor amendments to reflect the Welsh Ministers' role as appropriate (consenting) authority.

- 4.6 The purpose of these Regulations is purely for operability and will not introduce new policy or changes to the existing procedure followed in relation to applications under section 36 of the 1989 Act. This approach provides continuity for those developments between 1MW and 100MW which would be dealt with under the 1989 Act. Some minor changes are required to reflect the consenting role being undertaken by the Welsh Ministers and to reflect the existence of different consultation bodies in Wales.

The Electricity (Offshore Generating Stations) (Variation of Consents) (Wales) Regulations 2019

- 4.7 The Electricity (Offshore Generating Stations) (Variation of Consents) (England and Wales) Regulations 2013 (“the 2013 Regulations”) set out the procedure for applications to vary a section 36 consent under section 36C of the 1989 Act. Prior to amendments made to sections 36 and 36C of the 1989 Act by the 2017 Act all applications under section 36C were made to the Marine Management Organisation or the Secretary of State.
- 4.8 The Electricity (Offshore Generating Stations) (Variation of Consents) (Wales) Regulations 2019 make provision about applications to the Welsh Ministers under section 36C of the 1989 Act where the Welsh Ministers are the appropriate (consenting) authority. They make equivalent provision to the 2013 Regulations with minor amendments to reflect the Welsh Ministers’ role as appropriate (consenting) authority. The Regulations will not introduce new policy or changes to the existing procedure followed in relation to applications under section 36C of the 1989 Act.

The Electricity (Offshore Generating Stations) (Inquiries Procedure) (Wales) Regulations 2019

- 4.9 The Electricity Generating Stations and Overhead Lines (Inquiries Procedure) (England and Wales) Rules 2007 (“the 2007 Rules”) set out the procedure where an inquiry is caused to be held by the Secretary of State into an application under sections 36 of the 1989 Act. The 2007 Rules are applied (with modifications) to an inquiry into a section 36C application by the 2013 Regulations.
- 4.10 The Electricity (Offshore Generating Stations) (Inquiries Procedure) (Wales) Regulations 2019 set out the procedure to be followed where the Welsh Ministers cause an inquiry to be held into an application under section 36 or 36C of the 1989 Act. They make equivalent provision to that found in the 2007 Rules with minor amendments to reflect the Welsh Ministers’ role as appropriate (consenting) authority.

The Electricity Works (Environmental Impact Assessment) (England and Wales) (Amendment) (Wales) Regulations 2019

- 4.11 The effect of these Regulations is to amend the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2017 to provide the Welsh Ministers are the ‘relevant authority’ where an application under section 36 or 36C of the 1989 Act is made (or to be made) to the Welsh Ministers. A number of minor amendments are also made. The amendments have been made a result of the amendments to section 36 and 36C of the 1989 Act by the 2017 Act to reflect the Welsh Ministers new consenting role under those provisions.

Energy Act 2004 SI

The Electricity (Offshore Generating Stations) (Safety Zones) (Application Procedures and Control of Access) (Amendment) (Wales) Regulations 2019

- 4.12 The Electricity (Offshore Generating Stations) (Safety Zones) (Application Procedures and Control of Access) Regulations 2007 (“the 2007 Regulations”) set out procedural requirements in respect of a safety zone application, as well as prescribing categories of vessels and activities permitted in safety zones.
- 4.13 The purpose of these Regulations is to make amendments to the 2007 Regulations for operability and to reflect the change in responsibilities where the Welsh Ministers are the appropriate Minister.
- 4.14 The effect of the Regulations is to provide that the Welsh Ministers do not need to be notified of a safety zone application in Welsh waters where they are the appropriate Minister, and they set out additional vessels permitted in safety zones where they are the appropriate Minister.

5. Consultation

- 5.1 A 12 week consultation ran from 30 April to 23 July 2018 on changes to the consenting of infrastructure in Wales. The consultation was drawn to the attention of a wide range of stakeholders including LPAs, generating station operators and their representatives, businesses, planning consultants, interest groups and other public sector agencies. A total of 47 responses were received.
- 5.2 Question 4 related to proposed arrangements for offshore generating stations. A number of respondents, while agreeing with the logic of the approach in the short-term, commented the long term vision must be to unify consenting

regimes on and offshore. A number of respondents commented the interaction between the consent under the Electricity Act 1989 and the associated marine licence must be reviewed by the Welsh Government, to ensure a good level of service, concurrent decision and to reduce duplication of workload. In response, it is intended to continue to work with Natural Resources Wales to establish appropriate working arrangements.

5.3 A summary of the consultation responses is available at:

<https://beta.gov.wales/changes-approval-infrastructure-development> .

6. Regulatory Impact Assessment

6.1 The requirement for a Regulatory Impact Assessment (“RIA”) has been assessed against the RIA code for subordinate legislation. In this instance, an RIA was not considered necessary.

6.2 These statutory instruments are made as a consequence of sections 39 to 41 of the 2017 Act insofar as they affect the devolution of the consenting of offshore generating stations. These sections will be fully commenced on 1 April 2019.

6.3 The Electricity (Offshore Generating Stations) (Applications for Consent) (Wales) Regulations 2019, the Electricity (Offshore Generating Stations) (Variation of Consents) (Wales) Regulations 2019 and the Electricity (Offshore Generating Stations) (Inquiries Procedure) (Wales) Regulations 2019 make equivalent provision to relevant provisions of the Schedule 8 to the 1989 Act, the 2006 Regulations, the 2013 Regulations and the 2007 Rules with minor amendments to reflect the Welsh Ministers consenting role. The Electricity (Offshore Generating Stations) (Safety Zones) (Application Procedures and Control of Access) (Amendment) (Wales) Regulations 2019 and the Electricity Works (Environmental Impact Assessment) (England and Wales) (Amendment) (Wales) Regulations 2019 make minor amendments to the procedure in relation safety zones under section 95 of the Energy Act 2004 and to the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2017.

6.4 Accordingly, as these statutory instruments comprise routine technical and consequential amendments to the existing procedures under the 1989 Act and the Energy Act 2004 which have no policy impact, no RIA is required.

6.5 The 2017 Act, which made amendments to the 1989 Act, the 2004 Act and 2008 Act, however, was accompanied by an RIA which assessed the costs

and benefits of the devolution of energy consenting functions under the 1989 Act and the 2004 Act.

6.6 The RIA which accompanied the 2017 Act during its passage is available at:

https://webarchive.nationalarchives.gov.uk/20160611073307/https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/527740/Wales_Bill_impact_assessment.pdf .

Eitem 4.3

SL(5)345 - Rheoliadau Trydan (Gorsafoedd Cynhyrchu Alltraeth) (Ceisiadau am Gydsyniad) (Cymru) 2019

Cefndir a Diben

Mae'r Rheoliadau hyn yn gwneud darpariaeth ynghylch rhoi cydsyniadau o dan adran 36 o Ddeddf Trydan 1989 ("Deddf 1989") i adeiladu, estyn neu weithredu gorsaf gynhyrchu alltraeth y mae Gweinidogion Cymru yn awdurdod priodol mewn cysylltiad â hi.

At ddibenion y Rheoliadau hyn, mae cyfeiriad at gais am gydsyniad o dan adran 36 o Ddeddf 1989 yn cynnwys unrhyw gais o dan adran 36A o'r Ddeddf honno am ddatganiad mewn perthynas â hawliau mordwyo cyhoeddus a wneir gyda chais am gydsyniad o dan adran 36 o Ddeddf 1989.

Gweinidogion Cymru yw'r awdurdod priodol mewn perthynas â cheisiadau a wneir ar ôl 1 Ebrill 2019 o dan adran 36 o Ddeddf 1989 sy'n ymwneud â gorsafoedd cynhyrchu (neu orsafoedd cynhyrchu arfaethedig) yn nyfroedd Cymru sydd â gallu cynhyrchu nad yw'n fwy na 350 megawat neu a fydd â gallu cynhyrchu nad yw'n fwy na 350 megawat.

Mae'r Rheoliadau hyn yn gwneud darpariaeth ynghylch:

- gwneud ceisiadau;
- gofynion cyflwyno a chyhoedduswydd;
- o dan ba amgylchiadau y mae ymchwiliadau cyhoeddus i'w cynnal; a
- cwmpas ymchwiliadau cyhoeddus pan fo un neu ragor o awdurdodau cynllunio perthnasol.

Mae'r Rheoliadau hyn hefyd yn gwneud darpariaeth ar gyfer yr amgylchiadau pan gaiff hysbysiad sy'n ofynnol gan y Rheoliadau hyn ei gyfuno â hysbysiad sy'n ofynnol gan neu o dan Atodlen 16 i Ddeddf Ynni 2004.

Maent hefyd yn gwneud diwygiad canlyniadol i Reoliadau Cadwraeth Cynefinoedd a Rhywogaethau 2017.

Gweithdrefn

Negyddol.

Materion technegol: craffu

Nodwyd un pwynt i gyflwyno adroddiad arno o dan Reol Sefydlog 21.2 mewn perthynas â'r offeryn hwn.

Rheol Sefydlog 21.2(v) - bod angen eglurhad pellach ynglŷn â'i ffurf neu ei ystyr am unrhyw reswm penodol

Mae rheoliad 7(1)(b) yn nodi bod yn rhaid cyhoeddi hysbysiad o gais "...mewn un neu ragor o bapurau newydd cenedlaethol". Fodd bynnag, wrth gyfeirio at bapur newydd cenedlaethol, nid yw'r Rheoliadau yn nodi a yw'r gair 'cenedlaethol' yn cyfeirio at Gymru neu at y Deyrnas Unedig.



Craffu ar y rhinweddau

Nodwyd un pwynt i gyflwyno adroddiad arno o dan Reol Sefydlog 21.2 mewn perthynas â'r offeryn hwn.

Rheol Sefydlog 21.3 (ii) - ei fod o bwysigrwydd gwleidyddol neu gyfreithiol neu ei fod yn codi materion polisi cyhoeddus sy'n debyg o fod o ddiddordeb i'r Cynulliad.

Mae rheoliad 5 yn darparu, pan fo ceisydd (rheoliad 5(2)) neu Weinidogion Cymru (rheoliad 5(4)) yn ystyried bod awdurdod cynllunio lleol yng Nghymru a Lloegr neu'r Adran Amgylchedd yng Ngogledd Iwerddon yn debygol o fod â buddiant yn y cais, rhaid i'r ceisydd gyflwyno hysbysiad am y cais i'r corff hwnnw (rheoliad 5 (2)), neu caiff Gweinidogion Cymru gyfarwyddo bod yn rhaid i'r ceisydd wneud hynny (rheoliad 5(4)). Nid yw'r darpariaethau hyn yn cynnwys cyfeiriadau at gyrff cyfatebol priodol yn yr Alban nac yn Ynys Manaw. Rydym ar ddeall mai'r rheswm dros beidio â chynnwys yr Alban yn y darpariaethau hyn yw'r pellter rhwng dyfroedd Cymru a'r Alban. Fodd bynnag, mae'r rhesymeg ynghylch pam nad yw Ynys Manaw wedi'i chynnwys yn y darpariaethau hyn yn aneglur.

Y goblygiadau yn sgil gadael yr Undeb Ewropeaidd

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.

Ymateb y Llywodraeth

Mae angen ymateb gan y Llywodraeth.

Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

14 Mawrth 2019



OFFERYNNAU STATUDOL
CYMRU

2019 Rhif 295 (Cy. 73)

TRYDAN, CYMRU

**Rheoliadau Trydan (Gorsafoedd
Cynhyrchu Alltraeth) (Ceisiadau am
Gydsyniad) (Cymru) 2019**

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn yn gwneud darpariaeth ynghylch rhoi cydsyniadau o dan adran 36 o Ddeddf Trydan 1989 (“Deddf 1989”) i adeiladu, estyn neu weithredu gorsaf gynhyrchu alltraeth y mae Gweinidogion Cymru yn awdurdod priodol mewn cysylltiad â hi.

At ddibenion y Rheoliadau hyn, mae cyfeiriad at gais am gydsyniad o dan adran 36 o Ddeddf 1989 yn cynnwys unrhyw gais o dan adran 36A o'r Ddeddf honno am ddatganiad mewn perthynas â hawliau mordwyo cyhoeddus a wneir gyda chais am gydsyniad o dan adran 36 o Ddeddf 1989.

Gweinidogion Cymru yw'r awdurdod priodol mewn perthynas â cheisiadau a wneir ar ôl 1 Ebrill 2019 o dan adran 36 o Ddeddf 1989 sy'n ymwneud â gorsafoedd cynhyrchu (neu orsafoedd cynhyrchu arfaethedig) yn nyfroedd Cymru sydd â gallu cynhyrchu nad yw'n fwy na 350 megawat neu a fydd â gallu cynhyrchu nad yw'n fwy na 350 megawat.

Ystyr “dyfroedd Cymru” yw hynny o ddyfroedd mewnlol a môr tiriogaethol y Deyrnas Unedig sy'n gyfagos i Gymru, a pharth Cymru. Mae i “parth Cymru” yr ystyr a roddir i “Welsh zone” yn adran 158 o Ddeddf Llywodraeth Cymru 2006.

Mae'r Rheoliadau hyn yn gwneud darpariaeth ynghylch—

- (a) gwneud ceisiadau;
- (b) gofynion cyflwyno a chyhoeddusrwydd;
- (c) o dan ba amgylchiadau y mae ymchwiliadau cyhoeddus i'w cynnal; a
- (d) cwmpas ymchwiliadau cyhoeddus pan fo un neu ragor o awdurdodau cynllunio perthnasol.

Mae'r Rheoliadau hyn hefyd yn gwneud darpariaeth ar gyfer yr amgylchiadau pan gaiff hysbysiad sy'n ofynnol gan y Rheoliadau hyn ei gyfuno â hysbysiad sy'n ofynnol gan neu o dan Atodlen 16 i Ddeddf Ynni 2004.

Maent hefyd yn gwneud diwygiad canlyniadol i Reoliadau Cadwraeth Cynefinoedd a Rhywogaethau 2017.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, ystyriwyd nad oedd yn angenrheidiol cynnal asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn.

OFFERYNNAU STATUDOL
CYMRU

2019 Rhif 295 (Cy. 73)

TRYDAN, CYMRU

**Rheoliadau Trydan (Gorsafoedd
Cynhyrchu Alltraeth) (Ceisiadau am
Gydsyniad) (Cymru) 2019**

Gwnaed 18 Chwefror 2019

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru* 20 Chwefror 2019

Yn dod i rym 1 Ebrill 2019

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir iddynt gan adrannau 36(8A) a 60 o Ddeddf Trydan 1989(1), yn gwneud y Rheoliadau a ganlyn:

Enwi a chychwyn

1. Enw'r Rheoliadau hyn yw Rheoliadau Trydan (Gorsafoedd Cynhyrchu Alltraeth) (Ceisiadau am Gydsyniad) (Cymru) 2019 a deuant i rym ar 1 Ebrill 2019.

Dehongli

2.—(1) Yn y Rheoliadau hyn—

mae i “awdurdod cynllunio lleol” yr un ystyr ag a roddir i “local planning authority” yn Rhan 1 o Ddeddf 1990;

ystyr “awdurdod cynllunio perthnasol” (“*relevant planning authority*”), mewn perthynas â thir yng Nghymru, yw awdurdod cynllunio lleol;

(1) 1989 p. 29. Mewnosodwyd is-adran (8A) i adran 36 gan baragraff 47 o Atodlen 6 i Ddeddf Cymru 2017 (p. 4) (“Deddf 2017”). Mae diwygiadau i adran 60 nad ydynt yn berthnasol i'r Rheoliadau hyn.

ystyr “cais” (“*application*”) yw cais i Weinidogion Cymru am gydsyniad o dan adran 36(1) i adeiladu, estyn neu weithredu gorsaf gynhyrchu(2), ynghyd ag unrhyw gais o dan adran 36A(3) am ddatganiad sy’n ymwneud â hawliau mordwyo a wneir gyda’r cais o dan adran 36;

ystyr “datblygiad adran 90” (“*section 90 development*”) yw unrhyw ddatblygiad y mae’r ceisydd, wrth wneud cais, yn gofyn i Weinidogion Cymru roi cyfarwyddyd o dan adran 90(2) neu (2ZA) o Ddeddf 1990(4) (caniatâd cynllunio tybiedig ar gyfer datblygu gydag awdurdodiad llywodraeth) mewn cysylltiad ag ef;

ystyr “Deddf 1990” (“*the 1990 Act*”) yw Deddf Cynllunio Gwlad a Thref 1990(5).

(2) Oni nodir fel arall, mae unrhyw gyfeiriad yn y Rheoliadau hyn at adran â rhif yn gyfeiriad at yr adran honno o Ddeddf Trydan 1989.

Cynnwys ceisiadau

3. Rhaid gwneud cais yn ysgrifenedig a rhaid iddo ddisgrifio drwy gyfeiriad at fap y lle y mae’r cais yn ymwneud ag ef, hynny yw, y lle—

- (a) y bwriedir adeiladu’r orsaf gynhyrchu, y lle y bydd yr estyniad arfaethedig neu’r lle y mae’r orsaf y bwriedir ei gweithredu wedi ei lleoli; a
- (b) y bydd unrhyw ddatblygiad adran 90 wedi ei leoli.

Cyflwyno hysbysiad am gais i awdurdod cynllunio perthnasol

4. Pan wneir cais i Weinidogion Cymru a bod rhan o’r lle y mae’r cais yn ymwneud ag ef o fewn ardal awdurdod cynllunio perthnasol, rhaid cyflwyno hysbysiad am y cais i’r awdurdod cynllunio perthnasol.

(1) Diwygiwyd adran 36 gan adran 93 o Ddeddf Ynni 2004 (p. 20) (“Deddf 2004”), paragraffau 31 a 32 o Atodlen 2 i Ddeddf Cynllunio 2008 (p. 29), adran 12(7) ac (8) o Ddeddf y Môr a Mynediad i’r Arfordir 2009 (p. 23) (“Deddf 2009”), adran 78 o Ddeddf Ynni 2016 (p. 20) ac adran 39(7) i (11) o Ddeddf 2017 a pharagraff 47 o Atodlen 6 iddi. Nid yw’r diwygiadau eraill yn berthnasol i’r Rheoliadau hyn.

(2) *Gweler* adran 64(1) o Ddeddf Trydan 1989 (“Deddf 1989”) am y dehongliad o “generating station”.

(3) Mewnosodwyd adran 36A yn Neddf 1989 gan adran 99(1) o Ddeddf 2004 ac fe’i diwygiwyd gan adran 12(7) ac (8) o Ddeddf 2009 ac adran 40(1) i (5) o Ddeddf 2017.

(4) Amnewidiwyd adran 90(2) a (2ZA) gan adran 21(2) o Ddeddf Twf a Seilwaith 2013 (p. 27) ac fe’i diwygiwyd gan adran 39(13) o Ddeddf 2017.

(5) 1990 p. 8.

Cyflwyno hysbysiad am gais pan na fo awdurdod cynllunio perthnasol

5.—(1) Mae'r rheoliad hwn yn gymwys pan na fo unrhyw ran o'r lle y mae cais yn ymwneud ag ef o fewn ardal awdurdod cynllunio perthnasol.

(2) Pan fo unrhyw awdurdod cynllunio lleol yng Nghymru a Lloegr neu Adran yr Amgylchedd yng Ngogledd Iwerddon, ym marn y ceisydd, yn debygol o fod â buddiant yn y cais, rhaid i'r ceisydd gyflwyno hysbysiad am y cais i'r corff hwnnw, ac o fewn saith niwrnod o'i gyflwyno felly, rhoi gwybod i Weinidogion Cymru yn ysgrifenedig beth yw enw'r corff hwnnw a rhoi copi o'r hysbysiad iddynt.

(3) Pan na fo corff o'r math a grybwyllir ym mharagraff (2), ym marn y ceisydd, yn debygol o fod â buddiant yn y cais, rhaid i'r ceisydd roi gwybod i Weinidogion Cymru am y ffaith honno.

(4) Pan fo unrhyw awdurdod cynllunio lleol yng Nghymru a Lloegr neu Adran yr Amgylchedd yng Ngogledd Iwerddon, ym marn Gweinidogion Cymru, yn debygol o fod â buddiant yn y cais, caiff Gweinidogion Cymru, oni bai eu bod wedi cael hysbysiad o dan baragraff (2) i'r perwyl bod hysbysiad am gais wedi ei gyflwyno i'r corff hwnnw, gyfarwyddo bod rhaid i'r ceisydd gyflwyno hysbysiad am gais i'r corff hwnnw.

Cyflwyno hysbysiad am gais i bersonau eraill

6.—(1) Rhaid i'r ceisydd gyflwyno hysbysiad am gais i—

- (a) y Cyd-bwyllgor Cadwraeth Natur⁽¹⁾;
- (b) Corff Adnoddau Naturiol Cymru⁽²⁾;
- (c) Asiantaeth y Môr a Gwylwyr y Glannau;
- (d) awdurdod harbwr, yn achos datblygiad mewn harbwr, neu gerllaw harbwr, sydd o dan reolaeth yr awdurdod hwnnw;
- (e) unrhyw bersonau eraill yn ôl cyfarwyddyd Gweinidogion Cymru.

(2) Yn y rheoliad hwn, mae i "harbwr" ac "awdurdod harbwr" yr un ystyron ag a roddir i "harbour" a "harbour authority" yn adran 57 o Ddeddf Harbyrau 1964⁽³⁾ (dehongli).

(1) Ailgyfansoddwyd y Cyd-bwyllgor Cadwraeth Natur yn unol ag Atodlen 4 i Ddeddf yr Amgylchedd Naturiol a Chymunedau Gwledig 2006 (p. 16): gweler adran 31(b) o'r Ddeddf honno.

(2) Sefydlwyd Corff Adnoddau Naturiol Cymru gan erthygl 3 o O.S. 2012/1903 (Cy. 230).

(3) 1964 p. 40. Diwygiwyd adran 57 gan baragraff 33(a) o Atodlen 13 i Ddeddf Llongau Masnach 1995 (p. 21). Nid yw'r diwygiadau eraill i adran 57 yn berthnasol i'r Rheoliadau hyn.

Cyhoeddi hysbysiad am gais

7.—(1) Rhaid i'r ceisydd gyhoeddi hysbysiad am gais—

- (a) dwy wythnos yn olynol mewn un neu ragor o bapurau newydd lleol sy'n debygol o ddod i sylw'r rheini y mae'r datblygiad arfaethedig yn debygol o effeithio arnynt;
- (b) yn Lloyd's List ac mewn un neu ragor o bapurau newydd cenedlaethol;
- (c) os oes un neu ragor o gyfnodolion masnach pysgota priodol yn cylchredeg a gyhoeddir fesul ysbaid nad yw'n fwy nag un mis, mewn o leiaf un cyfnodolyn masnach o'r fath; a
- (d) yn y London Gazette.

(2) Rhaid i'r hysbysiad ddisgrifio, drwy gyfeiriad at fap, y lle y mae'r cais yn berthnasol iddo, a rhaid iddo ddarparu y gall aelodau o'r cyhoedd edrych ar y map, yn ystod oriau swyddfa arferol, naill ai—

- (a) yn swyddfeydd—
 - (i) unrhyw awdurdod cynllunio perthnasol y mae'r ceisydd yn cyflwyno hysbysiad am y cais iddo o dan reoliad 4; neu
 - (ii) pob awdurdod cynllunio lleol yng Nghymru y mae'r ceisydd yn cyflwyno hysbysiad am y cais iddo o dan reoliad 5(2) neu yn unol â chyfarwyddyd Gweinidogion Cymru o dan reoliad 5(4); neu
- (b) mewn cyfeiriad sy'n rhesymol hygyrch i'r rheini y mae'r cydsyniad y gwneir cais amdano yn debygol o effeithio arnynt os caiff ei roi.

(3) Nid yw paragraffau (1) a (2) yn gymwys i gais am estyniad neu newid i'r dull gweithredu pan fo Gweinidogion Cymru—

- (a) yn ystyried bod yr estyniad neu'r newid yn un mân ei natur; a
- (b) yn rhoi cyfarwyddyd sy'n hepgor gofynion y paragraffau hynny.

Gwrthwynebiadau gan dderbynyddion hysbysiad am gais

8.—(1) Rhaid i unrhyw hysbysiad a gyflwynir neu a gyhoeddir yn unol â rheoliadau 5, 6 neu 7(1) nodi'r cyfnod (na chaiff fod yn llai na 28 o ddiwrnodau o ddyddiad cyflwyno'r hysbysiad, neu'n llai na 28 o ddiwrnodau o ddyddiad neu ddyddiad diweddaraf cyhoeddi'r hysbysiad) y caniateir gwneud gwrthwynebiadau i'r cais i Weinidogion Cymru o'i fewn, a'r dull y caniateir gwneud hynny, gan bersonau ac eithrio unrhyw awdurdod cynllunio perthnasol.

(2) Rhaid i awdurdod cynllunio perthnasol gyflwyno hysbysiad am unrhyw wrthwynebiad ganddo i gais i Weinidogion Cymru o fewn pedwar mis o ddyddiad y cais, neu o fewn unrhyw gyfnod hwy y mae'r awdurdod yn cytuno arno yn ysgrifenedig gyda Gweinidogion Cymru a'r ceisydd.

Ymchwiliadau cyhoeddus pan fo gwrthwynebiadau gan yr awdurdod cynllunio perthnasol

9.—(1) Pan fo'r awdurdod cynllunio perthnasol yn hysbysu Gweinidogion Cymru ei fod yn gwrthwynebu'r cais ac nad yw ei wrthwynebiad yn cael ei dynnu'n ôl, rhaid i Weinidogion Cymru—

- (a) peri i ymchwiliad cyhoeddus gael ei gynnal;
- (b) cyn penderfynu pa un ai i roi eu cydsyniad, ystyried y gwrthwynebiad ac adroddiad y person a gynhaliodd yr ymchwiliad.

(2) Nid yw paragraff (1) yn gymwys pan fo Gweinidogion Cymru yn bwriadu caniatáu'r cais yn ddarostyngedig i unrhyw addasiadau neu amodau a fydd yn rhoi effaith i wrthwynebiad yr awdurdod cynllunio perthnasol.

(3) Caiff Gweinidogion Cymru, at ddibenion paragraff (1), ddiystyru unrhyw wrthwynebiad na chafwyd hysbysiad ar ei gyfer gan awdurdod cynllunio perthnasol yn unol â rheoliad 8(2).

Ymchwiliadau cyhoeddus pan fo gwrthwynebiadau gan bersonau eraill

10.—(1) Mae'r rheoliad hwn yn gymwys—

- (a) pan na fo'n ofynnol i Weinidogion Cymru yn rhinwedd rheoliad 9(1) beri i ymchwiliad cyhoeddus gael ei gynnal; ond
- (b) pan fo gwrthwynebiadau neu gopiâu o wrthwynebiadau wedi eu hanfon at Weinidogion Cymru yn unol â'r Rheoliadau hyn.

(2) Rhaid i Weinidogion Cymru—

- (a) ystyried gwrthwynebiadau neu gopiâu o wrthwynebiadau a anfonir atynt yn unol â'r Rheoliadau hyn, ynghyd â phob ystyriaeth berthnasol arall, gyda golwg ar benderfynu a ddylid cynnal ymchwiliad cyhoeddus mewn cysylltiad â'r cais; a
- (b) peri i ymchwiliad cyhoeddus gael ei gynnal os ydynt yn credu ei bod yn briodol gwneud hynny, naill ai yn ychwanegol at unrhyw wrandawriad arall neu gyfle i ddatgan gwrthwynebiadau i'r cais neu yn lle hynny.

Cwmpas ymchwiliadau cyhoeddus pan fo un neu ragor o awdurdodau cynllunio perthnasol

11.—(1) Mae'r rheoliad hwn yn gymwys pan fo—

- (a) ymchwiliad cyhoeddus i'w gynnal yn unol â rheoliad 9(1) neu 10; a
- (b) y cais yn ymwneud â lle y mae rhan ohono yn ardal un neu ragor o awdurdodau cynllunio perthnasol.

(2) Ac eithrio i'r graddau y mae Gweinidogion Cymru yn cyfarwyddo fel arall, rhaid cyfyngu ymchwiliad a gynhelir o dan reoliad 9(1) i hynny o'r cais sy'n ymwneud â thir o fewn ardal yr awdurdod sydd wedi gwneud gwrthwynebiad.

(3) Rhaid i Weinidogion Cymru roi sylw i wrthwynebiadau a wneir ac eithrio gan yr awdurdod o dan sylw wrth benderfynu pa un ai i roi cyfarwyddyd o dan baragraff (2) ac wrth benderfynu (pan fônt yn rhoi un) pa gyfarwyddyd i'w roi.

(4) Caiff Gweinidogion Cymru gyfarwyddo y caniateir cynnal ymchwiliadau ar wahân mewn perthynas ag unrhyw un neu bob un o'r canlynol—

- (a) hynny o'r cais sy'n ymwneud â thir o fewn ardal awdurdod cynllunio perthnasol penodol;
- (b) hynny o'r cais sy'n ymwneud â rhywle nad yw o fewn ardal awdurdod cynllunio perthnasol.

(5) At ddibenion paragraff (2) mae awdurdod cynllunio sydd wedi gwneud gwrthwynebiad i'w drin fel pe na bai wedi gwneud hynny os yw Gweinidogion Cymru yn bwriadu caniatáu'r cais yn ddarostyngedig i unrhyw addasiadau neu amodau sy'n bodloni'r gwrthwynebiad hwnnw.

Hysbysiad cyfun

12. Caniateir i hysbysiad sy'n ofynnol gan y Rheoliadau hyn gael ei gyfuno â hysbysiad sy'n ofynnol gan neu o dan Atodlen 16 i Ddeddf Ynni 2004(1) (ceisiadau a chynigion am hysbysiadau o dan adran 95) mewn unrhyw achos sy'n ymwneud â'r un orsaf gynhyrchu.

Diwygiad canlyniadol

13.—(1) Mae rheoliad 90(3) o Reoliadau Cadwraeth Cynefinoedd a Rhywogaethau 2017(2) (cydsyniadau o dan Ddeddf Trydan 1989: y weithdrefn adolygu) wedi ei ddiwygio fel a ganlyn.

(1) 2004 p. 20. Diwygiwyd Atodlen 16 gan adran 62(1), (17), (18) a (19) o Ddeddf yr Alban 2016 (p. 11) a pharagraff 61 o Atodlen 6 i Ddeddf 2017. Nid yw'r diwygiadau eraill yn berthnasol i'r Rheoliadau hyn.

(2) O.S. 2017/1012.

(2) Cyn is-baragraff (a) mewnosoder—

“(za) in a case where the Welsh Ministers are the competent authority, the relevant planning authority within the meaning of regulation 2(1) of the Electricity (Offshore Generating Stations) (Applications for Consent) (Wales) Regulations 2019 (interpretation),”.

(3) Ar ddechrau is-baragraff (a) mewnosoder “in any other case,”.

Julie James

Y Gweinidog Tai a Llywodraeth Leol, un o
Weinidogion Cymru
18 Chwefror 2019

Explanatory Memorandum to:

- 1) The Electricity (Offshore Generating Stations) (Applications for Consent) (Wales) Regulations 2019.**
- 2) The Electricity (Offshore Generating Stations) (Variation of Consents) (Wales) Regulations 2019.**
- 3) The Electricity (Offshore Generating Stations (Inquiries Procedure) (Wales) Regulations 2019.**
- 4) The Electricity Works (Environmental Impact Assessment) (England and Wales) (Amendment) (Wales) Regulations 2019.**
- 5) The Electricity (Offshore Generating Stations) (Safety Zones) (Application Procedures and Control of Access) (Amendment) (Wales) Regulations 2019.**

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the:

- 1) The Electricity (Offshore Generating Stations) (Applications for Consent) (Wales) Regulations 2019;
- 2) The Electricity (Offshore Generating Stations) (Variation of Consents) (Wales) Regulations 2019;
- 3) The Electricity (Offshore Generating Stations (Inquiries Procedure) (Wales) Regulations 2019;
- 4) The Electricity Works (Environmental Impact Assessment) (England and Wales) (Amendment) (Wales) Regulations 2019; and
- 5) The Electricity (Offshore Generating Stations) (Safety Zones) (Application Procedures and Control of Access) (Amendment) (Wales) Regulations 2019.

Julie James

Minister for Housing and Local Government

20 February 2019

PART 1

1. Description

1.1 Sections 39 to 41 of the Wales Act 2017 (“the 2017 Act”) among other things, devolve to the Welsh Ministers:

- responsibility for the consenting of offshore generating stations in Welsh waters with a capacity up to and including 350MW; and
- other associated functions such as the ability to extinguish public rights of navigation and provision relating to safety zones around renewable energy installations.

These provisions will be fully commenced on 1 April 2019.

1.2 As a result of amendments to the Electricity Act 1989 (“the 1989 Act”) and the Planning Act 2008 (“the 2008 Act”) made by the 2017 Act the Welsh Ministers are the appropriate (consenting) authority in relation to applications made after 1 April 2019 under sections 36 and 36C of the 1989 Act relating to generating stations (or proposed generating stations) in Welsh waters (as defined in section 36 of the 1989 Act) which have or will have a capacity not exceeding 350MW.

1.3 The Electricity (Offshore Generating Stations) (Applications for Consent) (Wales) Regulations 2019 make provision about the grant of consents under section 36 of the 1989 Act (“ a section 36 consent”) in relation to generating stations in respect of which the Welsh Ministers are the appropriate authority. These Regulations include provision about the making of applications, service and publicity requirements, the circumstances in which public inquiries are to be held and the scope of public inquiries where there is more one or more relevant planning authority. They also make consequential amendments to the Conservation of Habitats and Species Regulations 2017.

1.4 The Electricity (Offshore Generating Stations) (Variation of Consents) (Wales) Regulations 2019 make provision about applications to vary a section 36 consent under section 36C of the 1989 Act where the Welsh Ministers are the appropriate authority. These Regulations include provision about what must be included in or accompany a variation application, notification and publicity requirements, when public inquiries are to be held and the withdrawal of variation application. They also revoke the Electricity Generating Stations (Variation of Consents) (England and Wales) Regulations 2013 in so far as they apply to an application to the Welsh Ministers under section 36C of the 1989 Act.

- 1.5 The Electricity (Offshore Generating Stations) (Inquiries Procedure) (Wales) Regulations 2019 make provision about inquiries caused to be held by the Welsh Ministers in relation to applications under sections 36 and 36C of the 1989 Act.
- 1.6 The Electricity Works (Environmental Impact Assessment) (England and Wales) (Amendment) (Wales) Regulations 2019 amend the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2017 to provide the Welsh Ministers are the 'relevant authority' where an application under section 36 or 36C of the 1989 Act is made (or to be made) to the Welsh Ministers. They also amend the meaning of consultation body and insert reference to the Electricity (Offshore Generating Stations) (Variation of Consents) (Wales) Regulations 2019 in two regulations.
- 1.7 The Electricity (Offshore Generating Stations) (Safety Zones) (Application Procedures and Control of Access) (Amendment) (Wales) Regulations 2019 make minor amendments to the Electricity (Offshore Generating Stations) (Safety Zones) (Application Procedures and Control of Access) Regulations 2007 to reflect the change in responsibilities from the Secretary of State to the Welsh Ministers for declaring safety zones in Welsh waters.

2. Matters of special interest to the Constitutional and legislative Affairs Committee

- 2.1 There are no matters of special interest to the Constitutional and Legislative Affairs Committee.

3. Legislative Background

Electricity Act 1989 SIs

The Electricity (Offshore Generating Stations) (Applications for Consent) (Wales) Regulations 2019

- 3.1 These Regulations are made in exercise of the powers conferred on the Welsh Ministers by sections 36(8A) (which is inserted into section 36 by paragraph 47 of Schedule 6 to the 2017 Act) and 60 of the 1989 Act.
- 3.2 Section 36(8A) gives the Welsh Ministers power to make provision about the grant of consents under section 36 of the 1989 Act in relation to generating stations in respect of which they are the appropriate authority.

3.3 Section 60 of the 1989 Act contains supplemental powers in relation to regulations made under Part 1 of the 1989 Act, regulations made under section 36(8A) of the 1989 Act are made under Part 1 of that Act.

3.4 These Regulations are made using the negative resolution procedure.

The Electricity (Offshore Generating Stations) (Variation of Consents) (Wales) Regulations 2019

3.5 These Regulations are made in exercise of the powers conferred on the Welsh Ministers by section 36C(2) and (6) (as amended by section 39(12) of the 2017 Act) and 60 of the 1989 Act.

3.6 Section 36C(2) and (6) give the Welsh Ministers power to make provision about the variation of a consent under Section 36 of the 1989 Act relating to generating stations (or proposed generating stations) in Welsh waters that do not or will not when constructed or extended exceed 350MW.

3.7 As mentioned at paragraph 3.3 above section 60 of the 1989 Act contains supplemental powers in relation to regulations made under Part 1 of the 1989 Act, regulations made under section 36C of the 1989 Act are regulations made under Part 1 of that Act.

3.8 These Regulations are made using the negative resolution procedure.

The Electricity (Offshore Generating Stations) (Inquiries Procedure) (Wales) Regulations 2019

3.9 These Regulations are made in exercise of the powers conferred on the Welsh Ministers by sections 36(8A), 36C(2) and(6) and 60 of the 1989 Act. These provisions are described at paragraphs 3.1 to 3.8 above.

3.10 These Regulations are made using the negative resolution procedure.

The Electricity Works (Environmental Impact Assessment) (England and Wales) (Amendment) (Wales) Regulations 2019

3.11 These Regulations are made in exercise of the powers conferred on the Welsh Ministers by sections 36(8A), 36C(2) and (6) and 60 of the 1989 Act. These provisions are described at paragraphs 3.1 to 3.8 above.

3.12 These Regulations are made using the negative resolution procedure.

Energy Act 2004 SI

The Electricity (Offshore Generating Stations) (Safety Zones) (Application Procedures and Control of Access) (Amendment) (Wales) Regulations 2019

- 3.13 These Regulations are made in exercise of the powers conferred on the Welsh Ministers by sections 96 and 192 of, and paragraph 4(1) of Schedule 16 to, the Energy Act 2004 (“the 2004 Act”).
- 3.14 Section 41 of the 2017 Act amends sections 95, 96 and 104 of the Energy Act 2004 to enable the Welsh Ministers to exercise functions in relation to declaring safety zones around offshore renewable energy installations with a capacity of up to 350MW in Welsh waters.
- 3.15 Sections 95-98 of, and Schedule 16 to, the 2004 Act make provision for safety zones applying to offshore renewable energy installations. The essence of a safety zone is it is a criminal offence for vessels to enter or remain in a safety zone unless permitted to do so by means of a safety zone notice issued by the appropriate Minister (in Welsh waters, the Welsh Ministers).
- 3.16 Section 96 prohibits vessels from entering or remaining in a safety zone and carrying out activities except where permitted to do so by a notice declaring a safety zone. Section 41 of the Wales Act 2017 amends section 96 so that the Welsh Ministers can make regulations setting out general permissions allowing vessels to enter any safety zone and carry out activities. This is in addition to any individual permissions granted in the notice declaring that safety zone.
- 3.17 Section 192 sets out supplemental powers in relation to regulations made under the Energy Act 2004.
- 3.18 Schedule 16 to the Energy Act 2004 sets out the process for applying for a safety zone notice under section 95. Paragraph 4(1) of Schedule 16, among other things, enables the Welsh Ministers to prescribe the circumstances where notice should be served on persons specified either in regulations or in directions.
- 3.19 These Regulations are made using the negative resolution procedure.

4. Purpose and Effect

- 4.1 The Wales Act 2017 (Commencement No.4) Regulations 2017 fully commences the relevant sections of the 2017 Act, in relation to the consenting of generating stations in Welsh waters up to and including 350MW, on 1 April 2019.

- 4.2 Section 36 of the 1989 Act has historically been the relevant consenting route for offshore generating stations in Welsh waters between 1MW and 100MW, albeit decisions are made by the Marine Management Organisation on behalf of the Secretary of State prior to 1 April 2019. For offshore generating stations of between 100MW and 350MW, developers have been required to obtain a Development Consent Order under the 2008 Act. The 2017 Act makes amendments to the 1989 Act and the 2008 Act which apply the section 36 consent process under the 1989 Act to offshore generating stations in Welsh waters (as defined in section 36 of the 1989 Act) which have or will have a capacity not exceeding 350MW. The Welsh Ministers will be the appropriate consenting authority for such consents.
- 4.3 The procedure for determining applications for a section 36 consent is currently set out at Schedule 8 of the 1989 Act, along with accompanying regulations. As a consequence of the 2017 Act, Schedule 8 will not apply to applications made to the Welsh Ministers. The purpose of the following SIs made under the 1989 Act is to provide a procedure for applications for section 36 consents and variation of section 36 consents. For continuity and to provide a known operable process, it is intended to restate with minor amendments the existing procedures for such applications.

Electricity Act 1989 SIs

The Electricity (Offshore Generating Stations) (Applications for Consent) (Wales) Regulations 2019

- 4.4 Schedule 8 of the 1989 Act (amongst other matters) sets out the procedure for applications for section 36 consents. This is supplemented by the Electricity (Offshore Generating Stations) (Applications for Consent) Regulations 2006. As a consequence of paragraph 8(1A) of Schedule 8 to the 1989 Act (as inserted by the Wales Act 2017), Schedule 8 will not apply to applications to the Welsh Ministers. The 2006 Regulations were made under powers in Schedule 8. Therefore, the procedures in Schedule 8 and the 2006 Regulations will not apply to applications for a section 36 consent made to the Welsh Ministers.
- 4.5 The Electricity (Offshore Generating Stations) (Applications for Consent) (Wales) Regulations 2019 make provision about the grant of section 36 consents Act to construct, extend or operate an offshore generating station. They make equivalent provision to relevant provisions in Schedule 8 to the 1989 Act and the 2006 Regulations with minor amendments to reflect the Welsh Ministers' role as appropriate (consenting) authority.

- 4.6 The purpose of these Regulations is purely for operability and will not introduce new policy or changes to the existing procedure followed in relation to applications under section 36 of the 1989 Act. This approach provides continuity for those developments between 1MW and 100MW which would be dealt with under the 1989 Act. Some minor changes are required to reflect the consenting role being undertaken by the Welsh Ministers and to reflect the existence of different consultation bodies in Wales.

The Electricity (Offshore Generating Stations) (Variation of Consents) (Wales) Regulations 2019

- 4.7 The Electricity (Offshore Generating Stations) (Variation of Consents) (England and Wales) Regulations 2013 (“the 2013 Regulations”) set out the procedure for applications to vary a section 36 consent under section 36C of the 1989 Act. Prior to amendments made to sections 36 and 36C of the 1989 Act by the 2017 Act all applications under section 36C were made to the Marine Management Organisation or the Secretary of State.
- 4.8 The Electricity (Offshore Generating Stations) (Variation of Consents) (Wales) Regulations 2019 make provision about applications to the Welsh Ministers under section 36C of the 1989 Act where the Welsh Ministers are the appropriate (consenting) authority. They make equivalent provision to the 2013 Regulations with minor amendments to reflect the Welsh Ministers’ role as appropriate (consenting) authority. The Regulations will not introduce new policy or changes to the existing procedure followed in relation to applications under section 36C of the 1989 Act.

The Electricity (Offshore Generating Stations) (Inquiries Procedure) (Wales) Regulations 2019

- 4.9 The Electricity Generating Stations and Overhead Lines (Inquiries Procedure) (England and Wales) Rules 2007 (“the 2007 Rules”) set out the procedure where an inquiry is caused to be held by the Secretary of State into an application under sections 36 of the 1989 Act. The 2007 Rules are applied (with modifications) to an inquiry into a section 36C application by the 2013 Regulations.
- 4.10 The Electricity (Offshore Generating Stations) (Inquiries Procedure) (Wales) Regulations 2019 set out the procedure to be followed where the Welsh Ministers cause an inquiry to be held into an application under section 36 or 36C of the 1989 Act. They make equivalent provision to that found in the 2007 Rules with minor amendments to reflect the Welsh Ministers’ role as appropriate (consenting) authority.

The Electricity Works (Environmental Impact Assessment) (England and Wales) (Amendment) (Wales) Regulations 2019

- 4.11 The effect of these Regulations is to amend the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2017 to provide the Welsh Ministers are the ‘relevant authority’ where an application under section 36 or 36C of the 1989 Act is made (or to be made) to the Welsh Ministers. A number of minor amendments are also made. The amendments have been made a result of the amendments to section 36 and 36C of the 1989 Act by the 2017 Act to reflect the Welsh Ministers new consenting role under those provisions.

Energy Act 2004 SI

The Electricity (Offshore Generating Stations) (Safety Zones) (Application Procedures and Control of Access) (Amendment) (Wales) Regulations 2019

- 4.12 The Electricity (Offshore Generating Stations) (Safety Zones) (Application Procedures and Control of Access) Regulations 2007 (“the 2007 Regulations”) set out procedural requirements in respect of a safety zone application, as well as prescribing categories of vessels and activities permitted in safety zones.
- 4.13 The purpose of these Regulations is to make amendments to the 2007 Regulations for operability and to reflect the change in responsibilities where the Welsh Ministers are the appropriate Minister.
- 4.14 The effect of the Regulations is to provide that the Welsh Ministers do not need to be notified of a safety zone application in Welsh waters where they are the appropriate Minister, and they set out additional vessels permitted in safety zones where they are the appropriate Minister.

5. Consultation

- 5.1 A 12 week consultation ran from 30 April to 23 July 2018 on changes to the consenting of infrastructure in Wales. The consultation was drawn to the attention of a wide range of stakeholders including LPAs, generating station operators and their representatives, businesses, planning consultants, interest groups and other public sector agencies. A total of 47 responses were received.
- 5.2 Question 4 related to proposed arrangements for offshore generating stations. A number of respondents, while agreeing with the logic of the approach in the short-term, commented the long term vision must be to unify consenting

regimes on and offshore. A number of respondents commented the interaction between the consent under the Electricity Act 1989 and the associated marine licence must be reviewed by the Welsh Government, to ensure a good level of service, concurrent decision and to reduce duplication of workload. In response, it is intended to continue to work with Natural Resources Wales to establish appropriate working arrangements.

5.3 A summary of the consultation responses is available at:

<https://beta.gov.wales/changes-approval-infrastructure-development> .

6. Regulatory Impact Assessment

6.1 The requirement for a Regulatory Impact Assessment (“RIA”) has been assessed against the RIA code for subordinate legislation. In this instance, an RIA was not considered necessary.

6.2 These statutory instruments are made as a consequence of sections 39 to 41 of the 2017 Act insofar as they affect the devolution of the consenting of offshore generating stations. These sections will be fully commenced on 1 April 2019.

6.3 The Electricity (Offshore Generating Stations) (Applications for Consent) (Wales) Regulations 2019, the Electricity (Offshore Generating Stations) (Variation of Consents) (Wales) Regulations 2019 and the Electricity (Offshore Generating Stations) (Inquiries Procedure) (Wales) Regulations 2019 make equivalent provision to relevant provisions of the Schedule 8 to the 1989 Act, the 2006 Regulations, the 2013 Regulations and the 2007 Rules with minor amendments to reflect the Welsh Ministers consenting role. The Electricity (Offshore Generating Stations) (Safety Zones) (Application Procedures and Control of Access) (Amendment) (Wales) Regulations 2019 and the Electricity Works (Environmental Impact Assessment) (England and Wales) (Amendment) (Wales) Regulations 2019 make minor amendments to the procedure in relation safety zones under section 95 of the Energy Act 2004 and to the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2017.

6.4 Accordingly, as these statutory instruments comprise routine technical and consequential amendments to the existing procedures under the 1989 Act and the Energy Act 2004 which have no policy impact, no RIA is required.

6.5 The 2017 Act, which made amendments to the 1989 Act, the 2004 Act and 2008 Act, however, was accompanied by an RIA which assessed the costs

and benefits of the devolution of energy consenting functions under the 1989 Act and the 2004 Act.

6.6 The RIA which accompanied the 2017 Act during its passage is available at:

https://webarchive.nationalarchives.gov.uk/20160611073307/https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/527740/Wales_Bill_impact_assessment.pdf .

SL(5)348 - Rheoliadau Datblygiadau o Arwyddocâd Cenedlaethol (Cymru) (Diwygio) 2019

Cefndir a Diben

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Datblygiadau o Arwyddocâd Cenedlaethol (Cymru) 2016 ("Rheoliadau 2016") mewn perthynas â gwneud penderfyniadau ynghylch ceisiadau am ganiatâd cynllunio i osod llinellau trydan uwchben.

Mae gosod llinellau trydan uwchben sydd â foltedd enwol o 132KV neu lai ac sy'n gysylltiedig â gorsafoedd cynhyrchu datganoledig yng Nghymru, yn ddatblygiad o arwyddocâd cenedlaethol ("DAC") yn rhinwedd Rheoliadau Datblygiadau o Arwyddocâd Cenedlaethol (Meini Prawf Penodedig a Chydsyniadau Eilaidd Rhagnodedig) (Cymru) 2016 (O.S. 2016/53, Cy.23) ("Rheoliadau 2016"), fel y'u diwygiwyd.

O dan baragraff 1 o Atodlen 4D o Ddeddf Cynllunio Gwlad a Thref 1990, caniateir i swyddogaethau penodedig Gweinidogion Cymru mewn perthynas â DAC gael eu cyflawni gan berson a benodir.

Mae rheoliad 2(3) yn mewnosod rheoliad 11A newydd yn Rheoliadau 2016, er mwyn rhagnodi swyddogaethau penodedig mewn cysylltiad â llinellau trydan uwchben.

Mae rheoliad 2(5) yn mewnosod rheoliad 18A newydd, sy'n gwneud darpariaeth ar gyfer adroddiad gan y person penodedig ar ôl i gais gael ei ystyried ar sail sylwadau ysgrifenedig. Mae'r rheoliad newydd hefyd yn caniatáu i wrandawriad neu ymchwiliad gael ei gynnal os bydd y person penodedig wedi ystyried tystiolaeth newydd neu faterion newydd o ffaith.

Mae rheoliad 2(6) yn mewnosod rheoliad 28A newydd, sy'n gwneud darpariaeth ar gyfer ceisiadau a ystyrir drwy wrandawriad, ac sydd hefyd yn gymwys i geisiadau yr ymdrinnir â hwy drwy ymchwiliad.

Mae'r Rheoliadau hyn hefyd yn gwneud diwygiadau canlyniadol pellach i Reoliadau 2016.

Gweithdrefn

Negyddol.

Materion technegol: craffu

Nodir un pwynt i gyflwyno adroddiad arno o dan Reol Sefydlog 21.2 mewn perthynas â'r offeryn hwn.

Rheol Sefydlog 21.2(vii) – ei bod yn ymddangos bod anghysondebau rhwng ystyr testun Cymraeg a thestun Saesneg.

Mae rheoliad 2(13)(b) yn mewnosod paragraff 8A newydd yn Atodlen 1 i Reoliadau 2016. Dylai testun Cymraeg y Rheoliadau nodi "fel petai" yn y paragraff 8A newydd yn lle "fel a ganlyn". Mae'r testun Saesneg yn nodi "as if".

Mae'r un peth yn digwydd eto yn Rheoliad 2(14)(b), sy'n mewnosod paragraff (8) newydd yn Atodlen 8 i Reoliadau 2016. Eto, yn y paragraff (8) newydd, dylid nodi "fel petai" yn lle "fel a ganlyn". Mae'r testun Saesneg yn nodi "as if".



Rhinweddau: craffu

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.

Y goblygiadau yn sgil gadael yr Undeb Ewropeaidd

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.

Ymateb y Llywodraeth

Mae angen ymateb gan y Llywodraeth.

Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

13 Mawrth 2019



OFFERYNNAU STATUDOL
CYMRU

2019 Rhif 288 (Cy. 67)

**CYNLLUNIO GWLAD A
THREF, CYMRU**

**Rheoliadau Datblygiadau o
Arwyddocâd Cenedlaethol (Cymru)
(Diwygio) 2019**

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Datblygiadau o Arwyddocâd Cenedlaethol (Cymru) 2016 ("Rheoliadau 2016") mewn perthynas â gwneud penderfyniadau ynghylch ceisiadau am ganiatâd cynllunio i osod llinellau trydan uwchben.

Mae gosod llinellau trydan uwchben sydd â foltedd enwol o 132 KV neu lai ac sy'n gysylltiedig â gorsafocedd cynhyrchu datganoledig yng Nghymru, yn ddatblygiad o arwyddocâd cenedlaethol neu "DAC" yn rhinwedd Rheoliadau Datblygiadau o Arwyddocâd Cenedlaethol (Meini Prawf Penodedig a Chydsyniadau Eilaidd Rhagnodedig) (Cymru) 2016 fel y'u diwygiwyd gan Rheoliadau Datblygiadau o Arwyddocâd Cenedlaethol (Meini Prawf Penodedig, Ffioedd a Ffioedd am Geisiadau Tybiedig) (Cymru) (Diwygio) 2019.

O dan baragraff 1 o Atodlen 4D o Ddeddf Cynllunio Gwlad a Thref 1990, caniateir i swyddogaethau penodedig Gweinidogion Cymru mewn perthynas â DAC gael eu cyflawni gan berson a benodir i wneud hynny ar eu rhan ("person penodedig").

Mae rheoliad 2(3) yn mewnosod rheoliad 11A newydd yn Rheoliadau 2016, er mwyn rhagnodi swyddogaethau penodedig mewn cysylltiad â llinellau trydan uwchben.

Mae rheoliad 2(5) yn mewnosod rheoliad 18A newydd, sy'n gwneud darpariaeth ar gyfer adroddiad gan y person penodedig ar ôl i gais gael ei ystyried ar sail sylwadau ysgrifenedig. Mae'r rheoliad 18A newydd hefyd yn caniatáu i'r person penodedig beri i wrandawriad neu ymchwiliad gael ei gynnal os ydyw

wedi ystyried tystiolaeth newydd neu faterion newydd o ffaith.

Mae rheoliad 2(6) yn mewnosod rheoliad 28A newydd, sy'n gwneud darpariaeth debyg mewn perthynas â cheisiadau a ystyrir drwy wrandawriad. Mae rheoliad 28A yn ymdrin â'r adroddiad a'r weithdrefn pan fo'r penderfyniad yn cael ei wneud gan y person penodedig. Mae rheoliad 28A hefyd yn gymwys i geisiadau yr ymdrinnir â hwy drwy ymchwiliad.

Mae paragraffau eraill yn rheoliad 2 yn gwneud diwygiadau canlyniadol.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Aseidiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, lluniwyd asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn. Gellir cael copi ar www.llyw.cymru.

OFFERYNNAU STATUDOL
CYMRU

2019 Rhif 288 (Cy. 67)

**CYNLLUNIO GWLAD A
THREF, CYMRU**

**Rheoliadau Datblygiadau o
Arwyddocâd Cenedlaethol (Cymru)
(Diwygio) 2019**

Gwnaed 18 Chwefror 2019

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru* 20 Chwefror 2019

Yn dod i rym 1 Ebrill 2019

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir i Gynulliad Cenedlaethol Cymru gan adran 321B o Ddeddf Cynllunio Gwlad a Thref 1990(1) ac sydd bellach yn arferadwy ganddynt hwy(2), ac a roddir iddynt gan adran 323A o'r Ddeddf honno(3), a pharagraff 1 o Atodlen 4D iddi, yn gwneud y Rheoliadau a ganlyn:

Enwi a chychwyn

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Datblygiadau o Arwyddocâd Cenedlaethol (Cymru) (Diwygio) 2019.

(2) Daw'r Rheoliadau hyn i rym ar 1 Ebrill 2019.

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- (1) 1990 p. 8. Mewnosodwyd adran 321B gan adran 81 o Ddeddf Cynllunio a Phrynu Gorfodol 2004 (p. 5).
- (2) Trosglwyddwyd swyddogaethau Cynulliad Cenedlaethol Cymru i Weinidogion Cymru yn rhinwedd paragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p. 32).
- (3) Mewnosodwyd adran 323A gan adran 50 o Ddeddf Cynllunio (Cymru) 2015 ("Deddf 2015"). Mewnosodwyd Atodlen 4D gan baragraff 1 o Atodlen 3 i'r Ddeddf honno.

Diwygiadau i Reoliadau Datblygiadau o Arwyddocâd Cenedlaethol (Cymru) 2016

2.—(1) Mae Rheoliadau Datblygiadau o Arwyddocâd Cenedlaethol (Cymru) 2016⁽¹⁾ wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 2, yn y diffiniad o “person penodedig” yn lle “rheoliad 11” rhodder “rheoliadau 11 ac 11A”.

(3) Ar ôl rheoliad 11, mewnosoder—

“Swyddogaethau penodedig: llinellau trydan

11A. Yn ogystal â’r swyddogaethau hynny a ragnodir gan reoliad 11, mae’r swyddogaethau a ganlyn wedi eu rhagnodi at ddibenion paragraff 1 o Atodlen 4D i Ddeddf 1990 mewn cysylltiad â datblygiad o fewn rheoliad 3(1)(ab) o Reoliadau Datblygiadau o Arwyddocâd Cenedlaethol (Meini Prawf Penodedig a Chydsyniadau Eilaidd Rhagnodedig (Cymru) 2016⁽²⁾)—

- (a) swyddogaethau o dan adran 62F o Ddeddf 1990 (datblygiadau o arwyddocâd cenedlaethol: cydsyniadau eilaidd)⁽³⁾;
- (b) swyddogaethau o dan adran 62J o Ddeddf 1990 (dyletswydd i roi sylw i adroddiad ar yr effaith leol)⁽⁴⁾;
- (c) penderfynu ar y cais cyn diwedd y cyfnod penderfynu yn unol ag adran 62L(2) o Ddeddf 1990⁽⁵⁾;
- (d) penderfynu ar gais o dan adran 70(1) o Ddeddf 1990⁽⁶⁾;
- (e) swyddogaethau o dan erthyglau 28 a 29 o Orchymyn 2016;
- (f) swyddogaethau o dan y rheoliadau a ganlyn—
 - (i) rheoliad 19 (mynd ymlaen i benderfynu);
 - (ii) rheoliad 29 (penderfynu);
 - (iii) rheoliad 35 (penderfynu);

⁽¹⁾ O.S. 2016/56 (Cy. 26), a ddiwygiwyd gan O.S. 2017/642 (Cy. 148).

⁽²⁾ O.S. 2016/53 (Cy. 23), a ddiwygiwyd gan O.S. 2016/358 (Cy. 111). Mewnosodwyd rheoliad 3(1)(ab) gan Reoliadau o Arwyddocâd Cenedlaethol (Meini Prawf Penodedig, Ffioedd a Ffioedd am Geisiadau Tybiedig) (Cymru) (Diwygio) 2019 (O.S. 2019/283 (Cy. 65)).

⁽³⁾ Mewnosodwyd adran 62F gan adran 20 o Ddeddf 2015.

⁽⁴⁾ Mewnosodwyd adran 62J gan adran 21 o Ddeddf 2015.

⁽⁵⁾ Mewnosodwyd adran 62L gan adran 22 o Ddeddf 2015.

⁽⁶⁾ Diwygiwyd adran 70(1) gan baragraff 5 o Atodlen 4 i Ddeddf 2015.

(iv) rheoliad 36(1) (hysbysiad o benderfyniad).”

(4) Yn rheoliad 18 cyn paragraff (1) mewnosoder—

“(A1) Mae'r rheoliad hwn yn gymwys pan fo'r swyddogaeth o benderfynu ar y cais i'w harfer gan Weinidogion Cymru.”

(5) Ar ôl rheoliad 18 mewnosoder—

“Adroddiad: llinellau trydan

18A.—(1) Mae'r rheoliad hwn yn gymwys pan fo'r swyddogaeth o benderfynu ar y cais i'w harfer gan berson penodedig.

(2) Rhaid i'r person penodedig wneud adroddiad ysgrifenedig y mae'n rhaid iddo gynnwys casgliadau a phenderfyniad y person penodedig.

(3) Caiff y person penodedig beri i wrandawriad neu ymchwiliad gael ei gynnal os, ar ôl ystyried y sylwadau ysgrifenedig, yw'r person penodedig o'r farn y dylid cymryd i ystyriaeth unrhyw dystiolaeth newydd neu fater newydd o ffaith, nad yw'n fater o bolisi.

(4) Pan fo gwrandawriad neu ymchwiliad i'w gynnal, rhaid i'r person penodedig anfon at y ceisydd, yr awdurdod cynllunio lleol a'r personau sy'n cyflwyno sylwadau ysgrifenedig, ddatganiad ysgrifenedig o'r materion y gwahoddir sylwadau pellach yn eu cylch at ddibenion ystyried y cais ymhellach gan y person penodedig.

(5) Rhaid i'r rhai sy'n gwneud sylwadau pellach sicrhau bod y person penodedig yn cael y cyfryw sylwadau o fewn pa bynnag gyfnod o amser a ddatgenir gan y person penodedig yn y gwahoddiad o dan baragraff (4).

(6) Mae rheoliad 15(2) i (6) yn gymwys i unrhyw sylwadau pellach a gyflwynir i'r person penodedig yn unol â pharagraff (5), fel pe bai cyfeiriadau at Weinidogion Cymru yn gyfeiriadau at y person penodedig.”

(6) Yn rheoliad 19(2) yn lle “a ragnodwyd gan reoliadau 15 a 18” rhodder “a ragnodir gan reoliadau 15, 18 a 18A”.

(7) Yn rheoliad 20(2) yn lle paragraff (c) rhodder—

“(c) Gweinidogion Cymru neu'r person penodedig wedi peri i wrandawriad gael ei gynnal yn unol â rheoliad 18(5) neu reoliad 18A(3).”

(8) Yn rheoliad 28 cyn paragraff (1) mewnosoder—

“(A1) Mae'r rheoliad hwn yn gymwys pan fo'r swyddogaeth o benderfynu ar y cais i'w harfer gan Weinidogion Cymru.”

(9) Ar ôl rheoliad 28 mewnosoder—

“Gweithdrefn ac adroddiad ar ôl gwrandawriad: penderfyniad gan berson penodedig

28A.—(1) Mae'r rheoliad hwn yn gymwys pan fo'r swyddogaeth o benderfynu ar y cais i'w harfer gan berson penodedig.

(2) Ar ôl cau'r gwrandawriad—

- (a) caiff yr asesydd (os penodir un) wneud adroddiad ysgrifenedig i'r person penodedig mewn cysylltiad â'r materion y penodwyd yr asesydd i gynorthwyo gyda hwy;
- (b) rhaid i'r person penodedig wneud adroddiad ysgrifenedig a chynnwys ynddo gasgliadau'r person penodedig a'i benderfyniad.

(3) Pan fo asesydd yn gwneud adroddiad yn unol â pharagraff (2)(a), rhaid i'r person penodedig—

- (a) ei atodi wrth ei adroddiad; a
- (b) datgan yn yr adroddiad hwnnw i ba raddau y mae'r person penodedig yn cytuno neu'n anghytuno ag adroddiad yr asesydd, a phan fo'r person penodedig yn anghytuno â'r asesydd, ddatgan y rhesymau dros yr anghytundeb hwnnw.

(4) Wrth wneud y penderfyniad, caiff y person penodedig ddiystyru unrhyw sylwadau ysgrifenedig neu ddogfen arall a geir ar ôl cau'r gwrandawriad.

(5) Os yw'r person penodedig, ar ôl cau'r gwrandawriad, yn bwriadu cymryd i ystyriaeth unrhyw dystiolaeth newydd neu unrhyw fater newydd o ffaith (nad yw'n fater o bolisi) na chafodd ei godi yn y gwrandawriad ac y mae'r person penodedig yn ystyried ei fod yn faterol berthnasol i'r penderfyniad, ni chaniateir i'r person penodedig ddod i benderfyniad heb yn gyntaf—

- (a) hysbysu'r ceisydd, yr awdurdod cynllunio lleol a'r personau hynny a gyflwynodd sylwadau ysgrifenedig ac a gymerodd ran yn y gwrandawriad; a
- (b) rhoi cyfle iddynt gyflwyno sylwadau ysgrifenedig.

(6) Rhaid i'r rhai sy'n gwneud sylwadau ysgrifenedig sicrhau bod y person penodedig yn cael y cyfryw sylwadau o fewn y cyfnod a ddatgenir yn hysbysiad y person penodedig o dan baragraff (5)(a).

(7) Caiff y person penodedig beri bod gwrandawriad yn cael ei ailagor fel yr ystyria'r person yn briodol.

(8) Pan ailagorir gwrandawriad (pa un ai gan yr un person penodedig neu berson penodedig gwahanol)—

- (a) rhaid i'r person penodedig anfon at y ceisydd, yr awdurdod cynllunio lleol a'r personau hynny a gyflwynodd sylwadau ysgrifenedig neu a gymerodd ran yn y gwrandawriad, ddatganiad ysgrifenedig o'r materion y gwahoddir sylwadau pellach mewn cysylltiad â hwy, at y diben o ystyried y cais ymhellach gan y person penodedig; a
- (b) mae rheoliad 26 yn gymwys fel pe bai'r cyfeiriadau at wrandawriad yn gyfeiriadau at wrandawriad a ailagorwyd.

(9) Mae rheoliad 15(2) i (6) yn gymwys i unrhyw dystiolaeth neu sylw ysgrifenedig a gyflwynir i'r person penodedig yn unol â pharagraff (6) o'r rheoliad hwn, fel pe bai cyfeiriadau at Weinidogion Cymru yn gyfeiriadau at y person penodedig.

(10) Mae rheoliad 29(b) i'w ddarllen fel pe bai cyfeiriad at y cyfnod a ganiateir yn unol â rheoliad 28(6) yn gyfeiriad at y cyfnod a ganiateir yn unol â rheoliad 28A(6)."

(10) Yn rheoliad 30(3) yn lle "rheoliadau 22 i 25 a 28" rhodder "rheoliadau 22 i 25, 28 a 28A".

(11) Yn rheoliad 35(b) yn lle "rheoliad 28(6)" rhodder "rheoliad 28(6) neu reoliad 28A(6) (yn y naill achos a'r llall fel y'i cymhwysir gan reoliad 30(3))".

(12) Yn lle rheoliad 40(1) rhodder—

"40.—(1) Mae'r Rhan hon yn gymwys pan gaiff penderfyniad mewn perthynas â chydysyniad eilaidd ei wneud gan—

- (a) Gweinidogion Cymru—
 - (i) yn rhinwedd adran 62F(2) o Ddeddf 1990; neu
 - (ii) o dan unrhyw ddeddfiad arall pan fo Gweinidogion Cymru o'r farn bod y cydsyniad eilaidd yn gysylltiedig â chais o dan adran 62D o Ddeddf 1990; neu
- (b) person penodedig yn rhinwedd rheoliad 11A(a)."

(13) Yn Atodlen 1—

- (a) yn y testun Cymraeg hepgorer paragraff 8(b).
- (b) ar ôl paragraff 8 mewnosoder—

**“Gweithdrefn ar ôl ymchwiliad:
penderfyniad gan berson penodedig**

8A. Rhaid darllen rheoliad 28A (fel y’i cymhwysir i ymchwiliadau gan reoliad 30(3)) fel a ganlyn—

(a) ar ôl paragraff (3) mewnosoder—

“(3A) Pan ystyriwyd tystiolaeth gaeedig yn yr ymchwiliad—

(a) rhaid i’r person penodedig a’r asesydd, pan fo un wedi ei benodi, nodi mewn rhan ar wahân o’u hadroddiadau (“y rhan gaeedig”) unrhyw ddisgrifiad o’r dystiolaeth honno ynghyd ag unrhyw gasgliadau neu benderfyniad mewn perthynas â’r dystiolaeth honno;
a

(b) pan fo asesydd wedi ei benodi, rhaid i’r person penodedig atodi’r rhan gaeedig o adroddiad yr asesydd wrth ran gaeedig adroddiad y person penodedig, a rhaid iddo ddatgan, yn rhan gaeedig yr adroddiad hwnnw, y lefel o gytundeb neu anghytundeb â rhan gaeedig adroddiad yr asesydd, a phan fo anghytundeb â’r asesydd, y rhesymau am yr anghytundeb hwnnw.”

(b) ym mharagraff 8(a) ar ôl “ceisydd” mewnosoder “, y cynrychiolydd penodedig”.

(14) Yn Atodlen 8—

(a) ar ôl paragraff 1(3) mewnosoder—

“(3A) Rhaid i adroddiad y person penodedig o dan reoliadau 18A (adroddiad: llinellau trydan) neu reoliad 28A (gweithdrefn ac adroddiad ar ôl gwrandawriad: penderfyniad gan berson penodedig) gynnwys, yn ychwanegol at gasgliadau a phenderfyniad y person penodedig mewn perthynas â’r cais, argymhelliad neu benderfyniad mewn perthynas â gorchymyn o dan adran 247 o Ddeddf 1990.”

(b) ar ôl paragraff (7) mewnosoder—

“(8) Rhaid darllen rheoliad 28A fel a ganlyn—

(a) ym mharagraff (4) yn lle “sylwadau ysgrifenedig neu ddogfen arall” rhodder “wrthwynebiad i wneud

- gorchymyn o dan adran 247 o Ddeddf 1990”;
- (b) ym mharagraff (5) yn lle “a gyflwynodd sylwadau ysgrifenedig” rhodder “a wrthwynebodd wneud gorchymyn o dan adran 247 o Ddeddf 1990”;
- (c) ym mharagraff (8)(a) yn lle “a gyflwynodd sylwadau ysgrifenedig” rhodder “a wrthwynebodd wneud gorchymyn o dan adran 247 o Ddeddf 1990”.”

Julie James

Y Gweinidog Tai a Llywodraeth Leol, un o
Weinidogion Cymru
18 Chwefror 2019

Explanatory Memorandum to:

- 1) The Developments of National Significance (Specified Criteria, Fees and Fees for Deemed Applications) (Wales) (Amendment) Regulations 2019**
- 2) The Developments of National Significance (Wales) (Amendment) Regulations 2019**
- 3) The Developments of National Significance (Procedure) (Wales) (Amendment) Order 2019**
- 4) The Town and Country Planning (Environmental Impact Assessment) (Wales) (Amendment) Regulations 2019**

The Explanatory Memorandum has been prepared by Planning Directorate and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of:

- 1) The Developments of National Significance (Specified Criteria, Fees and Fees for Deemed Applications) (Wales) (Amendment) Regulations 2019;
- 2) The Developments of National Significance (Wales) (Amendment) Regulations 2019;
- 3) The Developments of National Significance (Procedure) (Wales) (Amendment) Order 2019; and
- 4) The Town and Country Planning (Environmental Impact Assessment) (Wales) (Amendment) Regulations 2019

I am satisfied the benefits justify the likely costs.

Julie James
Minister for Housing and Local Government
20 February 2019

PART 1

1. Description

- 1.1 Sections 39 and 42 of the Wales Act 2017, among other things, prospectively devolve further responsibility to the Welsh Ministers for the consenting of onshore energy projects (excluding wind, responsibility for which is already devolved) up to and including 350MW and overhead electric lines up to and including 132KV where they are associated with a Welsh devolved generating station. These provisions will be commenced on 1 April 2019.
- 1.2 The legal effect of relevant provisions in the Wales Act 2017 is to place the consenting of this onshore infrastructure into the Town and Country Planning Act 1990 (“TCPA”). However, this creates a number of anomalies which require correction. The statutory instruments make consequential changes to procedures to enable the Welsh Ministers to determine such applications in the most appropriate way, as well as making some other minor procedural changes.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

- 2.1 The Explanatory Memorandum (including Regulatory Impact Assessment) covers four separate statutory instruments: one subject to the affirmative procedure and three which are subject to the negative procedure and which are scheduled to be laid conditional on the approval of the affirmative procedure statutory instrument by the National Assembly for Wales.

| Statutory Instrument | Procedure |
|--|------------------|
| The Developments of National Significance (Specified Criteria, Fees and Fees for Deemed Applications) (Wales) (Amendment) Regulations 2019 | Affirmative |
| The Developments of National Significance (Wales) (Amendment) Regulations 2019 | Negative |
| The Developments of National Significance (Procedure) (Wales) (Amendment) Order 2019 | Negative |
| The Town and Country Planning (Environmental Impact Assessment) (Wales) (Amendment) Regulations 2019 | Negative |

- 2.2 All of the above statutory instruments are reliant on each other and are interlinked through various references. It would not be possible to interpret the regulatory impacts made by each statutory instrument in isolation without explaining the wider legislative context. Hence, a composite Explanatory Memorandum has been prepared to describe these statutory instruments.
- 2.3 The Town and Country Planning (Environmental Impact Assessment) (Wales) (Amendment) Regulations 2019 are made under section 2(2) of the European Communities Act 1972. There is a choice of procedure in relation to instruments made under section 2(2) of that Act. The Regulations are also made under section 71A of the Town and Country Planning Act 1990 (TCPA) which is subject to the negative procedure. There were no factors indicating the affirmative procedure should be used for these Regulations.

3. Legislative Background

The Developments of National Significance (Specified Criteria, Fees and Fees for Deemed Applications) (Wales) (Amendment) Regulations 2019

- 3.1 Sections 39 and 42 of the Wales Act 2017 (“the 2017 Act”), among other things, make changes to the consenting arrangements for generating stations and overhead electric lines in Wales. In broad terms these sections devolve, to the Welsh Ministers, the function of granting consent in respect of the following to the Welsh Ministers (“newly devolved projects”):
- (a) The consenting of generating stations both on and offshore with a capacity of 350MW or less. This excludes onshore wind, for which consenting for all such applications is already devolved to the Welsh Ministers; and
 - (b) The consenting of overhead lines with a nominal voltage of 132KV or less, where they are associated with a Welsh devolved generating station.
- 3.2 Part 3 of Schedule 6 to the 2017 Act also makes a number of minor and consequential amendments. The Wales Act 2017 (Commencement No.4) Regulations 2017 fully commences Sections 39, 42 and Part 3 of Schedule 6 on 1 April 2019. Hence, legislation relating to the newly devolved projects is included in the Regulations.
- 3.3 These Regulations are made in exercise of the powers conferred on the Welsh Ministers by sections 62D and 303 of the TCPA and powers conferred on the Secretary of State by section 333 of the TCPA, which are now exercisable by the Welsh Ministers.

- 3.4 Section 62D of the TCPA makes provision for applications for Development of National Significance (“DNS”) to be made directly to the Welsh Ministers. Section 62D(3) states a development is DNS where it meets criteria specified in Regulations made by the Welsh Ministers for the purpose of section 62D.
- 3.5 Section 303 of the TCPA enables the Welsh Ministers to make Regulations in respect of fees for planning applications and deemed planning applications. This includes DNS applications.

The Developments of National Significance (Wales) (Amendment) Regulations 2019

- 3.6 These Regulations are made in exercise of the powers conferred on the Welsh Ministers by sections 321B and 323A and Paragraph 1(2) of Schedule 4D of the TCPA.
- 3.7 Of the provisions most relevant to these Regulations, paragraph 1(2) of Schedule 4D of the TCPA enables specified functions of the Welsh Ministers to be exercised by an appointed person.
- 3.9 Section 323A of the TCPA enables the Welsh Ministers, by Regulations, to prescribe the procedure to be followed in connection with an inquiry or hearing held by or on behalf of the Welsh Ministers by virtue of any provisions under the TCPA and any proceedings considered on the basis of representations in writing.

The Developments of National Significance (Procedure) (Wales) (Amendment) Order 2019

- 3.10 This Order is made in exercise of the powers conferred on the Welsh Ministers by sections 59, 61Z, 62R and 333 of the TCPA and powers conferred on the Secretary of State by section 62 of the TCPA, which are now exercisable by the Welsh Ministers.
- 3.11 Of the provisions most relevant to this Order, Section 61Z(5) of the TCPA enables the Welsh Ministers to prescribe, by Order, the specified persons who must be consulted about a proposed planning application.
- 3.12 Section 62 of the TCPA enables the Welsh Ministers to make provision as to the form, content, manner and particulars of a planning application, including pre-application consultation reports. This applies to DNS by virtue of the Developments of National Significance (Application of Enactments) (Wales) Order 2016.

- 3.13 Section 62R of the TCPA enables the Welsh Ministers, by Order, to make provision regulating a manner in which an application directly to the Welsh Ministers is dealt with by them.

The Town and Country Planning (Environmental Impact Assessment) (Wales) (Amendment) Regulations 2019

- 3.14 These Regulations are made in exercise of the powers provided by section 2(2) of the European Communities Act 1972 and section 71A of the TCPA.
- 3.15 The Welsh Ministers were designated by The European Communities (Designation) (No.3) Order 2007 (S.I. 2007/1679) for the purposes of section 2(2) of the 1972 Act, to make regulations 'in relation to the requirement for an assessment of the impact on the environment of projects likely to have significant effects on the environment, insofar as it concerns town and country planning'.
- 3.16 The functions under section 71A of the TCPA were transferred to the National Assembly for Wales by S.I. 1999/672. Those functions were subsequently transferred to the Welsh Ministers by virtue of section 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 1998.

4. Purpose and intended effect of the legislation

The Developments of National Significance (Specified Criteria, Fees and Fees for Deemed Applications) (Wales) (Amendment) Regulations 2019

Changes to the specified criteria - Onshore generating stations

- 4.1 As a consequence of the changes made by the Wales Act 2017 (set out in paragraphs 3.1-3.2), the consenting of newly devolved projects will fall within Part 3 of the TCPA. The default position is the consenting of newly devolved projects will require planning permission from the Local Planning Authority ("LPA") under section 58 of the TCPA. This creates a perverse situation whereby already devolved smaller scale projects, such as generating stations between 10MW and 50MW are consented by the Welsh Ministers through the DNS process, whereby larger scale generating stations between 50MW and 350MW are to be consented at the local level by LPAs.
- 4.2 The evidence which underlies the specified criteria for DNS indicates the performance of LPAs in achieving timely decisions on large scale energy projects is not satisfactory. It would be illogical for smaller projects to be dealt with at the national level, with larger generating projects consented at the

local level. The purpose of this legislation is to alter this anomaly and ensure a logical and proportionate consenting procedure is in place.

- 4.3 In the Government response¹ to the consultation on DNS in 2015, it was stated the medium term objective would be to capture any new projects above the existing devolved upper limit as DNS. This view has not changed in the light of the devolution of generating stations of between 50MW and 350MW. The effect of the legislation is to extend the specified criteria for DNS to also include these projects.

Changes to the specified criteria - Overhead electric lines

- 4.4 Changes are proposed to the DNS specified criteria which relate to devolved overhead electric lines. Consents for overhead electric lines are currently issued under the Electricity Act 1989 (up to 132KV) or the Planning Act 2008 (132KV and above). These are both consents issued by the Secretary of State. Following commencement of the relevant parts of the Wales Act 2017, the consenting overhead electric lines up to and including 132KV which are associated with a devolved generating station will be placed within the TCPA for determination by LPAs by default.
- 4.5 Being determined by the LPA brings some concerns. Being linear projects, overhead electric lines tend to pass a number of LPAs. The requirement to gain separate consents from a number of LPAs may delay the development of such infrastructure in Wales.
- 4.6 Furthermore, overhead electric lines are necessary for the operational effectiveness and resilience of the electricity transmission and distribution network. Each link of the network, no matter what the scale, is critical to the network as a whole, ensuring power can be distributed sustainably and economically to customers. Accordingly, the purpose of this legislation is to address the need for such infrastructure to be consented at the national level.
- 4.7 The effect of this legislation is to place the consenting of overhead electric lines into the DNS process. While this may lead to the consenting of such lines taking longer than they do at present, the DNS process provides the only appropriate framework for decision at the national level in the TCPA, with appropriate consultation and scrutiny arrangements.

¹ Welsh Government, Developments of National Significance – Summary of responses and Government response, November 2015

Changes to the specified criteria - Electricity storage

- 4.8 A further purpose of these Regulations relates to energy storage. It is acknowledged there are emerging storage technologies which will increase clean generation and energy efficiency in Wales and help the transition to a low carbon economy.
- 4.9 Small scale storage projects of between 10MW and 50MW must seek planning consent under the DNS process. However, such projects typically have minor impacts and occupy minimal land. No storage projects have been consented through this process as the cost and time taken for decisions is seen as prohibitive to storage operators. Prior to the coming into force of the DNS process in 2016, the performance in consenting such projects appeared to be reasonable at the local level.
- 4.10 The purpose of this legislation is to remove consenting barriers and to reflect the physical scale and impacts of storage technologies being developed. The effect of the legislation is to remove storage projects from the current DNS process, for decision at a local level. This is considered to be a more proportionate way to determine such projects. This proposal will not include pumped hydroelectric storage schemes, which on the basis of prior projects, continue to have significant environmental effects.

Changes to fees for applications – Overhead electric lines

- 4.11 Paragraphs 4.16 to 4.19 below detail changes made by the Developments of National Significance (Wales) (Amendment) Regulations 2019 relating to the procedure for applications for overhead electric lines. A consequential change is made in the Developments of National Significance (Specified Criteria, Fees and Fees for Deemed Applications) (Wales) (Amendment) Regulations 2019 which removes the requirement to pay a fee to the Welsh Ministers for determining an application, where the application is not determined by them. This is in accordance with public finance principles.

Changes to fees for deemed applications – Appeals under section 177(1) of the TCPA

- 4.12 An anomaly has arisen where an appeal against an enforcement notice could potentially be brought in relation to a development which is ascribed DNS status, on the ground planning permission should have been granted for the development (a Ground (a) appeal under section 174(2)(a) of the TCPA). Section 177(1) of the TCPA provides the Welsh Ministers, on an appeal against an enforcement notice, may grant planning permission. Section 177(5) of the TCPA requires, where such an appeal is brought, the appellant

shall be deemed to have made an application for planning permission in respect of the matters in the enforcement notice as constituting a breach of planning control.

- 4.13 Where such an appeal is brought, legislation does not allow a fee to be allocated to the LPA where it concerns an application which would otherwise be a DNS. Current legislation provides a fee is payable for deemed applications if a fee would have been payable to the LPA on making an application for planning permission. However, as developments which qualify as DNS are made to the Welsh Ministers, no fee is payable to the LPA.
- 4.14 This situation is considered to be unfair, and the purpose of the legislation is to correct this anomaly. The LPA will ultimately bear the cost of issuing the enforcement notice, participating in an appeal and, if the appeal is unsuccessful, will also bear the cost of enforcing the planning permission. However, they will not be subsidised for this additional work. Were the application is a DNS application made directly to the Welsh Ministers, the LPA would receive a fee for participating in the application process. Accordingly, the Regulations make changes to address this and provide for a fee to be payable in these circumstances.

The Developments of National Significance (Wales) (Amendment) Regulations 2019

- 4.16 Paragraphs 4.4 – 4.7 above relates to the addition of devolved overhead electric lines to the specified criteria for DNS. The amendments made by the Developments of National Significance (Wales) (Amendment) Regulations 2019 have the purpose of expediting the process for such applications.
- 4.17 The development industry sees the current consenting process under the Electricity Act 1989 as proportionate and evidence suggests timely decisions are issued routinely under this arrangement. Decisions are typically made within 4-6 weeks by the Secretary of State. As of 1 April 2019, the Welsh Ministers will no longer have access to this regime where it concerns devolved overhead electric lines.
- 4.18 The DNS process has a maximum timeframe of 36 weeks, which can be significantly longer than the Secretary of State's decision period. At present, there is a requirement for all DNS projects to be determined by the Welsh Ministers, rather than an Inspector appointed to examine the application. This can make up 12 weeks of the 36 week determination period for a DNS project.

- 4.19 The effect of the legislation will be to remove this requirement where it concerns overhead electric lines to produce timelier decisions. There are no other logical areas in the DNS process where time savings can be achieved.

The Developments of National Significance (Procedure) (Wales) (Amendment) Order 2019

- 4.20 Paragraphs 4.4 – 4.7 above relate to the addition of devolved overhead electric lines to the specified criteria for DNS. Amendments made by the Developments of National Significance (Procedure) (Wales) (Amendment) Order 2019 are consequential and add further validation requirements where a DNS application concerns a devolved overhead electric line. The effect of this change is to retain the status quo where it concerns the validation requirements for such applications and to reflect validation requirements for existing overhead electric line applications contained at Paragraph 1(2) of Schedule 8 of the Electricity Act 1989.
- 4.21 Additionally, the Order makes amendments to the list of bodies which must be consulted before the grant of planning permission for DNS. The effect of this change is to bring up to date the circumstances in which statutory bodies are consulted during the DNS application process with the circumstances specified in the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (as amended in this respect in 2016). This will ensure consistency with other planning applications.

The Town and Country Planning (Environmental Impact Assessment) (Wales) (Amendment) Regulations 2019

- 4.22 Directive 2014/52/EU (“the 2014 Directive”) requires the authority granting development consent for a particular project to make its decision in full knowledge of any likely significant effects on the environment. Before sections 39 to 42 of the Wales Act 2017 come into force, overhead electric lines are consented either under section 37 of the Electricity Act 1989 or the Planning Act 2008. The transposition of the 2014 Directive in relation to these projects is made by the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2017 (“the Electricity Works EIA Regulations”).
- 4.23 Following the coming into force of sections 39 to 42 of the Wales Act 2017, the consenting of devolved overhead electric lines will fall within the Town and Country Planning Act 1990. Accordingly the Electricity Works EIA Regulations will cease to apply.

- 4.24 The purpose of these Regulations is to transpose the 2014 Directive as it will relate to devolved overhead electric lines in Wales from 1 April 2019. These Regulations will add the installation of devolved overhead electric lines to Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017. The effect of this is such projects will require to be screened for the requirement for an Environmental Impact Assessment in advance of a planning application.
- 4.25 The Regulations also make a consequential change to transitional provisions to clarify alignment with the 2014 Directive.

5. Consultation

- 5.1 A 12 week consultation ran from 30 April to 23 July 2018 on changes to the consenting of infrastructure in Wales. The consultation was drawn to the attention of a wide range of stakeholders including LPAs, generating station operators and their representatives, businesses, planning consultants, interest groups and other public sector agencies. A total of 47 responses were received.
- 5.2 Of the questions relevant to these statutory instruments, there was broad agreement with the proposals. On the whole, while consultees are dismayed with the placing of overhead electric lines into the TCPA by the Wales Act 2017, there was general agreement the approach as set out in these statutory instruments was a pragmatic one. A number of responses were submitted asking for further guidance to accompany the DNS process. In response, existing guidance will be strengthened as a result.
- 5.3 A summary of the consultation responses is available at:
<https://beta.gov.wales/changes-approval-infrastructure-development>.

PART 2 – REGULATORY IMPACT ASSESSMENT

6. Regulatory Impact Assessment

6.1 This Regulatory Impact Assessment assesses the cost and impacts of making changes to the Developments of National Significance (“DNS”) specified criteria, as well as the consequential amendments to associated Regulations and Orders. It is divided into three parts and addresses three amendments to the DNS specified criteria. Those relate to:

- (a) The consenting of generating stations between 50MW and 350MW;
- (b) The consenting of devolved overhead electric lines up to and including 132KV; and
- (c) The consenting of energy storage.

Consenting of applications for generating stations between 50MW – 350MW onshore

6.2 Two options have been considered:

- **Option 1** – Do nothing. Planning applications for consenting generating stations between 50MW – 350MW will be determined by the relevant LPA(s) (with the exception of onshore wind)
- **Option 2** – The maximum thresholds for Developments of National Significance (“DNS”) for generating stations (with the exception of onshore wind) are extended from 50MW to 350MW to ensure all applications of between 10MW – 350MW are consented via the DNS regime and determined by the Welsh Ministers. This is the preferred option.

Option 1 - Do nothing. Planning applications for consenting generating stations between 50MW – 350MW will be determined by the relevant LPA(s) (with the exception of onshore wind).

Description

6.3 The Wales Act 2017 devolves further responsibility for the consenting of energy and infrastructure projects to Wales, including extending the threshold of onshore energy generating projects to 350MW. This does not include applications for onshore wind, which are all consented in Wales, regardless of the output.

- 6.4 This option would retain the default position set out in the Wales Act 2017, whereby applications of between 10MW – 50MW would be consented via the DNS process and applications up to 10MW and those between 50MW – 350MW would be consented at the local level by the relevant LPA(s).

Costs

Welsh Government

- 6.5 This option would see no additional costs to the Welsh Ministers as the additional consenting powers for determining applications of between 50MW – 350MW would be undertaken by the relevant LPA(s) as the prescribed consenting authority.

Local Planning Authority

- 6.6 In the past 8 years, since the coming into force of the Planning Act 2008, there have been a total of 9 applications submitted for an energy generating station of between 50MW – 350MW within Wales, which is an average of 1.1 applications per annum.
- 6.7 As this option would require decisions on planning applications to be made at the local level, these applications would be subject to fees prescribed in the Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (Wales) Regulations 2015 (“the 2015 Regulations”) and be calculated by site area, rather than output. Evidence shows a significant variation between the site area of these applications, which range from 4 hectares to 1,581 hectares. Based on a fee of £190 per 0.1 hectares² (up to a maximum fee of £287,500), this results in fees of between £7,600 - £287,500 for the 9 applications.
- 6.8 The average site area of applications between 50MW and 350MW is 542 hectares, which would result in an average fee of £287,500. Based on an average of 1.1 applications per annum, LPAs would make fee revenue of £316,250, which would be offset by the cost of determining the application.
- 6.9 Furthermore, applicants may also wish to pursue pre-application discussions with the relevant LPA(s) prior to the submission of their application. This will result in a cost to LPAs for providing these services; however, this service is discretionary and costs won't apply in all cases. Thus, the impact has not been assessed.

² Schedule 1 – The Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (Wales) Regulations 2015

Development Industry

- 6.10 Application fees would be subject to the 2015 Regulations which are required to be paid by developers to LPAs to cover the costs of examining and determining these applications.
- 6.11 Based on the average number of applications submitted in Wales which fall within this threshold being 1.1 and the likely fee per application (expected to be the maximum £287,500 based on the average area of a development site) developers can expect to incur costs of approximately £316,250 per annum.
- 6.12 Furthermore, developers bear the cost of preparing their proposed scheme and using the planning system to obtain planning permission. Applications usually require the payment of a fee (or fees) to the relevant consenting authority.
- 6.13 Although developer costs will vary according to the size of a development, it is estimated the cost of preparing an application is £137,600 and £151,500 per year³.
- 6.14 The total estimated annual costs to the development industry will be £467,750.

The Community

- 6.15 The community and interested parties will have the ability to review and comment on proposed schemes submitted to LPAs. However, it is not possible to quantify a financial figure based on the time spent commenting on proposed schemes.

Benefits

Welsh Ministers

- 6.16 There are no identifiable benefits to the Welsh Government as although they would remain as the determining authority for applications relating to onshore generating stations of between 10MW – 50MW, it would be LPAs who would be responsible for determining similar applications of between 50MW – 350MW which would arguably be of greater national significance. This results in an illogical situation.

³ Developments of National Significance – Explanatory Memorandum and Regulatory Impact Assessment (2015) – Updated to 2017/18 costs.

Local Planning Authorities

- 6.17 As the determining authority, LPAs will have greater influence on proposed developments in their area, rather than the Welsh Ministers at the national level determining such applications. However, LPAs may not possess the relevant expertise to determine applications of such a scale.

Development Industry

- 6.18 There are no identifiable benefits to developers as evidence indicates LPA performance in determining larger scale energy projects in a timely manner is poor and therefore, applications may be subject to significant delays. Furthermore, such applications will not be subject to a statutory timeframe, providing less certainty for developers, while decision making may be subject to local politics.

The Community

- 6.19 Community benefits will be negligible as they may contribute and participate in the planning process in the same way.

Option 2 – The maximum thresholds for Developments of National Significance (“DNS”) for generating stations are extended from 50MW to 350MW to ensure all applications of between 10MW – 350MW are consented via the DNS regime and determined by the Welsh Ministers.

Description

- 6.20 To rectify a perverse situation whereby the Welsh Ministers would be the consenting authority for applications of 10MW – 50MW and LPAs would be the consenting authority for applications of 50MW – 350MW, this option proposes to increase the existing DNS thresholds from 50MW to 350MW. This would result in LPAs being the consenting authority for applications up to 10MW and the Welsh Ministers the consenting authority for applications of between 10MW – 350MW.

Costs

Welsh Government

- 6.21 This option would see a cost and revenue increase to the Welsh Ministers for dealing with additional applications of between 50MW – 350MW.

- 6.22 As discussed in Option 1, there will be a total of 1.1 applications per year between 50MW – 350MW. The cost of dealing with these applications via the DNS regime will vary on a case-by-case basis.
- 6.23 Although the DNS process has standard fees for many of the procedures included in dealing with an application (e.g. notification fee, initial fee, LIR costs and determination fee), the fees set for examination are based on a daily rate and vary between written representations and hearings / inquiries.
- 6.24 Furthermore, the DNS process provides for either one of, or any combination of the three examination procedures to ensure this process is proportionate. For example, an application may be examined solely by written representations, a hearing or an inquiry, or may be predominately examined by written representations, with hearings and / or inquiries reserved for specific topics.

| Table 1 – Estimated minimum costs (excluding pre-application services) for each procedure | | | |
|--|-------------------------|----------------|----------------|
| Procedure | Written Representations | Hearing | Inquiry |
| Notification | £580 | £580 | £580 |
| Validation, Representations and Publicity, Determination of procedure | £15,350 | £15,350 | £15,350 |
| Daily Costs ⁴ | £10,400 | £11,040 | £16,560 |
| Advertising (Actual) | £0 | £500 | £500 |
| Venue Hire (Actual) | £0 | £1,600 | £2,400 |
| Welsh Ministers | £14,700 | £14,700 | £14,700 |
| TOTAL | £41,030 | £43,700 | £50,090 |

6.25 Based on the size and scale of potential applications within this threshold, we can assume the majority, if not, all, will be examined by the inquiry procedure. With approximately 1.1 applications submitted each year, this will result in a total cost to the Welsh Ministers of £55,100 per annum. However, these costs will be offset by the submission of relevant fees by developers, resulting in a cost-neutral option to the Welsh Ministers.

⁴ Estimated days: Written Representations / Hearing = 12; Inquiry = 18. Daily Rate: Written Representations = £870; Hearing / Inquiry = £920

- 6.26 The fees for Option 2 are significantly lower as they are not based on a spatial threshold, and purely on the time taken to determine the application.

Local Planning Authority

- 6.27 This option will be cost neutral to LPAs, as they would not be required to examine and determine applications of between 50MW – 350MW. This will mean LPAs will not receive fee revenue, however, there will be no cost incurred in determining applications. LPAs will instead be required to complete an LIR, the £7,750 cost of which will be borne by developers.

Development Industry

- 6.28 This option will benefit developers by reducing their costs for submitting an application. This cost will be £55,100 per year, compared to the annual cost of £316,250 under the 2015 Regulations. The cost of preparing an application will remain the same as Option 1, which is £137,600 per application or an average of £151,500 per year⁵. The total estimated annual costs to the development industry will be £206,600.
- 6.29 In addition to application costs, developers are required to cover the costs of the production and submission of an LIR by the relevant LPA, which is £7,750 where the application is not for a variation. This will result in an additional cost of £8,525 per year, and a total of £215,125.
- 6.30 This will result in an overall cost saving for developers of £252,625.
- 6.31 Additional costs may be incurred by developers, should they seek pre-application advice from either the Welsh Ministers, relevant LPA or both. However, as seeking pre-application services is discretionary and not a mandatory requirement, we are unable to quantify the financial costs for these services

The Community

- 6.32 The community and interested parties are able to review and comment on proposed schemes submitted to the Welsh Ministers and local planning authorities. However, it is not possible to quantify a financial figure based on the time spent commenting on proposed schemes.

⁵ Developments of National Significance – Explanatory Memorandum and Regulatory Impact Assessment (2015) – Uprated to 2017/18 costs.

- 6.33 There is also provision in DNS which enables community and town councils to submit a voluntary LIR. Where they consider it necessary to do so, community and town councils will require time to compile and submit such a report. However, members and volunteers of such councils are generally non-salaried; therefore, this impact is also not financially quantifiable.

Benefits

Welsh Government

- 6.34 As the consenting authority for applications between 50MW – 350MW, the Welsh Ministers will be able to determine those applications considered of greater national significance, rather than decisions being made at the local level. This will address the consenting issue where it would be illogical for smaller projects to be dealt with at the national level, with larger projects consented at the local level.

Local Planning Authorities

- 6.35 By extending the DNS thresholds to capture larger scale projects for determination at the national, rather than local level, LPAs will have greater resource and less time restrictions to focus on their day-to-day role in administering the planning system within their locality.
- 6.36 However, LPAs will retain the ability to have an input in the merits of an application submitted within their locality by submitting an LIR and also encouraging applicants to engage in pre-application discussions.

Development Industry

- 6.37 As well as greater consistency in the determination process, developers will also benefit from more timely decisions, as the current energy thresholds for DNS indicates the performance of LPAs in achieving timely decisions on large scale energy projects is not satisfactory.

The Community

- 6.38 The community and interested parties are able to review and comment on proposed schemes in the same way as they would to LPAs.

Justification for two options

- 6.39 The overall aim for large scale energy projects up to 350MW is to ensure consistency for developers, as well as proportionality. The proposed default

position would see the Welsh Ministers determining medium-scale applications for generating stations via the DNS regime and LPAs determining significantly larger projects.

- 6.40 Therefore, the only possible solution to remedy this is to either have all proposed projects up to 350MW determined via the DNS regime by the Welsh Ministers, or to continue an illogical default position,

Summary and preferred option

- 6.41 The current proposed arrangements (set out in option 1) will result in a perverse situation whereby the Welsh Ministers will determine applications between 10MW – 50MW via the DNS regime (i.e. those of national significance) and applications up to 10MW and between 50MW – 350MW would be determined by LPAs via the Town and Country Planning regime. This offers developers no consistency. Furthermore, evidence which underlies the current energy thresholds for DNS indicates the performance of LPAs in achieving timely decisions on large scale energy projects is not satisfactory.
- 6.42 In order to improve consistency, extending the DNS threshold to capture projects up to 350MW will ensure only the Welsh Ministers are the relevant determining authority, rather than a combination of LPAs and the Welsh Ministers. Therefore, option 2 is the preferred option.

| Table 2: Costs of Option 1 and 2 | | |
|---|-------------------|-------------------|
| | Option 1 | Option 2 |
| Welsh Ministers | £0 (cost neutral) | £0 (cost neutral) |
| LPAs | £0 (cost neutral) | £0 (cost neutral) |
| Development Industry | £467,750 | £215,125 |
| The Community | N/A | N/A |

Overhead electric lines (up to 132KV)

6.43 Three options have been considered:

- **Option 1** – Do nothing. Planning applications for overhead electric lines (up to and including 132KV), where they are associated with a devolved generating station, are determined by the relevant LPA(s).
- **Option 2** – Amend thresholds and criteria for DNS to include overhead electric lines up to and including 132KV, where they are associated with a devolved generating station, to be determined by the Welsh Ministers. By default, altering this threshold will not remove any existing permitted development rights.
- **Option 3** - Amend thresholds and criteria for Developments of National Significance to include overhead electric lines up to 132KV, where they are associated with a devolved generating station, to be determined by an appointed person, namely a Planning Inspector. By default, altering this threshold will not remove any existing permitted development rights. This is the preferred option.

Option 1 – Do nothing. Planning applications for overhead electric lines (up to and including 132KV), where they are associated with a devolved generating station, are determined by the relevant LPA(s).

Description

6.44 Consents to install overhead electric lines are currently issued under section 37 of the Electricity Act 1989 (up to and including 132KV) or the Planning Act 2008 (132KV and above). These are both consents issued by the Secretary of State. From 1 April 2019, the Wales Act 2017 places consenting for these electric lines into the Town and Country Planning Act 1990 (“TCPA”) for such projects to be determined by local planning authorities (“LPA”), by default, where they are associated with a devolved generating station.

Costs

Welsh Government

6.45 There are no costs associated with the Welsh Government as the consenting of overhead electric lines would be the responsibility of the relevant LPA(s).

Local Planning Authority

- 6.46 As this option would see these applications being determined by the LPA, they would be subject to the relevant fees prescribed by this Act which are set out in Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (Wales) Regulations 2015 (“the 2015 Regulations”). However, there are no specific fees set out in the relevant Schedule to the 2015 Regulations to apply to overhead electric lines; therefore, estimated costs to LPAs are based on Category 9(b) of Part 2 to Schedule 1 to the 2015 Regulations (the carrying out of any operations not coming within any of the above categories) which specifies a fee of £190 for each 0.1 hectare of a site area, subject to a maximum fee of £287,500.
- 6.47 Since 2010, BEIS have received approximately 600 applications for overhead electric lines in the Scottish Power Electricity Networks and Western Power Distribution areas under section 37 of the Electricity Act 1989. Those areas largely cover Wales, though also cover parts of England. BEIS or the Distribution providers do not maintain a list of whether those applications are in Wales, the nominal voltage of those lines, their length and information on whether those applications are associated with a devolved generating station on all occasions, although some sporadic information is available. Accordingly, the impact on these applications cannot be assessed.
- 6.48 While this is the case, information is available on applications submitted which have a nominal voltage of 132KV since 2010, which are determined under the Planning Act 2008. Two such applications have been received in this period, which is a total of 0.25 per year. The average line length and width of these applications are 23 km and 0.003 km wide, this is equivalent to 23,000 m in length and 3m wide which calculates to 69,000 sq. m. 69,000 sq. km translates to 6.9 hectares, therefore, the average application would cost LPAs £13,110 under the 2015 Regulations. This is an annual cost and revenue of £3,280 per year.

Development Industry

- 6.49 The cost to developers in application fees will be approximately £3,280 per year for applications of 132KV. No assessable information is available on the amount of applicable applications below this level. Developers also bear the cost of preparing a planning application. This cost will be the same under all Options.

The Community

- 6.50 The community and interested parties are able to review and comment on proposed schemes submitted to the Welsh Ministers and local planning

authorities. However, it is not possible to quantify an amount based on the time spent commenting on proposed schemes.

Benefits

Welsh Government

- 6.51 There are no identifiable benefits to the Welsh Ministers as it would be LPAs determining what are arguably projects of national significance. Ultimately, overhead electric lines are necessary for the operational effectiveness and resilience of the electricity transmission and distribution network. Each link of the network, no matter what the scale, is critical to the network as a whole, ensuring power can be distributed sustainably and economically to customers.

Local Planning Authority

- 6.52 There are no identifiable benefits to LPAs as there will be significant financial and resource implications for having to both determine applications for overhead electric line and potentially liaising with neighbouring LPAs to ensure the appropriate permissions can be viewed as one project.

Development Industry

- 6.53 Being consented at the local level means certain applications for overhead electric lines may pass through multiple LPAs. This will then require separate consents from each LPA, leading to potential delays. Furthermore, the timing of decisions would be uncertain as well as decisions on vital infrastructure being subject to local politics.

The Community

- 6.54 With applications being determined at the local level, communities may respond and contribute to applications, where required.

Option 2 – Amend thresholds and criteria for Developments of National Significance to include overhead electric lines up to and including 132KV, where they are associated with a devolved generating station, to be determined by the Welsh Ministers. By default, altering this threshold will not remove any existing permitted development rights.

Description

- 6.55 Rather than LPAs being the determining authority for overhead electric lines applications up to 132KV, this option would transfer this function into the DNS regime and instead, be determined by the Welsh Ministers.
- 6.56 This option would retain the requirement for all DNS projects to be determined by the Welsh Ministers, which can take up to 36 weeks.

Costs

Welsh Government

- 6.57 Applications for overhead electric lines up to and including 132KV (where they are associated with a devolved generating station) would be subject to fees prescribed in the Developments of National Significance (Fees) (Wales) Regulations 2016, set out in Table 1 above.
- 6.58 Of the known applicable applications submitted since 2010 for overhead electric lines, only one has currently been subject to public examination, by way of an event, which was undertaken by a combination of written representations and hearings. As applications for overhead electric lines are generally uncontroversial, we can assume this would be the likely form of examination procedure for similar applications.
- 6.59 In terms of costs, we can estimate this will be a total of between £41,030 and £43,700 per application. Based on an estimated 0.25 applications submitted per annum, this will result in a cost to the Welsh Ministers of between £10,260 and £10,925 which will be balanced by fee revenue.

Local Planning Authorities

- 6.60 Transferring applications for overhead electric lines up to and including 132KV into the DNS regime will require LPAs to produce and submit a Local Impact Report (“LIR”) for each DNS application. The costs to produce an LIR on a new application is £7,750 per application. Based on an estimated average of 0.25 applications per annum, the total cost to LPAs would be £1,940 per year, which will be offset by fee revenue.

Development Industry

- 6.61 As discussed in paragraphs Option 1, developers bear the cost of preparing their proposed scheme and using the planning system to obtain planning permission. Applications usually require the payment of a fee (or fees) to the relevant consenting authority. From the 0.25 applications per year, it is estimated the total fee, including LIR, will be between £12,200 and £12,865.

The Community

- 6.62 The community and interested parties are able to review and comment on proposed schemes submitted to the Welsh Ministers and local planning authorities. However, it is not possible to quantify a financial figure based on the time spent commenting on proposed schemes.
- 6.63 There is also provision in DNS which enables community and town councils to submit a voluntary LIR. Where they consider it necessary to do so, community and town councils will require time to compile and submit such a report. However, members and volunteers of such councils are generally non-salaried; therefore, this impact is also not financially quantifiable.

Benefits

Welsh Government

- 6.64 As the consenting authority for applications relating to overhead electric lines up to and including 132KV, the Welsh Ministers will be able to determine those applications considered of greater national significance, rather than decisions being made by LPAs.

Local Planning Authorities

- 6.65 By extending the DNS thresholds to capture larger scale projects for determination at the national, rather than local level, LPAs will have greater resource and less time restrictions to focus on their day-to-day role in administering the planning system within their locality. However, LPAs will retain the ability to have an input in the merits of an application submitted within their locality by submitting an LIR and also encouraging applicants to engage in pre-application discussions.

Development Industry

- 6.66 Although developers would see an increase in costs and determination times when compared to option 1, they benefit from potentially only submitting one application for determination as applications for overhead electric lines may extend beyond one LPA boundary, which will then require separate applications for each part of the electric line falling within each LPA boundary leading to potential delays.

The Community

- 6.67 Although applications would be determined at the national level rather than local level under this option, the community and interested parties will still retain the right to comment on, and put forward representations relating to an application.
- 6.68 Community and Town councils will also benefit from this option by having the ability to submit an LIR to the Welsh Ministers.

Option 3 - Amend thresholds and criteria for Developments of National Significance to include overhead electric lines up to 132KV, where they are associated with a devolved generating station, to be determined by an appointed person, namely a Planning Inspector. By default, altering this threshold will not remove any existing permitted development rights.

Description

- 6.69 Similar to option 2, this option would see applications for overhead electric lines up to 132KV be examined and determined by the Welsh Ministers rather than at the local level, where they are associated with a devolved generating station.
- 6.70 However, at present, there is a requirement for all DNS projects to be determined by the Welsh Ministers, rather than by an Inspector appointed on their behalf. This option would seek to amend the current arrangements by allowing the Welsh Ministers to appoint an Inspector on their behalf to undertaking the examination and determination of these applications.

Costs

Welsh Government

- 6.71 As set out in Option 2, the cost to the Welsh Ministers will be between £41,030 and £43,700 per application. However, in these instances, the Welsh Ministers will not recover the application for determination. This costs £14,700. Thus, the total cost the Welsh Ministers will be between £26,330 and £29,000. This will be offset by fees.

Local Planning Authorities

- 6.72 There will be no additional costs to LPAs under this option when compared to option 2. Therefore, the total estimated costs to LPAs will be approximately £1,940 per year.

Development Industry

- 6.73 There will be a cost saving to developers under this option when compared to Option 2, as fees will be lower. Under Option 2, including LIR, fees will be between £12,200 and £12,865. However, as the Welsh Ministers' cost of £14,700 for determining the application will not be included, the total estimated cost will be approximately between £8,525 and £9,190; a saving on Option 2.

The Community

- 6.74 Similar to option 2, the community and interested parties are able to review and comment on proposed schemes submitted to the Welsh Ministers and local planning authorities. However, it is not possible to quantify a financial figure based on the time spent commenting on proposed schemes.
- 6.75 The ability for community and town councils to submit an LIR will also remain.

Benefits

Welsh Government

- 6.76 The ability for the Welsh Ministers to transfer responsibility for determining applications for overhead electric lines to an Inspector will mean the Welsh Ministers can use the resources saved from determining these applications to carry out the necessary work to determine more complex and controversial applications.
- 6.77 There is also the additional benefit of Welsh Ministers retaining the power to recover jurisdiction over DNS applications, should they consider it appropriate.

Local Planning Authorities

- 6.78 Similar to Option 2, LPAs will have greater resource and less time restrictions to focus on their day-to-day role in administering the planning system within their locality.
- 6.79 However, LPAs will retain the ability to have an input in the merits of an application submitted within their locality by submitting an LIR and also encouraging applicants to engage in pre-application discussions.

Development Industry

- 6.80 As with Option 2, developers will only need to engage with a single consenting authority rather than potentially having to submit an application to more than one LPA (in cases where a development would cross LPA boundaries).
- 6.81 At present, there is a requirement for all DNS projects to be determined within a 36 week period. However, by allowing Inspectors to determine applications for overhead electric lines, this can reduce the existing timeframe by 12 weeks, providing timelier decisions to developers, along with a cost saving.

The Community

- 6.82 Although applications would be determined at the national level rather than local level under this option, the community and interested parties will still retain the right to comment on, and put forward representations relating to an application.
- 6.83 Community and Town councils will also benefit from this option by having the ability to submit an LIR to the Welsh Ministers.

Summary and preferred option

- 6.84 The potential for overhead electric line applications to pass through a number of LPA boundaries will mean separate consents will be required, potentially leading to significant delays to developers. It is therefore preferable for these applications to be determined at the national level, ensuring one consenting authority.
- 6.85 However, compared to existing timeframes, the Welsh Ministers will have a 36 week determination period for these applications under the DNS regime, unless they have the ability to appoint an Inspector to determine them on their behalf, which can reduce this timescale by 12 weeks. While there will be additional cost to developers relative to Option 1, the benefit outweighs this cost.
- 6.86 Therefore, option 3 is the preferred option.

| Table 3: Option 1, Option 2 and Option 3 | | | |
|---|-------------------|------------------------------|----------------------------|
| | Option 1 | Option 2 | Option 3 |
| Welsh Ministers | £0 (cost neutral) | £0 (cost neutral) | £0 (cost neutral) |
| LPAs | £0 (cost neutral) | £0 (cost neutral) | £0 (cost neutral) |
| Development Industry | £3,280* | Between £12,200 and £12,865* | Between £8,525 and £9,190* |
| The Community | N/A | N/A | N/A |

*Due to a lack of available information, these costs do not include overhead electric lines under 132KV.

Energy storage

6.87 Two options have been considered:

- Option 1 – Do nothing. Energy storage applications above 10MW continue to be determined by the Welsh Ministers via the Developments of National Significance (“DNS”) regime.
- Option 2 – Remove energy storage applications above 10MW from DNS, for determination at the local level by the relevant LPA. This is the preferred option.

Option 1 – Do Nothing. Energy storage applications above 10MW continue to be determined by the Welsh Ministers via the DNS regime.

Description

6.88 This option would retain the status quo and applications for energy storage projects above 10MW must seek planning consent via the DNS process.

Costs

Welsh Government

- 6.89 In the 2.5 years since DNS came into force, no applications for energy storage have been received by the Welsh Ministers, therefore, it is not possible to quantify the likely costs to the Welsh Ministers over a set period. However, Table 1 (above) sets out the estimated minimum costs for engaging in the DNS process.
- 6.90 Between 2006 – 2016 one application for energy storage was submitted in Wales, which consisted of a 10MW battery storage project. Although this application pre-dated the DNS process, research⁶ has indicated the application was determined within a five week period and there were no significant hurdles in the planning process.
- 6.91 Based on this information, it would be reasonable to assume the majority of applications for a storage facility of above 10MW would likely be examined by way of either written representations or by hearing (or a combination of these procedures). Therefore, estimated costs to the Welsh Ministers for examining and determining an application within this threshold would likely cost between £41,030 and £43,700. However, these costs will be recovered through fee revenue and is therefore, cost-neutral.
- 6.92 Developers may also seek pre-application services from the Welsh Ministers, which would also incur a cost. However, as seeking pre-application services is discretionary and not a mandatory requirement, we are unable to quantify the financial costs for these services.

Local Planning Authority

- 6.93 Retaining energy storage applications within DNS will require LPAs to produce and submit a Local Impact Report (“LIR”) for each DNS application. The cost of producing an LIR on a new scheme is £7,750. These costs will be recovered through fee revenue.

Development Industry

- 6.94 Applications for storage above 10MW will likely be examined by written representations or hearing (or a combination of these procedures), although if deemed necessary, hearings and inquiries will be used. This is a cost of approximately between £41,030 and £43,700 per application, along with a fee

⁶ Research into the thresholds and criteria for Development of National Significance in Wales (prescribed under Section 62D of the Town and Country Planning Act 1990 – Parsons Brinckerhoff (April 2017)

for the production of an LIR to the LPA of £7,750. This is a total of between £48,780 and £51,450 in fees per application.

- 6.95 Further additional costs may be incurred by developers, should they seek pre-application advice from either the Welsh Ministers, relevant LPA or both. However, as seeking pre-application services is discretionary and not a mandatory requirement, we are unable to quantify the financial costs for these services.
- 6.96 The cost of preparing an application has not been assessed as this would be the same in all cases.

The Community

- 6.97 The community and interested parties are able to review and comment on proposed schemes submitted to the Welsh Ministers and local planning authorities. However, it is not possible to quantify a financial figure based on the time spent commenting on proposed schemes.
- 6.98 There is also provision in DNS which enables community and town councils to submit a voluntary LIR, although none have been submitted to date. Where they consider it necessary to do so, community and town councils will require time to compile and submit such a report. However, members and volunteers of such councils are generally non-salaried; therefore, this impact is also not financially quantifiable.

Benefits

Welsh Government

- 6.99 There are no identifiable benefits to the Welsh Government as they would remain as the determining authority for applications relating storage projects above 10MW. The DNS process would be used to determine applications which are unlikely to be proportionate to the process.

Local Planning Authority

- 6.100 Although LPAs would be the consenting authority for applications of up to 10MW, they would retain a role within the DNS process by having the ability to submit LIRs to the Welsh Ministers, ensuring these representations are taken into account when examining and determining an application. However, it would be more appropriate for LPAs to be the determining authority for applications up to 10MW.

Development Industry

- 6.101 There are no identifiable benefits to the development industry under this option, as the DNS regime can act as a consenting barrier when assessing the minimal physical scale and impacts of storage technologies above 10MW. Furthermore, this option would see developers being required to submit an application through different consenting regimes (either DNS or TCPA), depending on the size of a proposed development.

The Community

- 6.102 Communities and interested parties would benefit from the opportunity to review and comment on proposed schemes submitted to the Welsh Ministers and LPAs.
- 6.103 There is also provision in DNS which enables community and town councils to submit a voluntary LIR. Where they consider it necessary to do so, community and town councils will require time to compile and submit such a report.

Option 2 – Remove energy storage applications above 10MW from DNS, for determination at the local level by the relevant LPA.

Description

- 6.104 This option would see the removal of storage projects from the DNS process (i.e. between 10MW – 50MW) and transfer the examination and determination of these applications back to LPAs, who would now be responsible for consenting all applications for energy storage up to 350MW, onshore.

Costs

Welsh Government

- 6.105 As this option proposes applications for storage up to 350MW being examined and determined at the local level, the Welsh Ministers will not receive fee revenue of between £41,030 - £43,700 per application. However, as the DNS process is predicated on full cost recovery, the impact would be cost-neutral. As discussed in Option 1, there have been no applications for storage submitted to the Welsh Ministers under the DNS process.

Local Planning Authority

- 6.106 LPAs will be required to examine and determine applications for storage, up to 350MW, which will incur a cost for undertaking this work.

- 6.107 However, rather than applications being determined using the current DNS fees, they will be subject to fees set out in the Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (Wales) Regulations 2015 (“the 2015 Regulations”).
- 6.108 As there are no specific fees set out in the relevant Schedule to the 2015 Regulations to apply to energy storage facilities, estimated costs to LPAs are based on Category 9(b) of Part 2 to Schedule 1 to the 2015 Regulations (the carrying out of any operations not coming within any of the above categories) which specifies a fee of £190 for each 0.1 hectare of a site area, subject to a maximum fee of £287,500.
- 6.109 Although little evidence is available due to a lack of storage applications having been submitted in Wales, the case study identified in Option 1 was based on a 10MW storage facility which covered 0.27 hectares.
- 6.110 The 2015 Regulations specify a fee of £190 per 0.1 hectare. Therefore, the application for a 10MW storage facility would require a fee of £570.
- 6.111 There will also be a loss of revenue for LPAs who will no longer be required to produce and submit an LIR. While this is the case, the fees apportioned for the determination of an application and the production of an LIR are based on actual costs. This option is therefore cost-neutral.

Development Industry

- 6.112 Developers will still be required to submit a fee with their application for storage, although they would be subject to the fees prescribed in the 2015 Regulations rather than DNS fees and therefore, taking account of site area rather than output.
- 6.113 Developers will be required to pay a fee of £570 on average per application. This is a saving of between £48,210 and £50,880 on Option 1. The Development Industry will also be required to bear the cost of preparing an application.

The Community

- 6.114 Similar to option 1, communities and interested parties will continue to have the opportunity to put forward their representations on proposed schemes to the LPA, although it is not possible to quantify a sum based on the time spent commenting on proposed schemes.

6.115 if storage applications are removed from the DNS process, community and town councils will be unable to submit an LIR, although, they will retain the opportunity to put forward representations outlining their views.

Benefits

Welsh Government

6.116 Removing storage projects from DNS will allow the Welsh Government to focus resources on other applications and consents which require greater input and more time.

Local Planning Authority

6.117 As the determining authority, LPAs will have greater influence on developments of a local scale in their area.

Development Industry

6.118 As well as a significant cost saving in relation to application costs, developers can expect barriers to the consenting process to be removed and an overall more proportionate method for determining storage applications.

The Community

6.119 Benefits to the community and interested parties will be negligible as these groups may contribute and participate in the planning process in the same manner as discussed in option 1.

Justification for 2 options

6.120 The consenting of any development remains enshrined in the TCPA regime, including energy storage. However, the only variable is the process. This may be either DNS, as at present, or conventional planning permission from LPAs. There are no other alternatives.

Summary and preferred option

6.121 Evidence⁷ has suggested storage projects would be better suited to being determined at the local level rather than the national level. Furthermore, the current proposed arrangements (set out in Option 1) will introduce a situation

⁷ Research into the thresholds and criteria for Development of National Significance in Wales (prescribed under Section 62D of the Town and Country Planning Act 1990 – Parsons Brinckerhoff (April 2017)

where both LPAs and the Welsh Ministers would be the relevant consenting authority, depending on the threshold of a project, which does not offer developers consistency where it concerns storage applications.

6.122 In terms of costs, both options are cost-neutral for the Welsh Ministers and LPAs as the fees required to be submitted with an application are set at a level which achieves cost recovery for these determining authorities. However, Option 2 provides a significant cost saving to developers, which may result in a greater number of applications being submitted in Wales as a more attractive option to developers.

6.123 In order to ensure proportionality and consistency, moving storage projects out of the DNS regime for determination at the local level is the most suitable way forward. Therefore, Option 2 is the preferred option.

| Table 4: Option 1 and Option 2 (cost per-application) | | |
|--|-----------------------------|-------------------|
| | Option 1 | Option 2 |
| Welsh Ministers | £0 (cost neutral) | £0 (cost neutral) |
| LPAs | £0 (cost neutral) | £0 (cost neutral) |
| Development Industry | Between £48,780 and £51,450 | £570 |
| The Community | N/A | N/A |

ANNEX 1: COMPETITION FILTER

| Question | Answer |
|--|--------|
| Q1: In the market(s) affected by the new regulation, does any firm have more than 10% market share? | No |
| Q2: In the market(s) affected by the new regulation, does any firm have more than 20% market share? | No |
| Q3: In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share? | No |
| Q4: Would the costs of the regulation affect some firms substantially more than others? | No |
| Q5: Is the regulation likely to affect the market structure, changing the number or size of firms? | No |
| Q6: Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet? | No |
| Q7: Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet? | No |
| Q8: Is the sector characterised by rapid technological change? | No |
| Q9: Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products? | No |

SL(5)351 - Gorchymyn Cynllunio Gwlad a Thref (Datblygu Cyffredinol a Ganiateir) (Diwygio) (Cymru) 2019

Cefndir a Diben

Mae Gorchymyn Cynllunio Gwlad a Thref (Datblygiad Cyffredinol a Ganiateir) 1995 ("y GDCG"), fel y'i diwygiwyd, yn caniatáu i rai mân ddatblygiadau gael eu cynnal heb yr angen i gyflwyno cais cynllunio. Gelwir hyn yn "ddatblygiad a ganiateir".

Mae'r Gorchymyn hwn yn diwygio'r GDCG trwy:

- Ganiatáu gosod pwyntiau a standiau trydanol ar gyfer ailwefru cerbydau trydan;
- Caniatáu gosod llinellau uwchben penodol;
- Ymestyn hawliau datblygu a ganiateir mewn perthynas ag uchder a lled mastiau a osodir ar y ddaear ac yn ymestyn y cyfnod ar gyfer defnyddio tir ar gyfer cyfarpar cyfathrebiadau electronig symudol o chwe mis i 18 mis
- Gwneud diwygiadau mewn perthynas ag adeiladu a gosod cyfarpar penodol ar gyfer gwasanaethau band eang llinell sefydlog ac o ran doddi cyfarpar yn lle cyfarpar arall.
- Ymestyn hawliau datblygu a ganiateir ar gyfer gosodiadau solar annomestig tra ei fod yn gwahardd gosod o fewn tri chilometr i berimedr maes awyr neu faes glanio.

Gweithdrefn

Negyddol.

Materion technegol: craffu

Nodir y pwyntiau a ganlyn i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.2(vi) mewn perthynas â'r offeryn hwn – yr ymddengys fod y gwaith o'i ddrafftio'n ddiffygiol:

- Ym mharagraff A.2(1)(a)(i) o Atodlen 1 i'r offeryn hwn, dylai'r cyfeiriad at **adran** 10(b) [ychwanegwyd pwyslais] o'r Atodlen i Ddeddf Goleuni Trydan (Cymalau) 1899 gyfeirio at **baragraff** 10(b) [ychwanegwyd pwyslais] o'r Atodlen i Ddeddf Goleuni Trydan (Cymalau) 1899.
- Mae paragraff A.3(5) o Atodlen 2 i'r offeryn hwn yn cynnwys y geiriad "*in receipt of the application under paragraph (4)*". Fodd bynnag, y ddarpariaeth sy'n nodi bod rhaid i gais gael ei anfon at yr awdurdod lleol yw paragraff (3). Mae paragraff (4) yn rhagnodi'r hyn y mae'n rhaid iddo gyd-fynd â chais. Felly, y cyfeiriad cywir ym mharagraff A.3(5) fyddai at baragraff (3) yn hytrach nag at baragraff (4).

Rhinweddau: craffu

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.



Y goblygiadau yn sgil gadael yr Undeb Ewropeaidd

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.

Ymateb y Llywodraeth

Mae'r elfen craffu technegol o'r adroddiad drafft yn cyfeirio at ddau wall drafftio. Mae un o'r rhain yn cael ei dderbyn.

Pwynt 1 – Paragraff A.2(1)(a) o Atodlen 1

Nodir a derbynnir y pwynt adrodd hwn. Bydd y llywodraeth yn gofalu y caiff hyn ei gywiro drwy gyfrwng slip cywiro.

Pwynt 2 – Paragraff A.3(5)

Cafodd y croesgyfeiriad ym mharagraff A.3(5) ei ystyried yn ystod y broses ddrafftio. Gwnaed penderfyniad ymwybodol i gynnwys cyfeiriad at baragraff (4) yn hytrach na pharagraff (3). Y rheswm am hynny yw bod rhaid i'r cais sy'n dod i law gynnwys yr eitemau a restrir ym mharagraff (4). Mae hyn yn gyson â pharagraff A.3(5) o Ran 24 o Atodlen 1 i Orchymyn Cynllunio Gwlad a Thref (Datblygu Cyffredinol a Ganiateir) 1995 fel y mae mewn grym ar hyn o bryd.

Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

6 Mawrth 2019



OFFERYNNAU STATUDOL
CYMRU

2019 Rhif 330 (Cy. 80)

**CYNLLUNIO GWLAD A
THREF, CYMRU**

**Gorchymyn Cynllunio Gwlad a
Thref (Datblygu Cyffredinol a
Ganiateir) (Diwygio) (Cymru) 2019**

NODYN ESBONIADOL

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

Mae'r Gorchymyn hwn yn diwygio Gorchymyn Cynllunio Gwlad a Thref (Datblygu Cyffredinol a Ganiateir) 1995 ("y GDCG") o ran Cymru.

Mae erthygl 3 o'r GDCG, ac Atodlen 2 iddo, yn rhoi hawliau datblygu a ganiateir mewn cysylltiad â datblygu penodol. Pan roddir yr hawliau hynny, nid yw cais am ganiatâd cynllunio yn ofynnol.

Mae'r Gorchymyn hwn yn diwygio Atodlen 2 i'r GDCG drwy—

- mewnosod Dosbarthau D ac E yn Rhan 2 (mân weithrediadau) i ganiatáu gosod pwyntiau a standiau ailwefru cerbydau trydan;
- mewnosod Rhan 17A (gosod llinellau cysylltiedig datganoledig) i ganiatáu gosod llinellau trydan uwchben penodol;
- amnewid Rhan 24 (datblygu gan weithredwyr cod cyfathrebu electronig (Cymru)). Mae'r newidiadau i'r Rhan hon yn ymestyn hawliau datblygu a ganiateir mewn perthynas ag uchder a lled mastiau a osodir ar y ddaear ac yn ymestyn y cyfnod ar gyfer defnyddio tir ar gyfer cyfarpar cyfathrebiadau electronig symudol mewn argyfwng o chwe mis i 18 mis;
- diwygio Rhan 43 (gosod cyfarpar microgynhyrchu annomestig) i ymestyn hawliau datblygu a ganiateir ar gyfer gosodiadau solar annomestig.

Mae'r Gorchymyn hwn hefyd yn gwneud mân ddiwygiadau er mwyn cynorthwyo o ran eglurder.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Gorchymyn hwn. O ganlyniad, lluniwyd asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Gorchymyn hwn. Mae copïau ar gael oddi wrth: Llywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ ac ar wefan Llywodraeth Cymru ar www.llyw.cymru.

OFFERYNNAU STATUDOL
CYMRU

2019 Rhif 330 (Cy. 80)

**CYNLLUNIO GWLAD A
THREF, CYMRU**

**Gorchymyn Cynllunio Gwlad a
Thref (Datblygu Cyffredinol a
Ganiateir) (Diwygio) (Cymru) 2019**

Gwnaed 20 Chwefror 2019

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru* 21 Chwefror 2019

Yn dod i rym 1 Ebrill 2019

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir i'r Ysgrifennydd Gwladol gan adrannau 59, 60, 61 a 333 o Ddeddf Cynllunio Gwlad a Thref 1990(1), ac sydd bellach yn arferadwy ganddynt hwy(2), yn gwneud y Gorchymyn a ganlyn:

Enwi, cychwyn a dehongli

1.—(1) Enw'r Gorchymyn hwn yw Gorchymyn Cynllunio Gwlad a Thref (Datblygu Cyffredinol a Ganiateir) (Diwygio) (Cymru) 2019.

(2) Daw'r Gorchymyn hwn i rym ar 1 Ebrill 2019.

(3) Yn y Gorchymyn hwn, mae cyfeiriadau at—

-
- (1) 1990 p. 8. Diwygiwyd adran 59 gan adran 27 o Ddeddf Cynllunio (Cymru) 2015 (dccc 4) a pharagraff 3 o Atodlen 4 iddi, a chan adran 55 o'r Ddeddf honno, a pharagraff 5 o Atodlen 7 iddi. Nid yw'r diwygiadau eraill i adran 59 yn berthnasol i'r Gorchymyn hwn.
- (2) Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol i Gynulliad Cenedlaethol Cymru gan erthygl 2 o Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672), gweler y cofnodion priodol yn Atodlen 1. Trosglwyddwyd swyddogaethau Cynulliad Cenedlaethol Cymru i Weinidogion Cymru yn rhinwedd adran 162 o Ddeddf Llywodraeth Cymru 2006 (p. 32), a pharagraffau 30 a 32 o Atodlen 11 iddi.

- (a) Atodlen 2 yn gyfeiriadau at Atodlen 2 o Orchymyn Cynllunio Gwlad a Thref (Datblygu Cyffredinol a Ganiateir) 1995(1); a
- (b) Rhan â rhif yn gyfeiriadau at y Rhan honno o Atodlen 2.

Diwygio Gorchymyn Cynllunio Gwlad a Thref (Datblygu Cyffredinol a Ganiateir) 1995

2. Mae Atodlen 2 wedi ei diwygio fel y nodir yn erthyglau 3 i 7.

Mân weithrediadau: ailwefru cerbydau trydan

3. Yn Rhan 2 (mân weithrediadau) ar ôl Dosbarth C mewnosoder—

“Class D

Permitted development

D. The installation, alteration or replacement within an area lawfully used for off-street parking, of an electrical outlet mounted on a wall for recharging electric vehicles.

Development not permitted

D.1 Development is not permitted by Class D if the outlet and its casing would—

- (a) exceed 0.2 cubic metres;
- (b) face onto and be within two metres of a highway; or
- (c) be within a site designated as a scheduled monument.

Class E

Permitted development

E. The installation, alteration or replacement within an area lawfully used for off-street parking, of an upstand with an electrical outlet mounted on it for recharging electric vehicles.

Development not permitted

E.1 Development is not permitted by Class E if the upstand and the outlet would—

(1) O.S. 1995/418. Gwnaed diwygiadau perthnasol gan O.S. 2002/1878 (Cy. 187), O.S. 2003/2155, O.S. 2012/2318 (Cy. 252), O.S. 2014/2692 (Cy. 267) ac O.S. 2018/554 (Cy. 95). Nid yw'r diwygiadau eraill yn berthnasol i'r Gorchymyn hwn.

- (a) exceed 1.6 metres in height from the level of the surface used for the parking of vehicles;
- (b) be within two metres of a highway;
- (c) be within a site designated as a scheduled monument; or
- (d) result in more than one upstand being provided for each parking space.”

Datblygu gan awdurdodau lleol

4. Yn Rhan 12 (datblygu gan awdurdodau lleol) yn Nosbarth A ar ôl paragraff A.(b) mewnosoder—

- “(c) electric vehicle charging points and any associated infrastructure.”

Llinellau cysylltiedig datganoledig

5.—(1) Yn Rhan 17 (datblygu gan ymgwymerwyr statudol) ym mharagraff G.1(a), cyn is-baragraff (i) mewnosoder—

- “(ai) it would consist of or include the installation or replacement of a devolved associated line within the meaning set out in paragraph A.3(1) of Part 17A;”

(2) Ar ôl Rhan 17, mewnosoder Rhan 17A fel y mae wedi ei nodi yn Atodlen 1 i'r Gorchymyn hwn.

Datblygu gan Weithredwyr Cod Cyfathrebu Electronig

6. Yn lle Rhan 24 (datblygu gan weithredwyr cod cyfathrebu electronig (Cymru))(1) rhodder Rhan 24 fel y mae wedi ei nodi yn Atodlen 2 i'r Gorchymyn hwn.

Gosodiadau solar annomestig

7.—(1) Mae Rhan 43 (gosod cyfarpar microgynhyrchu annomestig)(2) wedi ei diwygio fel a ganlyn.

(2) Yn lle'r pennawd i Ran 43 rhodder “Installation of non-domestic energy generation equipment”.

(3) Ym mharagraff A.1 (datblygu nas caniateir) ar ddiwedd is-baragraff (f) hepgorer “or” ac ar ôl is-baragraff (g) mewnosoder—

“; neu

- (h) the solar PV or solar thermal equipment would be installed on a

(1) Amnewidiwyd Rhan 24 gan O.S. 2002/1878 (Cy. 187) ac fe'i diwygiwyd gan O.S. 2003/2155, O.S. 2004/945, O.S. 2014/2692 (Cy. 267) ac O.S. 2018/554 (Cy. 95).

(2) Mewnosodwyd Rhan 43 gan O.S. 2012/2318 (Cy. 252).

building within three kilometres of the perimeter of an airport or aerodrome.”

(4) Ym mharagraff A.2 (amodau) —

(a) yn is-baragraff (b) hepgorer “and”;

(b) ar ôl is-baragraff (b) mewnosoder—

“(ba) solar PV or solar thermal equipment must, so far as practicable, be sited so as to minimise any impacts from glint or glare; and”;

(c) yn is-baragraff (c) yn lle “capable of microgeneration” rhodder “capable of generation”.

(5) Ym mharagraff B.1 (datblygu nas caniateir) ar ddiwedd is-baragraff (b)(v) hepgorer “or” ac ar ôl is-baragraff (c) mewnosoder—

“; or

(d) the stand alone solar would be installed within three kilometres of the perimeter of an airport or aerodrome.”

(6) Ym mharagraff B.2 (amodau)—

(a) yn is-baragraff (a) hepgorer “and”;

(b) ar ôl is-baragraff (a) mewnosoder—

“(aa) stand alone solar must, so far as practicable, be sited so as to minimise any impacts from glint or glare; and”;

(c) yn is-baragraff (b) yn lle “capable of microgeneration” rhodder “capable of generation”.

(7) Ym mharagraff C.1 (datblygu nas caniateir) yn is-baragraff (c) hepgorer “or” ac ar ôl is-baragraff (d) mewnosoder—

“;or

(e) the capacity of the ground source heat pump exceeds 45 kilowatts thermal.”

(8) Yn lle paragraff D.1 (datblygu nas caniateir) rhodder—

“**D.1.** Development is not permitted by Class D if—

(a) the total area covered by the water source heat pump (including any pipes) exceeds 0.5 hectares; or

(b) the capacity of the water source heat pump exceeds 45 kilowatts thermal.”

(9) Ym mharagraff G (dehongli Rhan 43) mewnosoder yn y manau priodol—

““aerodrome” does not include any area the use of which for affording facilities for the landing and departure of aircraft has been abandoned and has not been resumed;”

““airport” has the meaning given by section 66 of the Civil Aviation Act 2012(1);”.

Hannah Blythyn

Y Dirprwy Weinidog Tai a Llywodraeth Leol, o dan awdurdod y Gweinidog Tai a Llywodraeth Leol, un o Weinidogion Cymru
20 Chwefror 2019

(1) 2012 p. 19.

ATODLEN 1 Erthygl 5(2)

Gosod llinellau cysylltiedig datganoledig

“PART 17A

Installation of devolved associated
lines

Class A

Permitted Development

A. Development by statutory undertakers for the generation, transmission or supply of electricity for the purposes of their statutory undertaking consisting of—

- (a) the installation of a devolved associated line with a nominal voltage not exceeding 20 kilovolts used or intended to be used for supplying a single consumer;
- (b) the installation of so much of a devolved associated line as is or will be within premises in the occupation or control of the person responsible for its installation;
- (c) the installation of a devolved associated line which—
 - (i) connects an electric line installed below ground with apparatus mounted on a pole or structure; and
 - (ii) is attached to the pole or structure throughout its length except where it passes through a fuse or other apparatus;
- (d) the installation for a period not exceeding six months of a devolved associated line which connects two points on an existing line which are no further apart than the maximum distance so as to provide a diversion for the existing line;
- (e) the installation of a devolved associated line attached to a building where the building in question crosses a road, railway or watercourse and its principal purpose is not the support of the line;

- (f) the installation of a devolved associated line which replaces an existing line whether or not it is installed in the same position as the existing line in question;**
- (g) the installation of one or more additional poles to support an existing devolved associated line;**
- (h) the installation of a devolved associated line which has been, or is to be, installed in accordance with a power conferred by, or by an order made under, an Act of Parliament or an Act of the National Assembly for Wales.**

Development not permitted

A.1.—(1) Development is not permitted by Class A if:

- (a) in the case of any Class A(d) and (f) development, any part of the line is within a European site or a site of special scientific interest;
- (b) (save as provided for in paragraph A.2(3)) in the case of any Class A(d), (f) or (g) development—
 - (i) the line is to be installed in a different position from the existing line; or
 - (ii) the height above the surface of the ground of any support for the line will exceed the height of the highest support which is to be replaced;
 - (iii) the installation will be in a National Park or an area of outstanding natural beauty, and it is determined there is likely to be a significant adverse effect on the environment;
- (c) in the case of any Class A(e) development, the building in question is a scheduled monument, a listed building or in a conservation area;
- (d) in the case of any Class A(f) development the line has a nominal voltage greater than the nominal voltage of the existing line.

(2) For the purposes of paragraph A.1(b) it is determined that there is likely to be a significant adverse effect on the environment if—

- (a) notice is given by the person proposing to carry out the installation to the local planning authority of that proposal; and
- (b) the authority, within six weeks of receiving that notice—
 - (i) determines that if the installation were completed in accordance with the proposal it would in the opinion of that authority be likely to have a significant adverse effect on the environment; and
 - (ii) notifies the person by whom the notice was given and the Welsh Ministers of that determination.

Conditions

A.2.—(1) Development is permitted in the case of any Class A (f) and (g) development subject to the following conditions—

- (a) that any conditions applicable to the existing line contained in—
 - (i) a consent granted under section 37(1) of the Electricity Act 1989⁽¹⁾ (consent required for overhead lines) or section 10(b) of the Schedule to the Electric Lighting (Clauses) Act 1899⁽²⁾; or
 - (ii) an order granting development consent under the Planning Act 2008⁽³⁾, or
 - (iii) a planning permission relating to the height, design or position of the existing line which are capable of being applied to the installation;

are complied with;
- (b) that the height above the surface of the ground of any support for the line does not exceed the height of the highest existing support or support which is being replaced by more than 10 per cent;
- (c) that where the line is installed in a different position from the existing line the distance between any small support and the existing line does not exceed 30 metres and the distance between any

(1) 1989 p. 29. Diwygiwyd adran 37(1) gan baragraff 33 o Atodlen 2 i Ddeddf Cynllunio 2008 (p. 29) a chan adran 42 o Ddeddf Cymru 2017 (p. 4).

(2) 1899 p. 19. Diddymwyd y Ddeddf gan Ddeddf Trydan 1989.

(3) 2008 p. 29. Gweler adran 31 am y diffiniad o “development consent.”.

other support and the existing line does not exceed 60 metres; and

- (d) that where the line is installed in a different position from the existing line, the existing line is removed within twelve months from the date on which the installation of the line which replaces it is completed.

(2) Development is permitted in the case of any Class A(d) development subject to the conditions that—

- (a) at the end of a period of six months from the date on which the installation is completed or on the ending of the diversion (whichever is the sooner) the devolved associated line is removed; and
- (b) the land on which any operations have been carried out is restored as soon as reasonably practicable to its condition before the development took place.

(3) Where it is necessary to make emergency repairs to an existing devolved associated line in a National Park or an area of outstanding natural beauty—

- (a) the limitation in paragraph A.1.(1)(b) does not apply; and
- (b) development is permitted subject to the condition that the person making those emergency repairs must notify the local planning authority as soon as practicable that those repairs have been, are being or will be made.

Interpretation of Class A

A.3—(1) For the purposes of this Part—

“devolved associated line” means an electric line which—

- (a) is above ground;
- (b) has a nominal voltage of 132 kilovolts or less, and
- (c) is associated with the construction or extension of a devolved Welsh generating station granted planning permission or consented to on or after 1 April 2019;

“devolved Welsh generating station” has the same meaning as in section 37(2B) of the Electricity Act 1989(1);

(1) Mewnsoodwyd adran 37(2B) gan adran 42(3) o Ddeddf Cymru 2017 (p. 4).

“electric line” has the meaning assigned to that term by section 64(1) of the Electricity Act 1989⁽¹⁾ (interpretation etc. of Part 1);

“European site” has the same meaning as in regulation 8 of the Conservation of Habitats and Species Regulations 2017⁽²⁾;

“an existing line” means an electric line which—

- (a) has been installed or is kept installed above ground in accordance with a consent granted under section 37(1) of the Electricity Act 1989⁽³⁾ or an order granting development consent under the Planning Act 2008 or planning permission; or
- (b) has been installed above ground and is an electric line to which section 37(1) of the Electricity Act 1989 does not apply by virtue of paragraph 5(4) or (5) of Schedule 17 to that Act;

“small support” means a support for an electric line which does not exceed 10 metres in height.

(2) For the purposes of Class A(d) development “maximum distance” means—

- (a) in relation to a devolved associated line which has a nominal voltage less than 66 kilovolts, 500 metres; and
- (b) in relation to any other devolved associated line, 850 metres.

(3) For the purposes of paragraph A.2(1)(c), any reference to the distance between a support and an existing line is a reference to the shortest distance between the centre of the base of that support and an imaginary line through the centre of the base of each support for the existing line.”

(1) Mae diwygiadau i adran 64(1) nad ydynt yn berthnasol i'r Gorchymyn hwn.
(2) O.S. 2017/1012.
(3) Diwygiwyd adran 37(1) gan baragraff 33 o Ddeddf Cynllunio 2008 (p. 29) ac Atodlen 2 iddi.

ATODLEN 2 Erthygl 6

Amnewid Rhan 24

“Part 24

DEVELOPMENT BY ELECTRONIC
COMMUNICATIONS CODE
OPERATORS (WALES)

Class A

Permitted Development

A. Development by or on behalf of an electronic communications code operator for the purpose of the operator's electronic communications network in, on, over or under land controlled by that operator or in accordance with the electronic communications code, consisting of—

- (a) the installation, alteration or replacement of any electronic communications apparatus,
- (b) the use of land in an emergency for a period not exceeding eighteen months to station and operate moveable electronic communications apparatus required for the replacement of unserviceable electronic communications apparatus, including the provision of moveable structures on the land for the purposes of that use, or
- (c) development ancillary to radio equipment housing.

Development not permitted

A.1. Development is not permitted by Class A(a) if—

- (a) in the case of the installation of ground-based apparatus (other than a mast), the apparatus, excluding any antenna, would exceed a height of 15 metres above ground level⁽¹⁾;
- (b) in the case of the alteration or replacement of ground-based apparatus (other than a mast), the apparatus excluding any antenna, would when altered or replaced exceed—
 - (i) the height of the existing apparatus, or

(1) For the height of apparatus and ground level, see Article 1(3).

- (ii) a height of 15 metres above ground level,
whichever is the greater;
- (c) in the case of the installation of a ground-based mast, the mast, excluding any antenna, would exceed a height⁽¹⁾ of—
 - (i) 20 metres above ground level where the mast is on protected land; or
 - (ii) 25 metres above ground level where the mast is on unprotected land;
- (d) in the case of the alteration or replacement of a ground-based mast on protected land, the mast, excluding any antenna, would when altered or replaced exceed—
 - (i) the height of the existing mast, or
 - (ii) a height of 20 metres above ground level,
whichever is the greater;
- (e) in the case of the alteration or replacement of a ground-based mast on unprotected land, the mast, excluding any antenna, would when altered or replaced exceed—
 - (i) the height of the existing mast, or
 - (ii) a height of 25 metres above ground level,
whichever is the greater;
- (f) in the case of the alteration or replacement of a ground-based mast—
 - (i) where the mast is on article 1(5) land or on unprotected land, the mast would when altered or replaced exceed its original width⁽²⁾ at any given height by more than one metre or one third whichever is the greater;
 - (ii) where the mast is on land which is or is within a site of special scientific interest, the mast would when altered or replaced exceed its original width at any given height;

(1) For the height of a mast, see paragraph A.4(2)(a) below.

(2) For the width of a mast, see paragraph A.4(2)(b) below.

- (g) in the case of the installation, alteration or replacement of apparatus on a building or other structure—
 - (i) the height of the apparatus (taken by itself) would exceed—
 - (aa) 15 metres, where it is installed, or is to be installed, on a building or other structure which is 30 metres or more in height; or
 - (bb) 10 metres in any other case;
 - (i) the highest part of the apparatus when installed, altered or replaced would exceed the height of the highest part of the building or structure by more than—
 - (aa) 10 metres, in the case of a building or structure which is 30 metres or more in height;
 - (bb) 8 metres, in the case of a building or structure which is more than 15 metres but less than 30 metres in height; or
 - (cc) 6 metres in any other case;
- (h) in the case of the installation, alteration or replacement of apparatus (other than an antenna) on a mast, the height of the mast would, when the apparatus was installed, altered or replaced, exceed any relevant height limit specified in respect of apparatus in paragraphs (c) to (g) and for the purposes of applying the limit specified in paragraph (g)(i), the words “(taken by itself)” are to be omitted;
- (i) in the case of the installation, alteration or replacement of any apparatus other than—
 - (i) a mast,
 - (ii) an antenna,
 - (iii) a public call box,
 - (iv) any apparatus which does not project above the level of the surface of the ground, or
 - (v) radio equipment housing,
 the ground or base area of the structure would exceed 1.5 square metres;
- (j) in the case of the installation, alteration or replacement of an antenna on a building or structure (other than a

- mast) which is less than 15 metres in height, on a mast located on such a building or structure, or, where the antenna is to be located below a height of 15 metres above ground level, on a building or structure (other than a mast) which is 15 metres or more in height—
- (i) in the case of antennas other than small cell antennas, the antenna is to be located on a wall or roof slope facing a highway which is within 20 metres of the building or structure on which the antenna is to be located;
 - (ii) in the case of dish antennas, the size of any dish would exceed 0.9 metres or the aggregate size of all of the dishes on the building, structure or mast would exceed 4.5 metres, when measured in any dimension;
 - (iii) in the case of antennas other than dish antennas, the development (other than the installation, alteration or replacement of one small antenna or a maximum of two small cell antennas) would result in the presence on the building or structure of—
 - (aa) more than three antenna systems; or
 - (bb) any antenna system operated by more than three electronic communications code operators; or
 - (iv) the building or structure is a listed building or a scheduled monument;
- (k) in the case of the installation, alteration or replacement of an antenna on a building or structure (other than a mast) which is 15 metres or more in height, or on a mast located on such a building or structure, where the antenna is located at a height of 15 metres or above, measured from ground level—
- (i) in the case of dish antennas, the size of any dish would exceed 1.3 metres or the aggregate size of all of the dishes on the building, structure or mast would exceed 10 metres, when measured in any dimension;

- (ii) in the case of antennas other than dish antennas, the development (other than the installation, alteration or replacement of a maximum of two small antennas or two small cell antennas) would result in the presence on the building or structure of—
 - (aa) more than five antenna systems; or
 - (bb) any antenna system operated by more than three electronic communications code operators; or
- (iii) the building or structure is a listed building or a scheduled monument;
- (l) in the case of development on any protected land it would consist of—
 - (i) the installation or alteration of an antenna or of any apparatus which includes or is intended for the support of such an antenna; or
 - (ii) the replacement of such an antenna or such apparatus by an antenna or apparatus which differs from that which is being replaced, unless the development is carried out in an emergency or is development described in the introductory words to any of paragraphs (l), (p), (q), or (s) and which is allowed by the respective sub-paragraphs which follow those introductory words;
- (m) in the case of the installation of an additional antenna on existing electronic communications apparatus on a building or structure (including a mast) on any protected land—
 - (i) in the case of dish antennas, the size of any additional dishes would exceed 0.6 metres, and the number of additional dishes on the building or structure would exceed three; or
 - (ii) in the case of antennas other than dish antennas, any additional antennas would exceed three metres in height, and the number of additional antennas on the building or structure would exceed three;
- (n) it would consist of the installation, alteration or replacement of system

- apparatus within the meaning of section 8(6) of the Road Traffic (Driver Licensing and Information Systems) Act 1989 (definitions of driver information systems etc.)(1);
- (o) in the case of the installation of a mast, on a building or structure which is less than 15 metres in height, such a mast would be within 20 metres of a highway;
 - (p) in the case of the installation, alteration or replacement of radio equipment housing—
 - (i) the development is not ancillary to the use of any other electronic communications apparatus;
 - (ii) the cumulative volume of such development would exceed 90 cubic metres or, if located on the roof of a building, the cumulative volume of such development would exceed 30 cubic metres; or
 - (iii) on any protected land, any single development would exceed 2.5 cubic metres, unless the development is carried out in an emergency;
 - (q) in the case of the installation, alteration or replacement on a dwellinghouse or within the curtilage of a dwellinghouse of any electronic communications apparatus, that apparatus—
 - (i) is not a small antenna;
 - (ii) being a small antenna, would result in the presence on that dwellinghouse or within the curtilage of that dwellinghouse of more than one such antenna; or
 - (iii) being a small antenna, is to be located on a roof or on a chimney so that the highest part of the antenna would exceed in height the highest part of that roof or chimney respectively;
 - (r) in the case of the installation, alteration or replacement on any protected land of a small antenna on a dwellinghouse or within the curtilage of a dwellinghouse, the antenna is to be located—
 - (i) on a chimney;

(1) 1989 c. 22.

- (ii) on a building which exceeds 15 metres in height; or
- (iii) on a wall or roof slope which fronts a highway;
- (s) in the case of the installation, alteration or replacement of a small antenna on a building which is not a dwellinghouse or within the curtilage of a dwellinghouse—
 - (i) the building is on protected land;
 - (ii) the building is less than 15 metres in height, and the development would result in the presence on that building of more than one such antenna; or
 - (iii) the building is 15 metres or more in height, and the development would result in the presence on that building of more than two such antennas;
- (t) in the case of the installation, alteration or replacement of a small cell antenna on a building or structure:
 - (i) the building or structure is a dwellinghouse or within the curtilage of a dwellinghouse;
 - (ii) the building or structure is on any land which is, or is within, a site of special scientific interest; or
 - (iii) the development would result in the presence on the building or structure of more than two such antennas.

Conditions

A.2—(1) Class A(a) and Class A(c) development is permitted subject to the condition that any antenna or supporting apparatus, radio equipment housing or development ancillary to radio equipment housing installed, altered or replaced on a building in accordance with that permission must, so far as is practicable, be sited so as to minimise its effect on the external appearance of the building.

(2) Class A(a) and Class A(c) development is permitted subject to the condition that any apparatus or structure provided in accordance with that permission must be removed from the land, building or structure on which it is situated—

- (a) if such development was carried out in an emergency on any protected land, at the expiry of the relevant period, or
- (b) in any other case, as soon as reasonably practicable after it is no longer required for any electronic communications purposes,

and such land, building or structure must be restored to its condition before the development took place or to any other condition as may be agreed in writing between the local planning authority and the developer.

(3) Class A(b) development is permitted subject to the condition that any apparatus or structure provided in accordance with that permission must be removed from the land at the expiry of the relevant period and the land restored to its condition before the development took place.

(4) Except in relation to development described in paragraph (5) and subject to paragraph (7), class A development on—

- (a) protected land, or
- (b) unprotected land consisting of the installation, alteration or replacement of—
 - (i) a mast;
 - (ii) an antenna on a building or structure (other than a mast) where the antenna (including any supporting structure) would exceed the height of the building or structure at the point where it is installed or to be installed by six metres or more;
 - (iii) a public call box;
 - (iv) radio equipment housing, where the volume of any single development is in excess of 2.5 cubic metres,

is permitted subject, except in case of emergency, to the conditions set out in A.3.

(5) Class A development on any article 1(5) land, which consists of the installation, alteration or replacement of a telegraph pole, cabinet or line, in connection with the provision of fixed-line broadband, is permitted, subject to the conditions set out in paragraph (6).

(6) The conditions are—

- (a) the developer must give one month's notice, in writing, to the relevant local planning authority and to the Natural

Resources Body for Wales where the development, or any part of it, is in—

- (i) a National Park, or
 - (ii) an area of outstanding natural beauty;
- (a) the notice to be given under paragraph (a) must state the developer's intention to install electronic communications apparatus, describe the apparatus and identify the location where it is proposed to install it;
- (b) any cabinet must be:
- (i) green;
 - (ii) black (except matt black); or
 - (iii) a colour which has the written approval of the local planning authority prior to the commencement of the development;
- (c) any telegraph pole must have the same appearance and be made of the same material as the nearest existing telegraph pole to it which has planning permission, unless an alternative appearance or material has been approved in writing by the local planning authority prior to the commencement of the development.

(7) Paragraph (4) does not apply to development consisting of the alteration or replacement of a mast—

- (a) on any protected land which excluding any antenna would not, when altered or replaced, exceed the greater of the height of the existing mast and 15 metres above ground level;
- (b) on unprotected land which excluding any antenna would not, when altered or replaced, exceed the greater of the height of the existing mast and 20 metres above ground level.

Prior approval

A.3—(1)The developer must give notice of the proposed development to any person (other than the developer) who is an owner of the land to which the development relates, or a tenant, before making the application required by paragraph (3)—

- (a) by serving a developer's notice on every such person whose name and address is known to the developer; and

- (b) where the developer has taken reasonable steps to ascertain the names and addresses of every such person, but has been unable to do so, by local advertisement.

(2) Where the proposed development consists of the installation of a mast within three kilometres of the perimeter of an aerodrome, the developer must notify the Civil Aviation Authority, the Secretary of State for Defence or the aerodrome operator, as appropriate, before making the application required by paragraph (3).

(3) Before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required to the siting and appearance of the development.

(4) The application must be accompanied by—

- (a) a written description of the proposed development and a plan indicating its proposed location together with any fee required to be paid;
- (b) the developer's contact address, and the developer's email address if the developer has one; and
- (c) if the development involves the installation of one or more antennas, unless they are all small cell antennas, a written declaration that the equipment and installation to which the application relates is so designed that it will, when installed, operate, having regard to its location and the manner in which it has been installed, in full compliance with the requirements of the radio frequency public exposure guidelines of the International Commission on Non-ionising Radiation Protection, as expressed in the EU Council recommendation of 12 July 1999⁽¹⁾ on the limitation of exposure of the general public to electromagnetic fields (0 Hz to 300 GHz); and
- (d) where paragraph (1) applies, by evidence that the requirements of paragraph (1) have been satisfied; and
- (e) where paragraph (2) applies, by evidence that the Civil Aviation Authority, the Secretary of State for Defence or the aerodrome operator, as

⁽¹⁾ 1999/519/EC.

the case may be, has been notified of the proposal.

(5) Subject to paragraphs (7)(c) and (d), upon receipt of the application under paragraph (4) the local planning authority must—

(a) for development which, in their opinion, falls within a category set out in the table of schedule 4 to the Procedure Order⁽¹⁾, consult the authority or person mentioned in relation to that category, except where—

- (i) the local planning authority are the authority so mentioned; or
- (ii) the authority or person so mentioned has advised the local planning authority that they do not wish to be consulted,

and give the consultees at least 14 days within which to comment;

(b) in the case of development which does not accord with the provisions of the development plan in force in the area in which the land to which the application relates is situated or which would affect a right of way to which Part 3 of the Wildlife and Countryside Act 1981 (public rights of way)⁽²⁾ applies, give notice of the proposed development, in the appropriate form set out in Schedule 3 to the Procedure Order⁽³⁾—

- (i) by site display in at least one place on or near the land to which the application relates for not less than 21 days, and
- (ii) by local advertisement;

(c) in the case of development which does not fall within paragraph (b) but which involves development carried out on a site having an area of one hectare or more, give notice of the proposed development, in the appropriate form set out in Schedule 3 to the Procedure Order—

- (i) by site display in least one place on or near the land to which the application relates for not less than 21 days, or

(1) Schedule 4 was substituted by S.I. 2016/59 (W. 29).
 (2) 1981 c. 69. There are amendments to Part 3 not relevant to this Order.
 (3) Schedule 3 was amended by S.I. 2016/59 (W. 29) and S.I. 2017/567 (W. 136).

- (ii) by serving notice on any adjoining owner or occupier, and
 - (iii) by local advertisement;
 - (d) in the case of development which does not fall within (b) or (c), give notice of the proposed development, in the appropriate form set out in Schedule 3 to the Procedure Order—
 - (i) by site display in at least one place on or near the land to which the application relates for not less than 21 days, or
 - (ii) by serving the notice on any adjoining owner or occupier.
- (6) The local planning authority must take into account any representations made to them as a result of consultations or notices given under A.3(5), when determining the application made under paragraph (3).
- (7) The development must not be begun before the occurrence of one of the following—
- (a) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required;
 - (b) where the local planning authority gives the applicant written notice that such prior approval is required, the giving of that approval to the applicant, in writing, within a period of 56 days beginning with the date on which they received the application;
 - (c) where the local planning authority gives the applicant written notice that such prior approval is required, the expiry of a period of 56 days beginning with the date on which the authority received the application without the authority notifying the applicant, in writing, that such approval is given or refused;
 - (d) the expiry of a period of 56 days beginning with the date on which the local planning authority received the application without the authority notifying the applicant, in writing, of their determination as to whether such prior approval is required.
- (8) The development must, except to the extent that the local planning authority otherwise agree in writing, be carried out—

- (a) where prior approval has been given as mentioned in paragraph (7)(b) in accordance with the details approved;
- (b) in any other case, in accordance with the details submitted with the application.

(9) The agreement in writing referred to in paragraph (8) requires no special form of writing, and in particular there is no requirement on the developer to submit a new application for prior approval in the case of minor amendments to the details submitted with the application for prior approval.

(10) The development must be begun—

- (a) where prior approval has been given as mentioned in paragraph (7)(b), not later than the expiration of five years beginning with the date on which the approval was given;
- (b) in any other case, not later than the expiration of five years beginning with the date on which the local planning authority were given the information referred to in paragraph (4).

(11) In a case of emergency, development is permitted by Class A subject to the condition that the operator must give written notice to the local planning authority of such development as soon as possible after the emergency begins.

Interpretation of Class A

A.4.—(1) For the purposes of Class A—

“aerodrome operator” means the person for the time being having the management of an aerodrome or, in relation to a particular aerodrome, the management of that aerodrome;

“antenna system” means a set of antennas installed on a building or structure and operated in accordance with the electronic communications code;

“development ancillary to radio equipment housing” means the installation, alteration or replacement of structures, equipment or means of access which are ancillary to and reasonably required for the purposes of the radio equipment housing, and except on any land which is, or is within, a site of special scientific interest includes—

- (a) security equipment;
- (b) perimeter walls and fences; and
- (c) handrails, steps and ramps;

“developer's notice” means a notice signed and dated by or on behalf of the developer and containing—

- (a) the name of the developer;
- (b) the address or location of the proposed development;
- (c) a description of the proposed development (including its siting and appearance and the height of any mast);
- (d) a statement that the developer will apply to the local planning authority for a determination as to whether the prior approval of the authority will be required to the siting and appearance of the development;
- (e) the name and address of the local planning authority to whom the application will be made;
- (f) a statement that the application must be available for public inspection at the offices of the local planning authority during usual office hours;
- (g) a statement that any person who wishes to make representations about the siting and appearance of the proposed development may do so in writing to the local planning authority;
- (h) the date by which any such representations should be received by the local planning authority, being a date not less than 14 days from the date of the notice; and
- (i) the address to which such representations should be made.

“electronic communications apparatus”, “electronic communications code”, “electronic communications network” and “electronic communications service” have the same meaning as in the Communications Act 2003⁽¹⁾;

“existing electronic communications apparatus” means electronic communications apparatus which is already sending or receiving electronic communications;”

“fixed-line broadband” means a service or connection (commonly referred to as being ‘always on’), via a fixed-line network,

(1) 2003 c. 21. See sections 32, 151 and 405 and paragraph 5 of Schedule 3A to that Act.

providing a bandwidth greater than narrowband;

“land controlled by the operator” means land occupied by the operator in right of a freehold interest or a leasehold interest under a lease granted for a term of not less than 10 years;

“local advertisement” means by publication of the notice in a newspaper circulating in the locality in which the land to which the application relates is situated;

“mast” means a radio mast or a radio tower;

“narrowband” means a service or connection providing data speeds up to 128 k bit/s;

“owner” means any person who is the estate owner in respect of the fee simple, or who is entitled to a tenancy granted or extended for a term of years certain of which not less than seven years remain unexpired;

“Procedure Order” means the Town and Country Planning (Development Management Procedure) (Wales) Order 2012⁽¹⁾;

“protected land” means any land which is article 1(5) land or land which is, or is within, a site of special scientific interest;

“relevant period” means a period which expires—

- (a) six months from the commencement of the installation, alteration or replacement of any apparatus or structure permitted by Class A(a) or Class A(c);
- (b) eighteen months from the commencement of the use permitted by Class A(b); or
- (c) when the need for such apparatus, structure or use ceases, whichever occurs first;

“small antenna” means an antenna which—

- (a) is for use in connection with a telephone system operating on a point to fixed multi-point basis;
- (b) does not exceed 50 centimetres in any linear measurement; and

(1) S.I. 2012/801 (W. 110). Relevant amending instruments are S.I. 2016/59 (W. 29) and S.I. 2017/567 (W. 136).

- (c) does not, in two-dimensional profile, have an area exceeding 1,591 square centimetres,

and any calculation for the purposes of (b) and (c) must exclude any feed element, reinforcing rim mountings and brackets;

“small cell antenna” means an antenna which—

- (a) operates on a point to multi-point or area basis in connection with an electronic communications service;
- (b) may be variously referred to as a femtocell, picocell, metacell or microcell antenna;
- (c) does not, in any two dimensional measurement, have a surface area exceeding 5,000 square centimetres; and
- (d) does not have a volume exceeding 50,000 cubic centimetres, and any calculation for the purposes of (c) and (d) includes any power supply unit or casing, but excludes any mounting, fixing, bracket or other support structure;

“tenant” means the tenant of an agricultural holding any part of which is comprised in the land to which the application relates;

“unprotected land” means any land which is not protected land.

(2) For the purposes of this Part—

- (a) the height of a mast is calculated by—
 - (i) adding together the height, measured at its highest point, of the mast or apparatus of—
 - (aa) the mast;
 - (bb) any apparatus attached to the mast; and
 - (cc) any plinth or other structure required for the purpose of supporting the mast; and
 - (ii) deducting from that sum the height, also measured at its highest point, of any antenna attached to the mast to the extent that it protrudes above the highest point of the mast;
- (b) the width of a ground-based mast is to be calculated by adding together the width of—

- (i) the mast; and
- (ii) any apparatus attached to the mast (other than an antenna).

Extent of Permission

A.5 Where Class A permits the installation, alteration or replacement of any electronic communications apparatus, the permission extends to any—

- (a) casing or covering;
- (b) mounting, fixing, bracket or other support structure;
- (c) perimeter walls or fences;
- (d) handrails, steps or ramps; or
- (e) security equipment;

reasonably required for the purposes of the electronic communications apparatus.

A.6 Nothing in paragraph A.5 extends the permission in Class A to include the installation, alteration or replacement of anything mentioned in paragraph A.5(a) to (e) on any land which is, or is within, a site of special scientific interest if the inclusion of such an item would not have been permitted by Class A, as read without reference to paragraph A.5.”

Explanatory Memorandum to the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2019

This Explanatory Memorandum has been prepared by the Planning Directorate and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2019.

I am satisfied the benefits justify the likely costs.

Hannah Blythyn
Deputy Minister for Housing and Local Government
21 February 2019

PART 1

1. Description

1.1 The Town and Country Planning (General Permitted Development) Order 1995 (the “GPDO”), as amended, allows some minor development to be undertaken, within certain parameters, without the need to submit a planning application. This is known as “permitted development”.

1.2 The Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2019 (“the Amendment Order”) amends Schedule 2 to the GPDO by:

- inserting Classes D and E into Part 2 (minor operations) to permit the installation of electrical outlets and upstands for recharging electric vehicles;
- inserting Part 17A (installation of devolved associated lines) to permit the installation of certain overhead electric lines;
- replacing Part 24 (development by electronic communications code operators (Wales)). Changes to this Part extend permitted development rights in relation to the height and width of ground-based masts and extend the period for the use of land for moveable electronic communications apparatus in an emergency from six to eighteen months. The Amendment Order also makes amendments in relation to the construction, installation or replacement of certain apparatus for fixed line broadband services on article 1(5) land. Prior approval for such development is not required if certain conditions are satisfied. The condition that work be completed by 30 May 2019 is removed.
- amending Part 43 (installation of non-domestic microgeneration equipment). Amendments to this Part extend permitted development rights for non-domestic solar installations, provide that development is not permitted if the solar PV, solar thermal equipment or stand alone solar would be installed within three kilometres of the perimeter of an airport or aerodrome and amend conditions in paragraph A.2 and B.2.

1.3 The Amendment Order also makes minor amendments to assist clarity.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

2.1 None.

3. Legislative background

- 3.1 The powers to make the Amendment Order are in sections 59, 60, 61 and 333 of the Town and Country Planning Act 1990. These sections give the Secretary of State power to grant (or to enable local planning authorities to grant) planning permission for categories of development specified in a development order. The GPDO is made under these powers. The functions of the Secretary of State were transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of, and paragraphs 30 and 32 of Schedule 11 to, the Government of Wales Act 2006 (c. 32). These powers are thus now exercisable by the Welsh Ministers.
- 3.2 Section 333(5B) of the Town and Country Planning Act 1990 provides that the procedure for a statutory instrument which contains a development order is a negative resolution procedure.

4. Purpose and intended effect of the legislation

Electric Vehicle Charging Points

- 4.1 Charging points that involve the installation of equipment (such as an upstand) which is located outside a building constitutes 'development' under the Town and Country Planning Act 1990 (the 1990 Act), whether located within public or private open-air car parks, within the front garden of a dwellinghouse or as part of an on-street parking bay. Additionally, an external plug installed on the face of an existing wall (e.g. of a dwellinghouse) may be deemed development under the 1990 Act if it is considered to materially affect the external appearance of the building.
- 4.2 There is continuing growth in the numbers of electric vehicles (EV) and alternative fuel vehicles (ALV) being registered in the UK. As the technology develops, it is anticipated that demand for EVs will continue to grow. Wide scale take-up of EV will require a comprehensive network of EV charging points to reassure drivers that they will be able to recharge their vehicles whenever and wherever they need to.
- 4.3 Electric and plug-in hybrid vehicles potentially offer significant environmental benefits compared with existing internal combustion engine vehicles, and greatly improved fuel efficiency. Accordingly, the Government is promoting a switch towards EV.
- 4.4 The purpose of the provisions in the Amendment Order in relation to Part 2 of Schedule 2 to the GPDO is to grant permitted development rights for the installation, alteration and replacement of electrical outlets and upstands for recharging of EVs, subject to conditions relating to amenity and highway safety, to expedite the creation of a Wales-wide network of

EV charging infrastructure - at homes, workplaces and key destinations, such as supermarkets, retail and commercial centres and leisure.

- 4.5 These rights will be subject to certain constraints, such as maximum size and siting, designed to minimise impacts on neighbours and the wider environment.
- 4.6 Amendments made by the Amendment Order also clarify that on-street EV charging points and associated infrastructure can be installed by local authorities under their permitted development rights to provide facilities required in connection with the operation of any public service administered by them.

Devolved associated lines

- 4.7 Consents for overhead electric lines are currently granted under the Electricity Act 1989 (up to 132KV) or the Planning Act 2008 (132KV and above). These are both consents granted by the Secretary of State. On 1 April 2019, the Wales Act 2017 places consenting for electric lines (subject to a limit of 132KV nominal voltage) the purpose of which is to facilitate the connection to the electricity national grid of generating stations consented by Welsh Ministers (“devolved associated lines”) into the 1990 Act to be consented by way of a planning permission. Further statutory instruments are being laid which require the planning permission to be obtained from the Welsh Ministers as an application for a Development of National Significance (“DNS”).
- 4.8 Section 37(2) of the Electricity Act 1989, the Overhead Lines (Exemption) Regulations 1992 and the Overhead Lines (Exemption) (England and Wales) Regulations 2009 provide for exemptions from the requirement for the consent of the Secretary of State under section 37 of the Electricity Act 1989 to the installation or keeping installed of an electric line above ground.. These exemptions have the effect of providing powers to undertake minor works. Devolved associated lines will now require planning permission instead of a section 37 consent. In the interests of continuity for developers and to preclude relatively minor works from requiring a DNS application, the purpose of provisions in the Amendment Order in relation to devolved associated lines is to carry forward those existing exemptions as permitted development and thus, not requiring an application for planning permission.

Telecommunication

- 4.9 The delivery of a fast reliable mobile telecommunications and broadband network to all parts of Wales is essential to achieve Wales’s digital connectivity goals, including areas not currently served by the market. In October 2017 the Welsh Government also published the Mobile Action Plan for Wales. The Plan identifies a number of actions required to achieve national objectives for digital connectivity, including the review of

permitted development rights, and revision of telecoms policy in Planning Policy Wales.

- 4.10 The Planning System has an important role to play in supporting and enhancing digital connectivity, through national and local policy and through permitted development rights.
- 4.11 Permitted development rights for mobile telecommunications in Wales are set out in Part 24 of Schedule 2 to the GPDO. The Welsh Government's review of permitted development rights provided an opportunity to consider if the current regulations applying to mobile telecommunications are fit for purpose and able to deliver the objectives set out in national strategy.
- 4.12 The Amendment Order replaces Part 24 in its entirety. The key changes in relation to telecommunication masts are:
- In the case of the installation of a new ground based mast in a protected area, an increase of 5 metres to the maximum height permitted (15 metres increased 20 metres).
 - In the case of the installation of a ground based mast in an unprotected area, an increase of 10 metres to the maximum height permitted (15 metres increased to 25 metres).
 - In the case of the alteration and replacement of a ground based mast in a protected area, an increase of 5 metres to the maximum height permitted (15 metres increased to 20 metres).
 - In the case of the alteration and replacement of a ground based mast in an unprotected area, an increase of 5 metres to the maximum height permitted (20 metres increased to 25 metres).
 - An increase in the width of existing ground based masts of 1 metre, or one third whichever is the greater, at any given height. Where a mast is altered or replaced in an SSSI, the mast must not exceed its previous width.
 - Extension of the period for the use of land for moveable electronic communications apparatus in an emergency from six to eighteen months
 - Removal of the requirement to seek prior approval for the alteration or replacement of a mast when the altered/replacement mast does not exceed the height of the existing mast, or the maximum heights permitted by the GPDO prior to amendment by the Amendment Order.
- 4.13 The purpose of these provisions is to increase the flexibility of the permitted development rights regime for electronics code operators to enable the further roll-out of mobile coverage across Wales, particularly in those areas with limited or no coverage currently.

Fixed-Line Broadband

- 4.14 The Town and Country Planning (General Permitted Development) (Amendment) (Wales) (No.2) Order 2014 amended Part 24 of Schedule 2 the GPDO to provide that, in relation to article 1(5) land, the construction, installation or replacement of telegraph poles, cabinets or lines for fixed-

line broadband services would not require prior approval under paragraph A.3. In order to rely on the amendment to the permitted development rights, development had to be completed before 30 May 2018 and certain other conditions had to be complied with. Article 1(5) land refers to land within a National Park, an Area of Outstanding Natural Beauty and an area designated as a Conservation Area.

- 4.15 The above amendment was made to support the Programme for Government commitment to deliver fast reliable broadband to those parts of Wales not currently served by the market.
- 4.16 The Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2018 extended the date by which development had to be completed to 30 May 2019.
- 4.17 The Welsh Government is continuing to work with operators to further extend coverage and build upon the success of Superfast Cymru. Broadband providers are continuing to deploy commercially across Wales and the need for street cabinets and other associated apparatus will continue to be essential to help deliver the Welsh Government's objectives. The delivery of fast reliable broadband to those parts of Wales not currently served by the market remains a nationally important program and a government commitment.
- 4.18 The provisions in the Amendment Order in relation fixed-line broadband services remove the condition that work has to be completed before 30 May 2019 and therefore removing the requirement for prior approval of the Local Planning Authority for the construction, installation or replacement of telegraph poles, cabinets or lines for fixed-line broadband services on article 1(5) land providing other conditions are met.
- 4.19 The purpose of this provision is to maintain the expedited procedure to assist the telecommunication industry with the roll-out of superfast broadband.

Non-domestic Microgeneration

- 4.20 The Welsh Government is committed to increasing the amount of energy we produce from renewable sources and has introduced stretching targets for renewable energy and committed, through legislation, to radically decarbonise by 80% by 2050. It is important therefore that the planning system both proactively plans for new renewable and low carbon energy developments for the long term, but is also not perceived as a barrier to smaller scale developments which have no or minimal impact on their surroundings. By operating in this way the planning system can maximise its contribution to ensure that Wales' potential to generate renewable and low carbon energy is realised.
- 4.21 Permitted development rights for non-domestic solar PV and solar thermal were introduced in the Town and Country Planning (General Permitted

Development) (Amendment) (Wales) (No.2) Order 2012 by the insertion of Part 43 into Schedule 2 of the GPDO.

- 4.22 The purpose of the amendments to help facilitate an increase in the take-up of the installation of solar panels on non domestic properties by reducing costs and other planning barriers to business owners who are considering installing solar panels to reduce their own business costs.
- 4.23 The changes made by the Amendment Order in relation to Class A and Class B of Part 43 of Schedule 2 remove the energy output threshold (50kw electrical and 45kw thermal) for solar installations.
- 4.24 In addition, in the case of both Class A (the installation, alteration or replacement of solar PV or solar thermal equipment on a building other than a dwellinghouse or a block of flats) and Class B (the installation, alteration or replacement of stand alone solar within the curtilage of a building other than a dwellinghouse or a block of flats) development, the Amendment Order introduces a new limitation excluding development within three kilometres of the perimeter of an airport or aerodrome. Interpretation of what constitutes an “airport” or “aerodrome” are also provided. The purpose of this limitation is ensure the impacts of larger solar arrays permitted by the Amendment Order are full considered by the LPA through a planning application to maintain the safe operations of airports and aerodromes.
- 4.25 The Amendment Order also introduces a new condition that also applies to both Class A and Class B development to ensure the possible affects of glint and glare are minimised (flash of light and continuous reflection of sunlight) when locating solar panels. Whilst solar panels are designed to absorb as much light as possible and in most circumstances have low reflective properties, because the new proposals allow potentially large solar installations, the condition encourages a precautionary approach to any potential impacts from sunlight.
- 4.26 The conditions inserted by the Amendment Order for Class C (the installation, alteration or replacement of a ground source heat pump within the curtilage of a building other than a dwellinghouse or a block of flats.) and Class D (the installation, alteration or replacement of a water source heat pump within the curtilage of a building other than a dwellinghouse or a block of flats) are consequential amendments required to maintain the existing policy position as a result of removing the definition of ‘microgeneration’ from Part 43. There is no policy change in respect of these provisions.

5. Consultation

- 5.1 A consultation ran from 31 May 2018 to 28 September 2018 on a wide ranging set of proposals regarding to the consolidation and amendment of the Town and Country Planning (Use Classes) Order 1987 and the GPDO. A total of 148 responses were received.

- 5.2 The Amending Order takes forward key ministerial priorities in advance of a consolidating order which will encompass the remaining proposals.
- 5.3 There was broad agreement from stakeholders to all of the proposals in the consultation which form part of this Order. A summary of the consultation responses is available at <https://beta.gov.wales/subordinate-legislation-consolidation-and-review>.
- 5.4 Furthermore, a 12 week consultation ran from 30 April to 23 July 2018 on changes to the consenting of infrastructure in Wales. The consultation was drawn to the attention of a wide range of stakeholders including LPAs, generating station operators and their representatives, businesses, planning consultants, interest groups and other public sector agencies. A total of 47 responses were received.
- 5.5 Question 3 asked whether respondents agreed with our proposals for overhead electric lines, which included the transfer of exemptions from the requirement for consent from the Electricity Act 1989 to the Town and Country Planning Act 1990. The vast majority of respondents agreed with this approach, and this statutory instrument implements this proposal.
- 5.6 A summary of the consultation responses is available at: <https://beta.gov.wales/changes-approval-infrastructure-development>.

PART 2 – REGULATORY IMPACT ASSESSMENT

Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2019

1. Minor operations: recharging vehicles

Options

1.1 The following options are considered:

Option 1: Do nothing – Planning permission will continue to be required for vehicle charging infrastructure

Option 2: - Make the legislation - Grant permitted development rights for the installation of electric vehicle charging points, including clarification that local authorities may install electric vehicle charging points as permitted development.

Option 2 is the favoured option as it will result in a more enabling regime for the installation of electric vehicle charging infrastructure.

Cost and Benefits Analysis

1.2 The sectors most likely to be affected by the proposals include:

- Businesses wishing to install apparatus to provide charging facilities at workplaces, retail/leisure facilities etc.
- LPAs who determine applications for planning permission.
- The general public who want to install apparatus to provide charging facilities at home.

1.3 The following cost and benefit analysis has been undertaken for each of the above sectors:

Cost Analysis for Option 1: Do nothing

Business

1.4 The requirement for planning permission for the installation of vehicle charging infrastructure will continue, resulting in additional cost to businesses who wish to provide charging facilities for electric/plug-in hybrid vehicles. The planning fee for a planning application is currently £190.00. There will be additional associated costs for the preparation of the necessary supporting information, such as plans. A benchmarking

study undertaken in England¹ estimated the total cost of submitting a householder development application varied from £150 to £2,900, with an average cost of £1,187. A number of variables had an impact on these costs, including the use of an agent, the use of existing plans submitted as part of previous schemes, and the savings incurred by submitting applications via the Planning Portal (this limited printing costs). The Welsh Government believe the costs identified in this study are representative of a) the costs likely to be incurred in Wales and b) the costs likely to be incurred by businesses for an application for this scale of development.

- 1.5 The requirement for planning permission may also deter some business from installing charging points, to the detriment of decarbonising the transport network in Wales and combating climate change.

Local Planning Authorities

- 1.6 LPAs will continue to validate, process and determine applications for planning permission for vehicle charging infrastructure. Each application will need to be publicised and a site visit undertaken. The application will be determined in accordance with the relevant LPA scheme of delegation which may entail the application being determined by the planning committee. The planning fee paid is intended to offset the LPAs costs.

General Public

- 1.7 As per businesses, the requirement for planning permission for the installation of vehicle charging infrastructure will continue, resulting in additional cost to the general public who wish to operate electric/plug-in hybrid vehicles and have charging facilities at home. The planning fee for a householder application is currently £190.00. The associated costs will be as the same as those outlined in paragraph 1.4.
- 1.8 The need for planning permission may deter some from the purchase of a electric/plug-in hybrid vehicle to the detriment of the benefits of decarbonised travel.

Benefit Analysis for Option 1 – Do nothing

Businesses

- 1.9 There are no indirect or direct benefits for businesses.

¹ Benchmarking the costs to applicants of submitting a planning application.
<https://webarchive.nationalarchives.gov.uk/20090903233426/http://www.communities.gov.uk/documents/planningandbuilding/pdf/benchmarkingcostsapplication.pdf>

Local Planning Authorities

- 1.10 LPAs retain the associated planning application fee and their ability to influence the siting and appearance of electric vehicle charging infrastructure.

General Public

- 1.11 There are no indirect or direct benefits for the general public.

Cost Analysis for Option 2: Make the legislation

Businesses

- 1.12 There are no additional direct or indirect costs to businesses. The proposals are de-regulatory and as such are expected to result in cost-savings to businesses. These cost-savings are considered further in paragraph 1.15.

Local Planning Authorities

- 1.13 There will be reduction in planning application fee income, however, this is offset by the LPA not incurring the costs involved in dealing with those applications. In many circumstances, the application fee does not cover the cost of determining a planning application.

General Public

- 1.14 There are no additional direct or indirect costs to the general public.

Benefit Analysis for Option 2

Business

- 1.15 Those wishing to install electric vehicle charging points will make savings on planning application fees (currently £190.00) and associated administration costs incurred for the preparation and submission of a planning application, as outlined in paragraph 1.4. There are also time savings for businesses and the uncertainty created by the planning application decision process is removed.

Local Planning Authorities

- 1.16 The reduced number of planning applications needing to be determined will allow LPAs to reallocate valuable staff resources to other planning applications which may have more complex and significant impacts.

General Public

- 1.17 As per businesses, those wishing to install electric vehicle charging points at their homes will make savings on planning application fees (currently £190.00) and associated administration costs incurred for the preparation and submission of a planning application as outlined in paragraph 1.4.

Environment

- 1.18 There were 2,500 plug-in vehicles in Wales in 2017 and while the number is increasing (new electric and hybrid registrations in Wales increased by 35% in 2017), concerns remain about the charging infrastructure. This legislation is expected to facilitate the development of a network of electric charging points across Wales and may thus encourage more drivers to shift from a petrol or diesel vehicle to a plug-in vehicle. There are a number of environmental benefits associated with electric vehicles including reduced carbon emissions and improved air quality.

2. Devolved associated lines

- 2.1 The requirement for a Regulatory Impact Assessment (“RIA”) has been assessed against the RIA code for subordinate legislation. In this instance, an RIA was not considered necessary relating to these provisions.
- 2.2 These amendments to the GPDO are as a consequence of the commencement of sections 39 to 42 of the Wales Act 2017 insofar as they affect the devolution of the consenting of overhead electric lines. This devolution occurs on 1 April 2019 and from that date, a consent under section 37 of the Electricity Act 1989 cannot be gained for a devolved associated line. Instead, such applications are to be consented under the Town and Country Planning Act 1990.
- 2.3 A series of exemptions are set out in section 37(2)(a)-(b) of the Electricity Act 1989 and in the Overhead Lines (Exemption) (England and Wales) Regulations 2009 which prevent the requirement for consent where the proposal involves the installation of an overhead electric line. For continuity and to preserve the existing legal situation, those exemptions are transferred to permitted development rights under the 1990 Act, where they relate to devolved associated lines.
- 2.4 Accordingly, as this results in routine technical and consequential amendments which have no policy impact, no RIA is required. It is noted the Wales Act 2017 was accompanied by an EMRIA which assessed the impact of the devolution of various functions, and is available at:

https://webarchive.nationalarchives.gov.uk/20160611073307/https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/527740/Wales_Bill_impact_assessment.pdf

3. Telecommunication – Size and Widths of Mast etc.

Options

3.1 The following options are considered:

Option 1: Do nothing – Legislation remains the same and the existing permitted development rights apply.

Option 2: - Make the legislation – Increases the permitted development rights for the heights and widths of telecommunication masts with amendments to existing prior approval arrangements.

Option 2 is the favoured option as it will result in a more enabling regime for the installation of telecommunication infrastructure.

Cost and Benefits Analysis

3.2 The sectors most likely to be affected by the proposals include:

- Mobile infrastructure operators wishing to install new or enlarged mobile telecommunication equipment
- LPAs who determine applications for planning permission.
- The general public who will potentially benefit from increased mobile coverage but may also be impacted on by higher masts in their communities.

3.3 The following cost and benefit analysis has been undertaken for each of the above sectors:

Cost Analysis for Option 1: Do nothing

Business

3.4 The requirement for planning permission for larger masts and equipment will continue, resulting in additional cost to the mobile industry to roll out their networks. This includes the planning application fee and additional associated costs for the preparation of the necessary supporting information, such as plans.

3.5 The requirement for planning permission may also deter some operators from installing new, or larger masts, to the detriment of communities in the vicinity who will not benefit from greater mobile coverage.

Local Planning Authorities

3.6 LPAs will continue to validate, process and determine applications for planning permission for larger masts and equipment. Each application will need to be publicised and a site visit undertaken. The application will be

determined in accordance with the relevant LPA scheme of delegation which may entail the application being determined by the planning committee. The planning fee paid is intended to offset the LPAs costs.

General Public

3.7 There are no direct costs to the public.

Benefit Analysis for Option 1 – Do nothing

Businesses

3.8 There are no indirect or direct benefits for businesses; this will maintain the existing situation.

Local Planning Authorities

3.9 LPAs retain the associated planning application fee for larger masts etc and have more control over the development.

General Public

3.10 There are no indirect or direct benefits for the general public.

Cost Analysis for Option 2: Make the legislation

Businesses

3.11 There are no additional direct or indirect costs to businesses. The proposed legislation is de-regulatory and expected to result in cost-savings to businesses. This is considered further in paragraph 3.14.

Local Planning Authorities

3.12 There will be reduction in planning application fee income, however, this is offset by the LPA not incurring the costs involved in dealing with those applications. In many circumstances, the application fee does not cover the cost of determining a planning application.

General Public

3.13 There are no additional direct or indirect costs to the general public. There will be less scope to challenge in principle new or enlarged equipment, however the ability to make comments on siting and design issues will remain through the prior approval process.

Benefit Analysis for Option 2

Business

- 3.14 Mobile operating companies will be able to apply for increased sizes of masts without the need for full planning permission. Narrowing discussions around siting and design mean that the principle of the development will not need to be discussed. Increased mobile coverage will also enable businesses to more readily access communication networks. In those circumstances where planning permission or prior approval is no longer required, figures from the UK Government suggest that there is an average £2,250 reduction in administration costs.
- 3.15 Moving from full planning permission to permitted development rights could reduce the time taken to go through the necessary planning processes as deemed consent is given after 8 weeks. This reduces uncertainty in the industry.

Local Planning Authorities

- 3.16 The reduced number of planning applications needing to be determined will allow LPAs to reallocate valuable staff resources to other planning applications which may have more complex and significant impacts. LPAs may experience a rise in the number of environmental complaints due to impact on amenity.

General Public

- 3.17 The general public will benefit from a potential increase in mobile coverage and the wider economic and social benefits arising from greater connectivity.

4. Development by Electronic Communications Code Operators: Fixed-line Broadband

Options

- 4.1 The following options are considered:

Option 1: Do nothing - Part 24, A.2(4) (a), the prior approval application requirement will recommence on 1 June 2019 for the installation of all telecommunications apparatus on article 1(5) land: developers will be required to make prior approval applications to the local planning authority (LPA) which have to be processed by them (including undertaking the statutory publicity and consultation requirements).

Option 2: - Permanently dis-applying the Part 24, A.2 (4) (a), prior approval requirement where specified equipment is being used on article 1(5) land subject to standard conditions.

Option 2 is the preferred option as it will maintain the expedited process for the roll-out of broadband in Wales.

Cost and Benefits Analysis

- 4.2 The sectors most likely to be affected by the proposals include:
- Businesses such as Electronic Communications Code Operators (“Code Operators”) wishing to install apparatus to provide telecommunications services.
 - LPAs who determine prior approval applications as well as applications for planning permission.
 - The general public who may have an interest in an individual development proposal.
- 4.3 The following cost and benefit analysis has been undertaken for each of the above sectors:

Cost Analysis for Option 1: Do nothing

Businesses

- 4.4 From June 2019, the prior approval requirement will recommence with a cost to Code Operators for each application made of a standard application fee of £380 together with the costs with producing a valid application, e.g. supporting information such as plans, drawings, and agent fees to prepare, submit and manage the application etc. Whilst there are no specific costs available for this type of development, it is assumed that the costs are likely to be similar to those for a prior approval application, estimated as £2,350 in the benchmarking study referenced in paragraph 1.4.
- 4.5 Also, there is an indirect cost to businesses in any delay in the determination of the planning application and the ultimate provision of superfast broadband to increase and improve digital connectivity.

Local Planning Authorities

- 4.6 Individual prior approval applications made to the LPA will need to be the subject of a decision, and that decision will need to be notified to the developer, within a period of 56 days. Regardless of whether in the individual case they do actually exercise their discretionary power, each application will need to be publicised by the LPA and be the subject of consultations by them in order to meet statutory requirements. The planning fee paid is intended to offset the LPAs costs.

General Public

- 4.7 There is an indirect cost to the general public through any potential delay of access to superfast broadband as a result of delays to the installation of the necessary infrastructure.

Benefit Analysis for Option 1 – Do nothing

Businesses

- 4.8 There are no indirect or direct benefits for businesses.

Local Planning Authorities

- 4.9 A discretionary power remains available to LPAs to require their approval, in any specific case, to the siting and appearance of the development.

General Public

- 4.10 Any prior approval or planning applications which are made will need to be publicised by the LPA affording third parties, such as the general public, the opportunity of making representations to the LPA about the individual application made.

Cost Analysis for Option 2

Businesses

- 4.11 There are no additional direct or indirect costs to businesses.

Local Planning Authorities

- 4.12 There will be a loss of future potential planning fee income from the prior approval applications and planning applications no longer require, this however is offset by the LPA not incurring the costs involved in dealing with those applications.

General Public

- 4.13 There are no additional direct or indirect costs to the general public.

Benefit Analysis for Option 2

Businesses

- 4.14 There are direct cost savings for Code Operators through the saving of the prior approval application fee and the associated costs involved in making the application. The process will be streamlined, offering more certainty for Code Operators reducing unnecessary delay and expense.
- 4.15 Businesses generally are also likely to benefit:

- a) as potential users, from any earlier provision of telecommunications services which the infrastructure involved is intended to provide; and
- b) from the wider resulting economic benefits of good digital connectivity.

Local Planning Authorities

- 4.16 The reduced number of prior approval applications and planning applications needing to be determined will allow LPAs to reallocate valuable staff resources to other planning applications which may have more complex and significant impacts.

General Public

- 4.17 The general public will benefit from earlier provision of telecommunications services which the infrastructure involved is intended to provide and the wider resulting social and economic benefits of improved digital connectivity.

5. Non-domestic solar installations

Options

- 5.1 The following options are considered:

Option 1: Do nothing – Legislation remains the same and the existing permitted development rights apply.

Option 2: - Make the legislation – Removes the energy threshold output limitation on the current permitted development rights and introduces additional conditions/limitations restricting development near an airport or aerodrome and requires the possible affects of glint and glare to be considered.

Option 2 is the favoured option as it will result in a more enabling regime for the deployment of non-domestic solar installations.

Cost and Benefits Analysis

- 5.2 The sectors most likely to be affected by the proposals include:
- Renewable energy companies / businesses wishing to install solar panels on the roof of non domestic buildings.
 - Local planning authorities through the processing of planning applications.
 - The general public who will potentially be impacted on by increased numbers of solar panels on roofs of non domestic buildings in their communities.

- 5.3 The following cost and benefit analysis has been undertaken for each of the above sectors:

Cost Analysis for Option 1: Do nothing

Business

- 5.4 The requirement for planning permission for larger solar installations on non domestic roofs will remain. This includes the planning application fee and additional associated costs for the preparation of the necessary supporting information, such as plans.
- 5.5 The requirement for planning permission may deter some businesses from considering installing solar panels on their roofs which mean this significant resource is left untapped.

Local Planning Authorities

- 5.6 LPAs will continue to validate, process and determine applications for planning permission for larger solar arrays on non domestic roofs. Each application will need to be publicised and a site visit undertaken. The application will be determined in accordance with the relevant LPA scheme of delegation which may entail the application being determined by the planning committee. The planning fee paid is intended to offset the LPAs costs.

General Public

- 5.7 There are no direct costs to the public.

Benefit Analysis for Option 1 – Do nothing

Businesses

- 5.8 Businesses within 2-3km of an airport or aerodrome will continue to be able to erect solar arrays on, or within the grounds of, non-domestic buildings without the need for planning permission, subject to compliance with the relevant conditions.

Local Planning Authorities

- 5.9 LPAs retain the associated planning application fee for larger masts etc and have more control over the development.

General Public

- 5.10 There are no indirect or direct benefits for the general public.

Cost Analysis for Option 2: Make the legislation

Businesses

- 5.11 The proposed legislation is de-regulatory and as such there are potential cost-savings to businesses through a no longer requiring planning permission for larger solar arrays (subject to compliance with the relevant conditions) and the costs associated with preparing and submitting an application.
- 5.12 Notwithstanding this, businesses within 2-3km of an airport or aerodrome will no longer benefit from permitted development rights for solar arrays on, or within the ground of, non-domestic buildings. This will in effect increase costs (incurred by through preparation and submission of a planning application) for businesses within this proximity threshold of an airport or aerodrome should they wish to undertake development previously permitted by Part 43 of the GPDO.
- 5.13 This is however considered to affect a relatively small number of buildings. An increase in costs for impacted properties (should they wish to undertake solar development previously permitted by Part43) is not considered to outweigh the potential savings to be achieved by the majority of businesses in Wales who will be able to install as much solar panel apparatus as they wish, subject to compliance with the relevant limitations and conditions.
- 5.14 The additional condition concerning minimising glint or glare is unlikely to result in any additional costs as such consideration of the impacts of the siting of solar development should already be taken into account by the solar industry when surveying sites.

Local Planning Authorities

- 5.15 Local Planning Authorities may feel that they will lose control over the siting and design of new non domestic solar installations, however conditions are in place to limit the impact. There will be reduction in planning application fee income, however, this is offset by the LPA not incurring the costs involved in dealing with those applications. In many circumstances, the application fee does not cover the cost of determining a planning application.
- 5.16 The potential number of additional applications that may be submitted as a result of the new condition regarding development within 3km of an airport or aerodrome is considered to be de minimis in respect of Local Planning Authority fee income.

General Public

- 5.17 There are no additional direct or indirect costs to the general public.

Benefit Analysis for Option 2

Business

- 5.18 Businesses will benefit from not paying planning application fees and associated supporting evidence necessary to accompany such an application. This should lead to an increase in the number of installations, thereby assisting in meeting renewable energy and carbon targets.

Local Planning Authorities

- 5.19 The reduced number of planning applications needing to be determined will allow LPAs to reallocate valuable staff resources to other planning applications which may have more complex and significant impacts.

General Public

- 5.20 The general public will benefit from a potential increase in mobile coverage and the wider economic and social benefits arising from greater connectivity.

6. Consultation

- 6.1 Consultation was undertaken on wider proposals for the amendment and consolidation of the Town and Country Planning (Use Classes) Order 1987 and the GPDO the proposals between 31 May and 28 September 2018. The consultation paper was available on the Welsh Government's website. In addition, key stakeholders from the private, public and third sectors were directly notified. In total, 148 responses were received.

- 6.2 A summary of responses is available on the Welsh Government website and includes details of changes made to the proposals.

7. Competition Assessment

- 7.1 A competition filter test has been applied to the proposed amendments. The results of the test suggest that the proposals are unlikely to have any significant detrimental effect on competition.

8. Post implementation review

- 8.1 Regular meetings between Welsh Government's Planning Directorate and business sector representatives and Chief Planning Officers enables discussion regarding any issues or concerns with the arrangements introduced by the new secondary legislation. Feedback from the Planning Inspectorate (Wales) and representations to the Welsh Government's Planning Directorate by interested sectors, Assembly Members and the public will also provide evidence of the effectiveness of the new arrangements.

SL(5)354 – The Local Health Boards (Area Change) (Wales) (Miscellaneous Amendments) Order 2019

Background and Purpose

This Order is made by the Welsh Ministers pursuant to sections 11, 203(9) and (10) and 204(1) of, and paragraph 11 of Schedule 2 to, the National Health Service (Wales) Act 2006.

The main changes effected by the Order, which come into force on 1 April 2019, are as follows:

1. The principal local government area of Bridgend is transferred from Abertawe Bro Morgannwg University Local Health Board and forms part of the area of Cwm Taf University Local Health Board;
2. Abertawe Bro Morgannwg University Local Health Board is renamed Swansea Bay University Local Health Board; and
3. Cwm Taf University Local Health Board is renamed Cwm Taf Morgannwg University Local Health Board.

The Order also makes associated changes to the area and names of the relevant Community Health Councils and Safeguarding Boards.

The Order amends a series of statutory instruments to give effect to, and in consequence of, the above changes.

Procedure

Negative.

Technical Scrutiny

One point is identified for reporting under Standing Order 21.3 in respect of this instrument.

- 1. Standing Order 21.2(vi) - that its drafting appears to be defective or it fails to fulfil statutory requirements;**

Article 7 of this Order amends Schedule 1 to the Community Health Councils (Constitution, Membership and Procedures) (Wales) Regulations 2010 to reflect the new names of the relevant Community Health Councils from 1 April 2019. However, Schedule 2 to those Regulations contains provision specifying the current names of the Councils, and has not been amended by this Order.

Merits Scrutiny

One point is identified for reporting under Standing Order 21.3 in respect of this instrument.

- 2. Standing Order 21.3(ii) - that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly**



The Minister for Health and Social Services, Vaughan Gething AM, issued a written statement on 25 February 2019 confirming that this Order has been laid to give effect to the health board boundary and name changes, following the outcome of a consultation published on 14 June 2018. The consultation period ran from 13 December 2017 to 7 March 2018.

Implications arising from exiting the European Union

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Government Response

We note and accept the reporting point. We will seek to make this consequential amendment in further amending regulations as soon as possible.

Legal Advisers

Constitutional and Legislative Affairs Committee

13 March 2019



OFFERYNNAU STATUDOL
CYMRU

2019 Rhif 349 (Cy. 83)

**Y GWASANAETH IECHYD
GWLADOL, CYMRU**

**Gorchymyn Byrddau Iechyd Lleol
(Newid Ardaloedd) (Cymru)
(Diwygiadau Amrywiol) 2019**

NODYN ESBONIADOL

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

Mae'r Gorchymyn hwn yn newid ardaloedd Bwrdd Iechyd Lleol Prifysgol Cwm Taf a Bwrdd Iechyd Lleol Prifysgol Abertawe Bro Morgannwg ac mae hefyd yn newid eu henwau.

Mae prif ardal llywodraeth leol Pen-y-bont ar Ogwr wedi ei throsglwyddo o Fwrdd Iechyd Lleol Prifysgol Abertawe Bro Morgannwg ac mae'n rhan o ardal Bwrdd Iechyd Lleol Prifysgol Cwm Taf. Mae Bwrdd Iechyd Lleol Prifysgol Abertawe Bro Morgannwg wedi ei ailenwi'n Fwrdd Iechyd Lleol Prifysgol Bae Abertawe ac mae Bwrdd Iechyd Lleol Prifysgol Cwm Taf wedi ei ailenwi'n Fwrdd Iechyd Lleol Prifysgol Cwm Taf Morgannwg.

Mae diwygiadau sy'n rhoi effaith i'r newidiadau hyn wedi eu gwneud i Orchymyn Byrddau Iechyd Lleol (Sefydlu a Diddymu) (Cymru) 2009 a Rheoliadau Byrddau Iechyd Lleol (Cyfansoddiad, Aelodaeth a Gweithdrefnau) (Cymru) 2009.

Mae'r newidiadau i ardaloedd byrddau iechyd lleol yn cael yr effaith o newid ardal y Cynghorau Iechyd Cymuned perthnasol. Yn unol â hynny, mae'r Gorchymyn hwn yn diwygio Gorchymyn Cynghorau Iechyd Cymuned (Sefydlu, Trosglwyddo Swyddogaethau a Diddymu) (Cymru) 2010 i adlewyrchu'r newidiadau i ardaloedd byrddau iechyd lleol. Yn ogystal, mae Cyngor Iechyd Cymuned Cwm Taf wedi ei ailenwi'n Gyngor Iechyd Cymuned Cwm Taf Morgannwg ac mae Cyngor Iechyd Cymuned Abertawe Bro Morgannwg wedi ei ailenwi'n Gyngor Iechyd Cymuned Bae Abertawe. Mae diwygiadau hefyd wedi eu gwneud i nifer aelodau'r Cynghorau hynny.

Mae'r Gorchymyn hwn hefyd yn gwneud diwygiadau i offerynnau statudol eraill sy'n codi o'r newidiadau a ddisgrifir uchod.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Gorchymyn hwn. O ganlyniad, lluniwyd Asesiad Effaith Rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Gorchymyn hwn. Gellir cael copi oddi wrth: Yr Adran Iechyd a Gwasanaethau Cymdeithasol, Llywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ.

OFFERYNNAU STATUDOL
CYMRU

2019 Rhif 349 (Cy. 83)

**Y GWASANAETH IECHYD
GWLADOL, CYMRU**

**Gorchymyn Byrddau Iechyd Lleol
(Newid Ardaloedd) (Cymru)
(Diwygiadau Amrywiol) 2019**

Gwnaed 22 Chwefror 2019

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru* 25 Chwefror 2019

Yn dod i rym 1 Ebrill 2019

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir gan adrannau 11, 203(9) a (10) a 204(1) o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006(1) a pharagraff 11 o Atodlen 2 iddi, yn gwneud y Gorchymyn a ganlyn.

Enwi, cychwyn a chymhwyso

1.—(1) Enw'r Gorchymyn hwn yw Gorchymyn Byrddau Iechyd Lleol (Newid Ardaloedd) (Cymru) (Diwygiadau Amrywiol) 2019 a daw i rym ar 1 Ebrill 2019.

(2) Mae'r Gorchymyn hwn yn gymwys o ran Cymru.

Dehongli

2. Yn y Gorchymyn hwn, ystyr "y Gorchymyn Sefydlu" yw Gorchymyn Byrddau Iechyd Lleol (Sefydlu a Diddymu) (Cymru) 2009(2).

Newid ardaloedd ac enwau byrddau iechyd lleol

3.—(1) Mae prif ardal llywodraeth leol Pen-y-bont ar Ogwr wedi ei throsglwyddo o Fwrdd Iechyd Lleol

(1) 2006 p. 42.

(2) O.S. 2009/778 (Cy. 66), a ddiwygiwyd gan O.S. 2013/2918 (Cy. 286).

Prifysgol Abertawe Bro Morgannwg ac mae'n rhan o ardal Bwrdd Iechyd Lleol Prifysgol Cwm Taf(1).

(2) Mae Bwrdd Iechyd Lleol Prifysgol Cwm Taf wedi ei ailenwi, ac mae i'w alw, yn Fwrdd Iechyd Lleol Prifysgol Cwm Taf Morgannwg.

(3) Mae Bwrdd Iechyd Lleol Prifysgol Abertawe Bro Morgannwg wedi ei ailenwi, ac mae i'w alw, yn Fwrdd Iechyd Lleol Prifysgol Bae Abertawe.

(4) Yn unol â hynny, yn lle Atodlen 1 i'r Gorchymyn Sefydlu rhodder yr Atodlen 1 newydd a nodir yn yr Atodlen i'r Gorchymyn hwn.

(5) Yn yr erthygl hon, ystyr "prif ardal llywodraeth leol" yw'r brif ardal llywodraeth leol at ddibenion Deddf Llywodraeth Leol 1972(2).

Diwygiadau i Reoliadau Byrddau Iechyd Lleol (Cyfansoddiad, Aelodaeth a Gweithdrefnau) (Cymru) 2009

4.—(1) Yn Atodlen 4 i Reoliadau Byrddau Iechyd Lleol (Cyfansoddiad, Aelodaeth a Gweithdrefnau) (Cymru) 2009(3) (y prifysgolion a gaiff enwebu aelod i fwrdd iechyd lleol), mae'r tabl wedi ei ddiwygio fel a ganlyn.

(2) Yng ngholofn 2—

- (a) yn rhes 2, yn lle "Bwrdd Iechyd Lleol Cwm Taf" rhodder "Bwrdd Iechyd Lleol Prifysgol Cwm Taf Morgannwg";
- (b) yn rhes 4, yn lle "Bwrdd Iechyd Lleol Prifysgol Abertawe Bro Morgannwg" rhodder "Bwrdd Iechyd Lleol Prifysgol Bae Abertawe".

Diwygiadau i Reoliadau Pwyllgor Gwasanaethau Iechyd Arbenigol Cymru (Cymru) 2009

5. Yn rheoliad 2 (dehongli) o Reoliadau Pwyllgor Gwasanaethau Iechyd Arbenigol Cymru (Cymru) 2009(4), yn y diffiniad o "Bwrdd Iechyd Lleol cynhaliol", yn lle "Bwrdd Iechyd Lleol Cwm Taf" rhodder "Bwrdd Iechyd Lleol Prifysgol Cwm Taf Morgannwg".

-
- (1) Enw blaenorol Bwrdd Iechyd Lleol Prifysgol Cwm Taf oedd Bwrdd Iechyd Lleol Cwm Taf ond fe'i hailenwyd gan erthygl 2(b) o O.S. 2013/2918 (Cy. 286).
 - (2) 1972 p. 70. Gwnaed diwygiadau perthnasol gan Ddeddf Llywodraeth Leol (Cymru) 1994 (p. 19).
 - (3) O.S. 2009/779 (Cy. 67), a ddiwygiwyd gan O.S. 2012/1641, O.S. 2013/235, O.S. 2014/1815, O.S. 2015/137 ac O.S. 2016/481.
 - (4) O.S. 2009/3097 (Cy. 270), a ddiwygiwyd gan O.S. 2012/1641, O.S. 2013/235, O.S. 2015/137 ac O.S. 2016/481.

Diwygiadau i Orchymyn Cynghorau Iechyd Cymuned (Sefydlu, Trosglwyddo Swyddogaethau a Diddymu) (Cymru) 2010

6.—(1) Yn Atodlen 1 i Orchymyn Cynghorau Iechyd Cymuned (Sefydlu, Trosglwyddo Swyddogaethau a Diddymu) (Cymru) 2010(1) (enwau cynghorau iechyd cymuned ac ardaloedd byrddau iechyd lleol y sefydlir hwy ar eu cyfer), mae'r tabl wedi ei ddiwygio fel a ganlyn(2).

(2) Yng ngholofn 1 (enwau cynghorau iechyd cymuned)—

- (a) yn rhes 2, yn lle “Cyngor Iechyd Cymuned Abertawe Bro Morgannwg” rhodder “Cyngor Iechyd Cymuned Bae Abertawe”;
- (b) yn rhes 5, yn lle “Cyngor Iechyd Cymuned Cwm Taf” rhodder “Cyngor Iechyd Cymuned Cwm Taf Morgannwg”.

(3) Yng ngholofn 2 (ardaloedd byrddau iechyd lleol y sefydlir y cyngor iechyd cymuned ar eu cyfer)—

- (a) yn rhes 2, yn lle “Bwrdd Iechyd Lleol Prifysgol Abertawe Bro Morgannwg” rhodder “Bwrdd Iechyd Lleol Prifysgol Bae Abertawe”;
- (b) yn rhes 5, yn lle “Bwrdd Iechyd Lleol Cwm Taf” rhodder “Bwrdd Iechyd Lleol Prifysgol Cwm Taf Morgannwg”.

Diwygiadau i Reoliadau Cynghorau Iechyd Cymuned (Cyfansoddiad, Aelodaeth a Gweithdrefnau) (Cymru) 2010

7.—(1) Mae Rheoliadau Cynghorau Iechyd Cymuned (Cyfansoddiad, Aelodaeth a Gweithdrefnau) (Cymru) 2010(3) wedi eu diwygio fel a ganlyn.

(2) Yn y tabl yn Atodlen 1 (cyfanswm yr aelodau sydd i'w penodi yn aelodau o Gyngor gan y cyrff sy'n penodi)—

- (a) yng ngholofn 1 (enw'r cyngor iechyd cymuned)—
 - (i) yn rhes 2, yn lle “Cyngor Iechyd Cymuned Abertawe Bro Morgannwg” rhodder “Cyngor Iechyd Cymuned Bae Abertawe”;

(1) O.S. 2010/289 (Cy. 38), a ddiwygiwyd gan O.S. 2015/507 (Cy. 42).

(2) O dan erthygl 4(2) o Orchymyn Cynghorau Iechyd Cymuned (Sefydlu, Trosglwyddo Swyddogaethau a Diddymu) (Cymru) 2010, os yw ardal y bwrdd iechyd lleol a neilltuir ar gyfer cyngor iechyd cymuned yn cael ei hamrywio, mae ardal y cyngor iechyd cymuned i'w hamrywio yn unol â hynny.

(3) O.S. 2010/288 (Cy. 37), a ddiwygiwyd gan O.S. 2013/235, O.S. 2015/137, O.S. 2015/509 (Cy. 43) ac O.S. 2016/481.

(ii) yn rhes 5, yn lle “Cyngor Iechyd Cymuned Cwm Taf” rhodder “Cyngor Iechyd Cymuned Cwm Taf Morgannwg”;

(b) yng ngholofn 2 (cyfanswm yr aelodau sydd i’w penodi gan awdurdodau lleol perthnasol)—

(i) yn rhes 2, yn lle “9” rhodder “6”;

(ii) yn rhes 5, yn lle “6” rhodder “9”;

(c) yng ngholofn 3 (cyfanswm yr aelodau sydd i’w penodi gan sefydliadau gwirfoddol)—

(i) yn rhes 2, yn lle “9” rhodder “6”;

(ii) yn rhes 5, yn lle “6” rhodder “9”;

(d) yng ngholofn 4 (cyfanswm yr aelodau sydd i’w penodi gan Weinidogion Cymru)—

(i) yn rhes 2, yn lle “18” rhodder “12”;

(ii) yn rhes 5, yn lle “12” rhodder “18”.

(3) Yn y tabl yn Atodlen 2 (cyngorau iechyd cymuned ac ardaloedd awdurdod lleol neu rannau ohonynt y gwneir penodiadau arnynt ac y sefydlir pwyllgorau lleol iddynt), yng ngholofn 2 (ardaloedd awdurdod lleol)—

(a) yn rhes 2—

(i) hepgorer “i. Pen-y-bont ar Ogwr”, a

(ii) ailrifer gweddill y cofnodion “i. Castell-nedd Port Talbot” a “ii. Abertawe”;

(b) yn rhes 5, ar ôl “ii. Rhondda Cynon Taf” mewnosoder “iii. Pen-y-bont ar Ogwr”.

Diwygiadau i Reoliadau Iechyd Meddwl (Darpafiaeth Ranbarthol) (Cymru) 2012

8.—(1) Yn Atodlen 2 i Reoliadau Iechyd Meddwl (Darpafiaeth Ranbarthol) (Cymru) 2012⁽¹⁾ (y ddarpafiaeth ranbarthol a’r partneriaid iechyd meddwl lleol), mae’r tabl wedi ei ddiwygio fel a ganlyn.

(2) Yng ngholofn 1 (ardaloedd yr awdurdodau lleol (neu’r rhannau ohonynt) a gymhwysir fel rhanbarthau)—

(a) yn rhes 3, hepgorer “Cyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr”;

(b) yn rhes 5, ar ôl “Cyngor Bwrdeistref Sirol Merthyr Tudful” mewnosoder “Cyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr”.

(3) Yng ngholofn 2 (y partneriaid iechyd meddwl lleol)—

(a) yn rhes 3—

(1) O.S. 2012/1244 (Cy. 152).

- (i) yn lle “Bwrdd Iechyd Lleol Prifysgol Abertawe Bro Morgannwg” rhodder “Bwrdd Iechyd Lleol Prifysgol Bae Abertawe”, a
 - (ii) hepgorer “Cyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr”;
- (b) yn rhes 5—
- (i) ar ôl “Cyngor Bwrdeistref Sirol Merthyr Tudful” mewnosoder “Cyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr”, a
 - (ii) yn lle “Bwrdd Iechyd Lleol Cwm Taf” rhodder “Bwrdd Iechyd Lleol Prifysgol Cwm Taf Morgannwg”.

Diwygiadau i Reoliadau'r Pwyllgor Gwasanaethau Ambiwlans Brys (Cymru) 2014

9. Yn rheoliad 2 o Reoliadau'r Pwyllgor Gwasanaethau Ambiwlans Brys (Cymru) 2014⁽¹⁾ (dehongli), yn y diffiniad o “Bwrdd Iechyd Lleol cynhaliol”, yn lle “Bwrdd Iechyd Lleol Prifysgol Cwm Taf” rhodder “Bwrdd Iechyd Lleol Prifysgol Cwm Taf Morgannwg”.

Diwygiadau i Reoliadau Byrddau Diogelu (Cyffredinol) (Cymru) 2015

10.—(1) Mae Rheoliadau Byrddau Diogelu (Cyffredinol) (Cymru) 2015⁽²⁾ wedi eu diwygio fel a ganlyn.

(2) Yn y tabl yn Atodlen 1 (ardaloedd byrddau diogelu)—

- (a) yng ngholofn 1 (enw'r ardal bwrdd diogelu)—
 - (i) yn rhes 2, yn lle “Cwm Taf” rhodder “Cwm Taf Morgannwg”;
 - (ii) yn rhes 6, yn lle “Bae'r Gorllewin” rhodder “Gorllewin Morgannwg”;
- (b) yng ngholofn 2 (rhychwant yr ardal bwrdd diogelu)—
 - (i) yn rhes 2, ar ôl “Cyngor Bwrdeistref Sirol Merthyr Tudful” mewnosoder “, Cyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr”;
 - (ii) yn rhes 6, hepgorer “Cyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr”.

(3) Yn y tabl yn Atodlen 2 (partneriaid arweiniol), yng ngholofn 1 (ardal bwrdd diogelu)—

(1) O.S. 2014/566 (Cy. 67), a ddiwygiwyd gan O.S. 2015/137 ac O.S. 2016/481.

(2) O.S. 2015/1357 (Cy. 131), a ddiwygiwyd gan O.S. 2018/494 (Cy. 85).

- (a) yn rhes 2, yn lle “Cwm Taf” rhodder “Cwm Taf Morgannwg”;
- (b) yn rhes 6, yn lle “Bae’r Gorllewin” rhodder “Gorllewin Morgannwg”.

Julie Morgan

Y Dirprwy Weinidog Iechyd a Gwasanaethau
Cymdeithasol, o dan awdurdod y Gweinidog Iechyd a
Gwasanaethau Cymdeithasol, un o Weinidogion
Cymru
22 Chwefror 2019

YR ATODLEN Erthygl 3(4)

Yr Atodlen sydd i'w rhoi yn lle Atodlen
1 i'r Gorchymyn Sefydlu

“ATODLEN 1 Erthyglau 3 a 4

Enwau Byrddau Iechyd Lleol a
Prif Ardaloedd Llywodraeth Leol
y Sefydliir hwy ar eu cyfer

| <i>Colofn 1</i> | <i>Colofn 2</i> |
|--|--|
| <i>Enwau Byrddau Iechyd Lleol a sefydlir o dan erthygl 3</i> | <i>Prif ardaloedd llywodraeth leol y sefydlir y Bwrdd Iechyd Lleol ar eu cyfer</i> |
| 1 Bwrdd Iechyd Lleol Prifysgol Aneurin Bevan | Blaenau Gwent, Caerffili, Casnewydd, Sir Fynwy a Thor-faen |
| 2 Bwrdd Iechyd Lleol Prifysgol Cwm Taf Morgannwg | Merthyr Tudful, Pen-y-bont ar Ogwr a Rhondda Cynon Taf |
| 3 Bwrdd Iechyd Lleol Prifysgol Caerdydd a'r Fro | Caerdydd a Bro Morgannwg |
| 4 Bwrdd Iechyd Lleol Prifysgol Bae Abertawe | Abertawe a Chastell-nedd Port Talbot |
| 5 Bwrdd Iechyd Lleol Prifysgol Hywel Dda | Ceredigion, Sir Benfro a Sir Gaerfyrddin |
| 6 Bwrdd Iechyd Lleol Prifysgol Betsi Cadwaladr | Conwy, Gwynedd, Sir Ddinbych, Sir y Fflint, Wrecsam ac Ynys Môn” |

Explanatory Memorandum to the Local Health Boards (Area Change) (Wales) (Miscellaneous Amendments) Order 2019

This Explanatory Memorandum has been prepared by the Department for Health and Social Services and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Cabinet Secretary's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of Local Health Boards (Area Change) (Wales) (Miscellaneous Amendments) Order 2019 and therefore, I am satisfied that the benefits justify the likely costs.

Julie Morgan

**Deputy Minister for Health and Social Services,
under the authority of the Minister for Health and Social Services, one of
the Welsh Ministers**

25 February 2019

1. Description

This Statutory Instrument amends the Local Health Boards (Establishment and Dissolution) (Wales) Order 2009 and makes associated consequential changes to the:

- Local Health Boards (Constitution, Membership and Procedures) (Wales) Regulations 2009
- Welsh Health Specialised Services Committee (Wales) Regulations 2009
- Community Health Councils (Establishment, Transfer of Functions and Abolition) (Wales) Order 2010
- Community Health Councils (Constitution, Membership and Procedures) (Wales) Regulations 2010
- Mental Health (Regional Provision) (Wales) Regulations 2012
- Emergency Ambulance Services Committee (Wales) Regulations 2014
- Safeguarding Boards (General) (Wales) Regulations 2015

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

None.

3. Legislative background

Welsh Ministers make the Order in exercise of powers conferred on them by sections 11, 203(9) and (10) and 204(1) of and paragraphs 11 of Schedule 2 to the National Health Service (Wales) Act 2006.

The instrument is subject to the Negative Procedure by virtue of section 203(4) of the National Health Service (Wales) Act 2006.

4. Purpose & intended effect of the legislation

The Order amends Schedule 1 to the Local Health Boards (Establishment and Dissolution) (Wales) Order 2009 to provide that Bridgend principal local government area is assigned to Cwm Taf Local Health Board with effect from 1 April 2019 and to change the name of Cwm Taf University Local Health Board and Abertawe Bro Morgannwg University Health Local Board to reflect the boundary change.

The consequential amendments are made to ensure consistency of the law. Principally they reflect the change of name to the two health boards in regulations that include the current health board names. They also reflect the change of footprint where referenced.

The amendment to schedule 1 of the Community Health Councils (Constitution, Membership and Procedures) (Wales) Regulations 2010 renames the relevant Community Health Councils in accordance with the new health board names.

5. Consultation

Details of the consultations undertaken are included within the RIA below.

PART 2 – REGULATORY IMPACT ASSESSMENT

The purpose of amending the Order is to provide that healthcare services for people in the Bridgend County Borough Council (CBC) area will be planned, secured and delivered by Cwm Taf LHB instead of Abertawe Bro Morgannwg LHB. The effect is to ensure Bridgend CBC is not disadvantaged working with multiple-strategic partners across two strategic footprints, and to support the strengthening of regional partnership arrangements, leadership and decision making.

Options

Option 1: Do Nothing

Leave Bridgend CBC within the area of Abertawe Bro Morgannwg LHB with the need to maintain relationships with a relatively high number of partners and continue to work across two strategic footprints in South Wales.

Option 2: Amend the health board boundary

Amend the Local Health Boards (Establishment and Dissolution) (Wales) Order 2009 so that:

- (a) healthcare services for people in the Bridgend CBC area are planned, secured and delivered by Cwm Taf LHB instead of Abertawe Bro Morgannwg LHB by assigning the Bridgend principal local government area to Cwm Taf University Health Board; and
- (b) the health board names reflect the new respective health board footprints.

Costs and Benefits

Benefits

Option 1: There are no additional benefits associated with the Do Nothing option. The key impacts and disbenefits of not changing the health board assignment of Bridgend CBC are considered to be:

- the capacity of elected members to engage in effective partnerships is spread over two extensive strategic partnerships, stretching the ability to develop relationships and influence strategic directions;
- scrutiny and democratic participation is more complex than it needs to be and it is more difficult for members of the public, or other organisations to understand where decisions are made;

- there is added complexity in decision-making and governance; and senior officer time is disproportionately taken up with managing increasingly different relationships;
- as the City Deal and other partnership arrangements continue to develop and social services and health integration is strengthened, it will become increasingly challenging for Bridgend CBC to influence partnership arrangements and services on the basis of existing arrangements;
- difficulties in dealing with separate partnership arrangements for related policy areas. For example under current partnership arrangements social care and education services are provided on separate strategic footprints. Services such as youth offending and additional learning needs amongst others need to engage with education and social care;
- as partnership working, including the City Deal, becomes more established over time, the particular challenge for Bridgend CBC is expected to become more pronounced.

The challenges outlined above and associated costs would be expected to increase as partnership working arrangements become more established.

Option 2: Amending the Order will ensure Bridgend CBC is not disadvantaged by multiple-strategic partners. The intent would be to simplify arrangements, establish more congruous partnerships across economic activity and health services, and support the strengthening of regional partnership arrangements.

To summarise the key current partnerships:

- healthcare services are provided by Abertawe Bro Morgannwg UHB with partner authorities across Swansea Bay;
- integrated health and social care is provided through the Western Bay regional partnership board, in partnership with Neath Port Talbot Council and Swansea City Council, Abertawe Bro Morgannwg UHB and other partners;
- Bridgend CBC is integrated into the Cardiff Capital Region for economic activity working with local authority partners across south east Wales, none of which have healthcare services provided by Abertawe Bro Morgannwg UHB;
- education improvement services are provided in partnership with Rhondda Cynon Taf Council and Merthyr Council, the two local authorities that have their healthcare services provided by Cwm Taf UHB.

The proposed assignment change would ensure that Bridgend CBC's partnership arrangements for health and social services were more aligned with developing economic and current education partnership arrangements, and ensure that Bridgend's partnership arrangements were consistent with all other local authorities in Wales.

Costs

Option 1:

This is the Do Nothing option and as such there are no additional costs associated with this option.

It is not possible to articulate specific costs associated with not making the assignment change. The costs arise from the on-going challenge for Bridgend CBC in maintaining current and future partnership arrangements across two strategic footprints which would accumulate over time. Costs would include lost opportunities to improve service outcomes or efficiency by working across service boundaries where they are part of different regional arrangements.

Option 2:

The Welsh Government has confirmed funding of up to £2.9m to meet the transitional costs of the transfer in 2018-19 following an assessment of costs undertaken by the health boards. £100,000 has been allocated to Bridgend County Borough Council in recognition of costs associated with the boundary change and the process of making changes to partnership arrangements between health boards.

A summary of the costs breakdown for health boards is provided below:

| Summary Resource Breakdown | Programme Management | Due Diligence & External Advice | Planning & Decision Making | Transition | Total |
|------------------------------------|----------------------|---------------------------------|----------------------------|---------------|---------------|
| | £k | £k | £k | £k | £k |
| Core Programme Team | £175 | | | | £175 |
| Workforce | £100 | £50 | £150 | £300 | £600 |
| Governance & Comms | | | £100 | £100 | £200 |
| ICT | | | £100 | £400 | £500 |
| Performance and Informatics | | £50 | £50 | £50 | £150 |
| Finance | £100 | £100 | £200 | £200 | £600 |
| Capital and Estates | | £50 | £150 | £50 | £250 |
| Clinical and Non-Clinical Services | | £0 | £100 | £150 | £250 |
| Partnerships | | £50 | £50 | | £100 |
| Quality and Patient Safety | | £50 | £50 | | £100 |
| Total | £375 | £350 | £950 | £1,250 | £2,925 |

In addition the health boards have estimated costs associated with the name change to reflect the new footprints will be £100,000 for each health board and have confirmed that this will be met from current budgets. The health boards have indicated they intend to phase in the name change over time taking action to minimise the cost impact.

Impact

In consultation, some concerns were raised by the voluntary sector about changes to some funding arrangements from the health boards where they are based on current health board footprint arrangements. Funding arrangements may change over time as an outcome of the boundary change to reflect the new footprints.

There are not considered to be other impacts that are not identified in this impact assessment. No service changes are planned as a result of the boundary change.

Impact assessments were undertaken or considered in preparation for the consultation on the boundary change and can be found at:

<https://beta.gov.wales/proposed-health-board-boundary-change-bridgend>

Consultation

The Welsh Government has maintained a dialogue with the health boards and other key stakeholders throughout the consultation and the planning process with observer status at the health boards Joint Transition Board, regular meetings with the Joint Transition Team and discussion about the boundary change at regular meetings with senior officers of the health boards.

A 12-week public consultation was undertaken on the principle of the boundary change. Organisations and individuals were consulted in a mixture of meetings, consultation events and formal responses to the written consultation.

A summary of the outcome of the consultation is available at:

<https://beta.gov.wales/proposed-health-board-boundary-change-bridgend>

The Welsh Government undertook a 12 week consultation on the proposal to change the health board boundary between 13 December 2017 and 7 March 2018.

In total, 145 responses to the consultation were received, with 8 subsequently discarded as obvious duplicates. From the 137 responses considered as part of the analysis, 70 of the respondents requested anonymity, and 13 returns were sent as narrative responses. Not all respondents answered the questions directly; some chose not to answer a particular question and 13 sent a summary of their views instead of the web-based form.

The following table provides a breakdown of the number of respondents into types based on sector.

| Category | Numbers |
|---------------------------------------|---------|
| Health Bodies | 11 |
| Third Sector / Voluntary Organisation | 10 |
| Local Government | 6 |
| Individual / Organisation not stated | 90 |

| | |
|-------------------------------------|------------|
| Elected Representatives | 5 |
| Public Boards / Associations | 3 |
| Emergency and Other Public Services | 5 |
| Others / Trade Unions | 7 |
| Total | 137 |

Welsh Government officials attended stakeholder events by invitation within the ABMU health board area to discuss the consultation proposal.

A summary of responses has been published and can be found at:

<https://beta.gov.wales/proposed-health-board-boundary-change-bridgend>

Following formal consultation on the boundary change a proposal was made to change the names of the respective health boards to reflect the changed geographical areas. Proposal for the name changes were made by the health boards to the Welsh Government following a period of engagement with their key stakeholders.

Cwm Taf University Health Board undertook a process of engagement with stakeholders and staff between 24 October 2018 and 7 November to gauge view on the potential name change. An online survey was issued via email to a total of 9,718 stakeholders. This comprised of 266 external stakeholders and 9,452 internal stakeholders (NHS Wales staff). The survey was also shared via social media channels to raise awareness of the engagement process. A majority of respondents agreed that the name should be changed and out of a choice of two names 'Cwm Taf Morgannwg' was supported by the majority.

Abertawe Bro Morgannwg University Health Board undertook a process of engagement with staff and stakeholders through letters to stakeholder representatives inviting comment, an online survey, engagement through the Board's other social media platforms and, with staff, through the Board's intranet. The online survey was available from October 24. All responses to the survey (online, email or hard copy) were requested no later than November 7 at 12pm. In response to a question asking which of the name proposed would better reflect the geography and footprint of the populations and communities the Board would serve a majority of respondents chose Swansea Bay University Health Board / Bwrdd Iechyd Prifysgol Bae Abertawe (option 1) and 10.67% chose Western Bay University Health Board / Bwrdd Iechyd Prifysgol Bae'r Gorllewin (option 2).

A separate consultation has not been undertaken on the consequential amendments.

Competition Assessment

A competition assessment has been undertaken – the Regulations are unlikely to have a significant detrimental effect on competition.

Post implementation review

The Welsh Government will work with the health boards and other stakeholders to ensure that the impact of the Order is understood.

Eitem 4.7

SL(5)355 - Gorchymyn Pysgota Môr (Hysbysiadau Cosb) (Cymru) 2019

Cefndir a Diben

Mae'r Gorchymyn hwn yn creu cynllun ar gyfer dyroddi a thalu hysbysiadau cosb ynglŷn â throeddau penodol yn ymwneud â physgota môr. Mae'n dirymu Gorchymyn Pysgota Môr (Gorfodi Mesurau'r Gymuned) (Hysbysiadau Cosb) 2008 gan ddisodli hwnnw â chynllun sy'n gymwys i droseddau a grëir o dan ddeddfwriaeth ddomestig yn ogystal â'r rhai sy'n codi o ganlyniad i dorri cyfyngiad cymunedol gorfodadwy neu rwymedigaeth arall.

Mae'r Gorchymyn hwn yn darparu ar gyfer dyroddi hysbysiad cosb (erthygl 3), cynnwys hysbysiad o'r fath (erthygl 4), ac effaith a dull talu cosb (erthyglau 5 a 6). Mae'n gwneud darpariaeth hefyd ynglŷn â dyroddi hysbysiadau cosb i bersonau gwahanol am yr un drosedd sy'n codi o'r un set o amgylchiadau lle trinnir taliad gan un person fel pe bai'n daliad gan berson arall, os nad yw'r llall yn gwrthwynebu (erthygl 7). Darperir hefyd ar gyfer tynnu hysbysiad cosb yn ôl (erthygl 9).

Caiff meistr, perchennog neu siartwr cwch pysgota sydd o'r tu allan i'r Deyrnas Unedig ac sydd wedi talu cosb wneud cais am gael ei roi ar brawf am y drosedd (erthygl 10), ac os felly trinnir yr hysbysiad cosb fel pe na bai wedi ei ddyroddi erioed ac ad-delir y gosb os ceir rhyddfarniad neu os rhoddir y gorau i'r achos llys perthynol. Os ceir collfarniad, trinnir yr hysbysiad cosb fel pe bai heb ei ddyroddi erioed hefyd, ond mae'n rhaid i'r gosb gael ei gosod tuag at dalu unrhyw ddirwy a roddir.

Gweithdrefn

Negyddol

Materion technegol: craffu

Nodir y pwynt a ganlyn i gyflwyno adroddiad arno o dan Reol Sefydlog 21.2 mewn perthynas â'r offeryn hwn.

Mae'r rhagarweiniad yn dyfynnu adran 294 o Ddeddf y Môr a Mynediad i'r Arfordir 2009, sy'n rhoi pwerau sy'n ymwneud â hysbysiadau cosb i Weinidogion Cymru, sef yr awdurdod cenedlaethol priodol mewn perthynas â Chymru neu longau ym mharth Cymru (adran 294(8)). Yn yr is-adran honno, rhoddir pwerau i'r Ysgrifennydd Gwladol mewn perthynas â Lloegr neu longau y tu allan i barth Cymru.

Fodd bynnag, mae erthygl 1(3) o'r Gorchymyn yn nodi "Mae'r Gorchymyn hwn yn gymwys o ran Cymru, parth Cymru, a chychod pysgota Cymru ym mha le bynnag y bônt." O ystyried y cyfyngiad daearyddol clir yn adran 294(8), ymddengys fod yr elfen sy'n nodi 'ym mha le bynnag y bônt' yn erthygl 1(3) y tu hwnt i bwerau Gweinidogion Cymru.



[Rheol Sefydlog 21.2(i) – ei bod yn ymddangos bod amheuaeth a yw intra vires.]

Rhinweddau: craffu

Nodwyd y pwynt a ganlyn i gyflwyno adroddiad arno o dan Reol Sefydlog 21.3(ii) mewn perthynas â'r offeryn hwn – ei fod o bwysigrwydd gwleidyddol neu gyfreithiol neu ei fod yn codi materion polisi cyhoeddus sy'n debyg o fod o ddiddordeb i'r Cynulliad.

Mae erthygl 6(2) o'r Gorchymyn yn atal defnyddio arian parod i dalu cosbau a rhoddir o dan y Gorchymyn hwn. Nid yw'r Memorandwm Esboniadol yn egluro pam na chaniateir defnyddio arian cyfreithlon.

Y goblygiadau yn sgil gadael yr Undeb Ewropeaidd

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.

Ymateb y Llywodraeth

Mae angen ymateb gan y Llywodraeth.

Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

12 Mawrth 2019



W E L S H S T A T U T O R Y
I N S T R U M E N T S

2019 No. 363 (W. 86)

SEA FISHERIES, WALES

**The Sea Fishing (Penalty Notices)
(Wales) Order 2019**

EXPLANATORY NOTE

(This note is not part of the Order)

This Order creates a scheme for the issuing and payment of penalty notices for certain offences relating to sea fishing. It revokes the Sea Fishing (Enforcement of Community Measures) (Penalty Notices) Order 2008 and replaces it with a scheme that applies to offences created under domestic legislation as well as those arising as a result of a breach of an enforceable community restriction or other obligation.

This Order provides for the issuing of a penalty notice (article 3), the content of such a notice (article 4), and the effect and method of paying a penalty (articles 5 and 6). It also makes provision for penalty notices to be issued to different persons for the same offence arising out of the same set of circumstances whereby payment by one person is treated as being payment by another, in the absence of objection from the other (article 7). Provision is also made for the withdrawal of a penalty notice (article 9).

A master, owner or charterer of a fishing boat that is from outside the United Kingdom and who has paid a penalty may request to be tried for the offence (article 10), in which case the penalty notice will be treated as never having been issued and the penalty will be repaid in the event of acquittal or discontinuance of the related court proceedings. In the event of conviction, the penalty notice will also be treated as never having been issued, but the penalty must be applied towards paying any fine imposed.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with this Order. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2019 No. 363 (W. 86)

SEA FISHERIES, WALES

**The Sea Fishing (Penalty Notices)
(Wales) Order 2019**

Made 20 February 2019

Laid before the National Assembly for Wales
26 February 2019

Coming into force 22 March 2019

The Welsh Ministers, in exercise of the powers conferred by section 30(2) and (2ZA) of the Fisheries Act 1981⁽¹⁾ now vested in them⁽²⁾ and sections 294 and 316(1)(b) of the Marine and Coastal Access Act 2009⁽³⁾, make the following Order.

Title, commencement and application

1.—(1) The title of this Order is the Sea Fishing (Penalty Notices) (Wales) Order 2019.

(2) This Order comes into force on 22 March 2019.

(3) This Order applies in relation to Wales, the Welsh zone and Welsh fishing boats wherever they may be.

(1) 1981 c. 29 (“the 1981 Act”); section 30(2ZA) was inserted by section 293(3) of the Marine and Coastal Access Act 2009 (c. 23). See section 30(3) for the definition of “the Ministers”.

(2) The functions of the Ministers under section 30 of the 1981 Act, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales and then transferred from that body to the Welsh Ministers: see article 2(a) of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order (S.I. 1999/672) and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32). The functions of the Ministers under section 30 of the 1981 Act, so far as exercisable in relation to the Welsh zone, were transferred to the Welsh Ministers by article 4(1)(e) of the Welsh Zone (Boundaries and Transfer of Functions) Order 2010 (S.I. 2010/760). Those functions were further transferred, on a concurrent basis, in relation to Welsh fishing boats beyond the seaward limit of the Welsh zone by section 59A of and paragraph 2(1) of Schedule 3A to the Government of Wales Act 2006.

(3) 2009 c. 23.

Interpretation

2. In this Order—

“officer” (“*swyddog*”) means a marine enforcement officer within the meaning of section 235(1)(b) of the Marine and Coastal Access Act 2009;

“penalty” (“*cosb*”) means the amount specified in a penalty notice;

“penalty notice” (“*hysbysiad cosb*”) means a notice offering the opportunity, by payment of a specified amount in accordance with this Order, to discharge any liability to be convicted of the penalty offence to which the notice relates;

“penalty offence” (“*trosedd cosb*”) means an offence (other than one involving assault, obstruction or failure to comply with a requirement imposed by a person) listed in the Schedule.

Issue of penalty notice

3.—(1) Where an officer has reason to believe that a person has committed a penalty offence, the officer may issue that person with a penalty notice for an amount not exceeding £10,000.

(2) In determining the penalty, an officer must have regard to any guidance given by the Welsh Ministers on matters to be taken into account when making such a determination.

(3) A penalty notice is issued at the time when it is sent by post or delivered by hand to the person to whom it relates.

Content of penalty notice

4.—(1) A penalty notice issued under article 3 must—

- (a) give particulars of the penalty offence;
- (b) state the amount of the penalty;
- (c) state the period during which, by virtue of article 5, proceedings will not be taken for the offence;
- (d) state the person to whom, and the address at which, the penalty may be paid; and
- (e) state that payment must not be in cash.

Restriction on proceedings for penalty offence

5.—(1) Where a person is issued with a penalty notice—

- (a) no proceedings may be brought against that person for the penalty offence to which that notice relates before the end of the period of

28 days beginning with the date on which that notice was issued; and

- (b) that person may not be convicted of the offence if the penalty is paid before the end of that period.

(2) Paragraph (1)—

- (a) is subject to article 10; and
- (b) does not apply if the penalty notice is withdrawn in accordance with article 9.

Payment of penalty

6.—(1) Payment of a penalty must be made to the person specified in the penalty notice by sending it by post or by such method as may be specified in the notice.

(2) It may not be made in cash.

Payment of one penalty treated as payment of connected penalties

7.—(1) Where a person (“A”) pays the penalty in accordance with article 6, an officer must give a notice (a “notice of deemed payment” (“*hysbysiad taliad tybiedig*”)) to all other persons who have been issued with a connected penalty notice.

(2) A penalty notice is a “connected penalty notice” (“*hysbysiad cosb cysylltiedig*”) if the penalty offence to which that notice relates is the same as, and arises out of the same set of circumstances as, the penalty offence to which the penalty notice issued to, and paid by, A relates.

(3) A notice of deemed payment must—

- (a) be sent by post or delivered by hand;
- (b) indicate that A has paid the penalty for A’s connected penalty notice;
- (c) indicate that the penalty notice issued to the recipient of the notice of deemed payment will be treated as having been paid unless that person gives written notice indicating that it should not be so treated (a “notice of objection” (“*hysbysiad gwrthwynebu*”)); and
- (d) state the name and address of the person to whom any notice of objection must be given.

(4) A notice of objection must be sent by post or delivered by hand to the person stated in paragraph (3)(d) within—

- (a) 28 days beginning with the date on which the penalty notice was issued; or
- (b) if later, 5 days beginning with the date on which the notice of deemed payment was given.

(5) If no notice of objection is given in accordance with this article, the penalty notice issued to a person who has been given a notice of deemed payment is to be treated as having been paid.

Certificate of payment or non-payment of penalty notice

8. In any proceedings a certificate purporting to be signed by or on behalf of the Welsh Ministers stating that payment in respect of a penalty notice was or was not received on or before a date specified in the certificate is evidence of the facts stated.

Withdrawal of penalty notices

9.—(1) A penalty notice may be withdrawn by an officer who has reason to believe that it ought not to have been issued (whether to the person named in the penalty notice or otherwise).

(2) A penalty notice may be withdrawn before or after payment of the penalty.

(3) If a penalty notice is withdrawn any penalty paid must be repaid.

Commencement of proceedings after payment of penalty in relation to fishing boats from outside the United Kingdom

10.—(1) This article applies in relation to a penalty notice issued to the master, owner or charterer of a fishing boat other than an English, Northern Ireland, Scottish or Welsh fishing boat.

(2) Where a person in receipt of a penalty notice has paid the penalty, that person may give written notice requesting that proceedings be brought for the penalty offence to which the penalty notice relates.

(3) Such notice must—

(a) indicate that the person giving the notice wishes proceedings to be brought for the penalty offence to which the penalty notice relates; and

(b) be given no later than the end of the period of 28 days beginning with the date on which the penalty notice was issued.

(4) Where a person has given such notice, proceedings may be brought against that person.

(5) Where such proceedings are discontinued or the person is acquitted of the offence, the penalty notice is to be treated as never having been issued and any penalty paid must be repaid.

(6) Where a person is convicted of the offence, the penalty notice is to be treated as never having been issued and paragraph (7) or (8) applies as appropriate.

(7) If a fine is imposed on the person in respect of the penalty offence an officer must—

- (a) apply so much of the penalty as does not exceed the amount of the fine in or towards payment of the fine; and
- (b) repay any amount of the penalty in excess of the amount of the fine.

(8) If no fine is imposed on the person in respect of the penalty offence, any penalty paid must be repaid.

Transitional provision

11.—(1) This article applies where—

- (a) a person has been issued with a penalty notice under the Sea Fishing (Enforcement of Community Measures) (Penalty Notices) Order 2008⁽¹⁾; and
- (b) the penalty has not been paid in accordance with article 6, nor has the penalty notice been withdrawn under article 9 of that Order.

(2) The penalty notice is deemed to have been issued under this Order.

Revocation

12. The Sea Fishing (Enforcement of Community Measures) (Penalty Notices) Order 2008 is revoked.

Lesley Griffiths

Minister for Environment, Energy and Rural Affairs,
one of the Welsh Ministers
20 February 2019

(1) S.I. 2008/984.

SCHEDULE Article 2

Offences relating to sea fishing

1.In the Sea Fisheries (Shellfish) Act 1967⁽¹⁾, an offence under—

- (a) section 3 (effect of grant of right of regulating a fishery);
- (b) section 7 (protection of fisheries);
- (c) section 14 (supplementary provisions as to orders under sections 12 and 13);
- (d) section 16 (oysters not to be sold between certain dates);
- (e) section 17 (taking and sale of certain crabs and lobsters prohibited).

2.In the Sea Fish (Conservation) Act 1967⁽²⁾, an offence under—

-
- (1) 1967 c. 83; Section 3 was amended by sections 204, 206 and 207 of the Marine and Coastal Access Act 2009, section 72 of the Environment (Wales) Act 2016 (anaw 3) and S.I. 2015/664. Section 7 was amended by sections 210 and 211 of the Marine and Coastal Access Act 2009, section 2 of the Sale of Goods (Amendment) Act 1994 (c. 32), and S.I. 2015/664. Section 14 was amended by section 35, 37, 38 and 46 of the Criminal Justice Act 1982 (c. 48), Schedule 8 to the Criminal Justice and Public Order Act 1994 (c. 33), and section 6 of the Diseases of Fish Act 1983 (c. 30). Section 16 was amended by sections 35, 37, 38 and 46 of the Criminal Justice Act 1982, Schedule 8 to the Criminal Justice and Public Order Act 1994 and section 1 of the Sea Fisheries (Shellfish) Act 1973 (c. 30). Section 17 was amended by section 212 and 213 of the Marine and Coastal Access Act 2009, sections 35, 37, 38 and 46 of the Criminal Justice Act 1982, and Schedule 8 to the Criminal Justice and Public Order Act 1994.
 - (2) 1967 c. 84; Section 1 was substituted by section 19 of the Fisheries Act 1981 (c. 29) and amended by section 314 and paragraph 38 of Schedule 13 to the Merchant Shipping Act 1995 (c. 21), section 194 of the Marine and Coastal Access Act 2009, S.I. 1999/1820 and S.I. 2010/760. Section 2 was amended by section 19 of the Fisheries Act 1981 and S.I. 1999/1820. Section 3 was amended by section 195, paragraph 7 of Schedule 14, paragraph 2 of Schedule 15 and Part 4 of Schedule 22 to the Marine and Coastal Access Act 2009, Schedule 2 to the Fishery Limits Act 1976 (c. 83) and S. I. 1999/1820. Section 4 was substituted by section 3 of the Fishery Limits Act 1976 and amended by section 20 of the Fisheries Act 1981, section 1 of the Sea Fish (Conservation) Act 1992 (c.60), sections 4, 196 and 197 of the Marine and Coastal Access Act 2009 and S.I. 1999/1820. Section 4A was inserted by section 21 of the Fisheries Act 1981 and amended by section 3 of the Sea Fish (Conservation) Act 1992, section 6 of the Marine and Coastal Access Act 2009 and S.I. 1999/1820. Section 5 was amended by section 22 of the Fisheries Act 1981, section 198 and paragraph 3 of Schedule 15 to the Marine and Coastal Access Act 2009, paragraph 38 of Schedule 13 to the Merchant Shipping Act 1995, S.I. 1999/1820 and S.I. 2010/760. Section 6 was

- (a) section 1 (size limits, etc for fish);
- (b) section 2 (size limits for fish for use in course of any business);
- (c) section 3 (regulation of nets and other fishing gear);
- (d) section 4 (licensing of fishing boats);
- (e) section 4A (licensing of vessels receiving trans-shipped fish);
- (f) section 5 (power to restrict fishing for sea fish);
- (g) section 6 (prohibition on landing of sea fish caught in certain areas);
- (h) section 8 (regulation of landing of foreign-caught sea fish).

3. An offence under section 5 of the Sea Fisheries Act 1968(1) (regulation of conduct of fishing operations).

4. An offence under section 2 of the Fishery Limits Act 1976(2) (access to British fisheries).

5. An offence under section 30 of the Fisheries Act 1981(3) (enforcement of Community rules).

6. An offence under section 190 of the Marine and Coastal Access Act 2009(4) (offences).

7. An offence under regulations 3 to 11 of the Registration of Fish Buyers and Sellers and Designation of Fish Auction Sites (Wales) Regulations 2006(5).

8. An offence under article 9 of the Sea Fishing (Illegal, Unreported and Unregulated Fishing) Order 2009(6).

9. In this Schedule, reference to a section includes subordinate legislation made under that section.

(1) amended by section 23 of the Fisheries Act 1981 and S.I. 1999/1820. Section 8 was amended by S.I. 1999/1820.
1968 c.77; section 5 was amended by section 4 of, and paragraph 3 of Schedule 1 and paragraph 17 of Schedule 2 to the Fishery Limits Act 1976, section 24 of the Fisheries Act 1981 and S.I. 1999/1820.

(2) Section 2 was amended by S.I. 1999/1820 and S.I. 2015/664.

(3) Section 30 was amended by section 293 of the Marine and Coastal Access Act 2009, S.I. 2011/1043 and S.I. 1999/1820.

(4) Section 190 was amended by S.I. 2015/664.

(5) S. I. 2006/1495.

(6) S. I. 2009/3391.

Explanatory Memorandum to the Sea Fishing (Penalty Notices) (Wales) 2019

This Explanatory Memorandum has been prepared by the Marine and Fisheries Division and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Sea Fishing (Penalty Notices) (Wales) 2019. I am satisfied that the benefits justify the likely costs.

Lesley Griffiths

Minister for Environment, Energy and Rural Affairs

26 February 2019

PART 1

Description

1. When the existing Order, Sea Fishing (Enforcement of Community Measures) (Penalty Notices) Order 2008 (SI 2008/984), was introduced it created a scheme whereby Financial Administrative Penalties (FAPs) could only be offered for EU offences against the Common Fisheries Policy (CFP).
2. This Order revokes and replaces the Sea Fishing (Enforcement of Community Measures) (Penalty Notices) Order 2008 SI 2008/984. It introduces a revised scheme to allow FAPs to be offered in respect of offences under domestic legislation as well as those arising as a result of an enforceable community restriction or other obligations.

Matters of special interest to the Constitutional and Legislative Affairs Committee

3. None.

Legislative background

4. This Order is made in exercise of powers conferred by Section 30 of the Fisheries Act 1981 and Sections 294 and 316(1)(b) of the Marine and Coastal Access Act 2009.
5. The Order follows the negative resolution procedure, pursuant to Section 316(8) of the Marine and Coastal Access Act 2009.

Purpose and intended effect of the legislation

6. The FAP scheme for CFP offences has been in operation in England and Wales since 2008 pursuant to the Sea Fishing (Enforcement of Community Measures) (Penalty Notices) Order 2008 (SI 2008/984). Since that time other UK Fisheries Administrations have conducted reviews of their own schemes and updated them where necessary to include domestic offences.
7. Section 294 of the Marine and Coastal Access Act 2009 now gives Welsh Ministers the powers to extend the use of FAPs for breaches of domestic sea fisheries legislation.
8. The introduction of FAPs for domestic offences will bring the system into line with the treatment of CFP offences, leading to a consistent and transparent system of sanctions for all fisheries offences in Wales.

9. It will allow Welsh Government Marine Enforcement Officers (MEOs) to offer FAPs in respect of some fisheries offences quickly and effectively without recourse to prosecution.

Consultation

10. A consultation ran from 5 December 2018 to 28 January 2019 on the proposals to extend the existing arrangements for issuing FAPs in respect of CFP offences to domestic fisheries offences.

11. The consultation was posted on the Welsh Government's website at:
<https://beta.gov.wales/consultations>.

PART 2 – REGULATORY IMPACT ASSESSMENT

12. This Regulatory Impact Assessment relates to the new Sea Fishing (Penalty Notices (Wales) Order 2019. The new 2019 Order will repeal the existing Sea Fishing (Enforcement of Community Measures) (Penalty Notices) Order 2008 (S.I. 2008/984) which provides for a Financial Administration Penalty (FAP) scheme for EU Common Fishery Policy (CFP) offences only. The new 2019 Order would extend the FAP scheme to include breaches of domestic fisheries offences through application of powers available in section 294 and 316(1)(b) of the Marine and Coastal Access Act 2009.
13. Currently, the range of sanctions available for domestic fisheries offences are not as extensive as those available for offences under the CFP. Adding FAPs to the range of available sanctions would provide another mechanism for addressing domestic fisheries offences that warrant a sanction greater than a verbal or written warning but are not serious enough to justify, in terms of the public interest, a prosecution. The change would be in line with the Macrory recommendation to use administrative sanctions as an enforcement tool in regulatory regimes¹.
14. The introduction of the Welsh Government's extended FAP scheme would enable all fisheries offences in Wales to be addressed in a flexible, proportionate and consistent manner, providing an effective deterrent to those who consider breaching either domestic and/or CFP fisheries regulations. The introduction of the extended FAP scheme would also bring the regulation of domestic fisheries offences in Wales into line with other UK Fisheries Administrations.

Option 1 – Do Nothing

15. Currently, when an offence is detected, Marine Enforcement Officers (MEOs) have three options available to them, which are dependent on the severity of the offence:
 - (i) **Issue a verbal warning** - A verbal warning is issued for a minor first offence.
 - (ii) **Issue a written warning** – A written warning is the second stage in the process for a repeat minor offender or for someone committing a slightly more serious offence.
 - (iii) **Proceed to prosecution** – The option of prosecution is for the most serious offences or considered for those who are repeat offenders. A case file is produced and a decision made to take the offender to court. This process can take up to one year before the case is brought before a Magistrate's Court. This is a costly and time consuming process.

¹ <https://webarchive.nationalarchives.gov.uk/20121205164501/http://www.bis.gov.uk/files/file44593.pdf>

16. Doing nothing is the baseline option and as such there are no **additional** costs and benefits associated with this option. Those fishermen taken to court incur costs in terms of legal fees, and loss of earnings due to interruption of fishing activities caused by having to attend court. The extent of preparation required for court cases is dependent upon the nature of the offence.
17. The current system offers no incentive for sustainability. During the time it currently takes for a case to proceed through the courts, there is a chance of transgressors continuing to reoffend.
18. In addition, some illegal fishing activities adversely and directly affect the livelihoods of fishing communities by undermining the stocks on which they depend. This can result in reduced economic security in communities heavily dependent on fishing as a source of employment.
19. Table 1 shows the number of infringements detected by Welsh Government since 2008 that have resulted in either a written warning or prosecution.

Table 1: Number of written warnings issued and prosecutions in Wales, 2008-2017

| Number of prosecutions and written warnings to fishermen by Welsh Government | | |
|---|----------------------------------|---------------------|
| Year | Official Written Warnings | Prosecutions |
| 2018 | 6 | 27* |
| 2017 | 1 | 11 |
| 2016 | 7 | 0 |
| 2015 | 3 | 3 |
| 2014 | 5 | 6 |
| 2013 | 5 | 3 |
| 2012 | 1 | 6 |
| 2011 | 5 | 7 |
| 2010 | 2 | 11 |
| 2009 | 6 | 0 |
| 2008 | 2 | 3 |

*The number of prosecutions in 2018 was in excess of what would normally be seen as the award of a new contract led to a build-up of case files.

20. This option would provide no benefit in terms of improving enforcement and control measures in the conservation of fish stocks and the environment. It will have no effect on increasing compliance with fisheries regulations or reducing re-offending.

Option 2 – Introduce a system of FAPS for domestic fisheries offences

21. This option involves the introduction of a system of FAPs for domestic fisheries offences, using powers available under Section 294 of the Marine and Coastal Access Act 2009. This would mirror and complement the existing FAP scheme for CFP offences leading to a consistent and transparent system of sanctions for all fisheries offences and would bring enforcement of Welsh fisheries offences into line with other UK Fisheries Administrations.
22. This option would allow both the Welsh Government's Chief Officer Fisheries Operations (CO) and the Welsh Fisheries Monitoring Centre to issue FAPs to address some fisheries offences quickly and effectively without resorting to criminal prosecution. However, it would not remove the option of a court hearing either at the fisherman's or fisheries department's request, or the issue of an Official Written Warning where appropriate. Similarly, MEOs would still have the option to issue verbal and written advice for minor offences.
23. Discussions have taken place with Central Finance who have approved recycling of penalty receipts within the Marine and Fisheries BEL 2870, however discussions on the transactional element of the penalty process are ongoing. Ambit Income budget will be discussed during the first supplementary budget process.

Cost to businesses

24. All fishermen who commit relevant fisheries offences will be affected by these proposals. There will be no impact on those businesses/fishermen who continue to abide by the law.
25. Those fishermen who breach the applicable regulatory controls may experience an increase, decrease or no change in costs depending upon the circumstances and severity of their case. At this stage, it is difficult to predict how many FAPs will be issued or the number of court cases heard each year, however, based on the current number of written warnings and prosecutions (Table 1), the numbers are not expected to be large.
26. There may be an increase in costs for fishermen guilty of minor domestic infringements who would previously have expected to receive an Official Written Warning for offences not deemed serious enough to warrant a criminal prosecution. Under the new regime they may be eligible for a FAP ranging from £250 to £10,000, depending upon the offence and circumstances. If accepted the offender would be given 28 days in which to pay the FAP in full. If not paid during this period, the case will automatically be referred for prosecution.

27. There are potential cost-savings for those fishermen who commit an offence and are currently prosecuted through the courts but who may, in the future, be issued with a FAP instead. Court costs are varied and depend on the type of offence which has occurred. However, in most cases, the offender would experience a loss of earnings as a result of having to attend court and would also incur legal fees. If found guilty, the offender could receive a fine, incur costs and have to pay a victim surcharge. The offender would also have a criminal record. An offender may also lose their permit to fish in a particular area or for a particular species, which again will affect their ability to earn a living.
28. In more serious cases, offenders will continue to be prosecuted. In this scenario, there is not expected to be any change in the costs incurred by the business or enforcement body.

Cost to Government

29. The Marine & Fisheries Division of the Welsh Government will administer the schemes and will continue to carry out their enforcement activities as it currently does. MEOs will investigate and gather evidence on suspected offences, and present that evidence to the CFO with a recommendation to issue a penalty notice where appropriate and if they have evidence that a person has committed a relevant fisheries offence.
30. MEOs are not expected to require any additional training because they are already able to issue FAPs for EU CFP offences.
31. An additional cost will be incurred with the production of Guidance Notes for both officers and the public. This cost is expected to be minimal as existing guidance notes for a similar system in England will be used as a template for the equivalent Welsh documents. Printing of the Guidance would also be undertaken in-house, therefore reducing the actual cost of production.

Benefit to fishing industry

32. Compared to prosecution, FAPs would speed up procedures for dealing with domestic infringements and reduce the administrative burdens and costs of legal representation for some non-compliant fishermen.

This includes:

- Reduction in time lost during court appearance
- Reduction in solicitor fees through avoiding court appearance
- Reduction in costs of fines payable to the courts if found guilty
- Faster conclusion of cases that would have previously been sent to the courts

33. The system would provide greater consistency in penalties for similar fisheries offences, thereby removing the uncertainty caused by wide variations of penalties imposed by different Magistrates' Courts.
34. Table 2 below shows examples of prosecution costs currently incurred by fishermen for breaches of domestic fisheries regulations. It has not been possible at this stage to include accurate estimates of savings to fishermen due to this policy option.

Table 2: Examples of prosecution costs

| Year of Court Hearing | Prosecution Fines (£) | Costs of Prosecution (£) |
|-----------------------|-----------------------|--------------------------|
| 2018 | 163,644 | 40,742 |
| 2017 | 12,621 | 9,269 |
| 2016 | 101,907 | 23,105 |
| 2015 | 4,000 | 2,000 |
| 2014 | 76,355 | 17,411 |
| 2013 | 4,250 | 2,495 |
| 2012 | 97,750 | 23,700 |
| 2011 | 63,000 | 5,414 |
| 2010 | 48,000 | 5,887 |
| 2009 | 2,440 | 1,100 |
| 2008 | 26,000 | 2,473 |

35. In addition to potential savings, there is a potential non-monetary benefit in that offenders can avoid the stigma of a criminal record by accepting a FAP as an alternative to court proceedings.
36. The introduction of FAPs for domestic offences is expected to act as a deterrent against illegal fishing activity, helping to maintain a level playing field for compliant businesses/fishermen.

Benefits to Government

37. The ability to control fishing practices effectively has a significant impact on the marine environment. The FAP system is expected to increase compliance with fisheries regulations.
38. It will become apparent to potential offenders that in place of warnings (verbal and written) and criminal prosecutions, many fisheries infringements will be dealt with by the swift imposition of penalties for infringements. This should increase compliance with all fisheries and conservation regulations, and therefore protect fishery stocks, particularly those which may be subject to stock recovery measures.
39. FAPs are also expected to offer MEOs a more cost-effective means of addressing certain infringements. With the introduction of FAPs, MEOs

would still be required to complete a full case file, therefore there would be no direct saving in officer time (see Table 3). However, if a FAP was offered and accepted, this would reduce the need for further MEO time to be expended on court proceedings.

40. If a case proceeds to court, Welsh Government have to pay the fees of external prosecuting solicitors. If a defendant is convicted, Magistrates often award prosecution costs. However this is not guaranteed. An award of full costs may be dependent on the nature and severity of the offence. If a FAP were accepted by an offender, it would avoid this cost to Welsh Government.

Table 3: Estimated cost of current enforcement:

| Infringement Type | Hours | Estimated total cost |
|-------------------|-------|----------------------|
| Low level | 2-5 | +£200 |
| Medium level | 10-20 | + £3,000 |
| High level | 30 + | + £8,000 |

41. Finally, the introduction of FAPS would bring the enforcement of fisheries offences into line with other UK Fisheries Administrations.

Summary of the preferred option

42. The preferred option is to introduce a system of FAPs for domestic fisheries offences, including inshore fisheries byelaw offences, using powers available under Sections 294 and 316(1)(b) of the Marine and Coastal Access Act 2009. This will provide MEOs with an additional tool to address fisheries offences in a timely and proportionate way.

Consultation

43. The consultation was drawn to the attention of key stakeholders including members of the Wales Marine Fisheries Advisory Group (WMFAG) and those on the Stakeholder Register.

44. The consultation ran from 5 December 2018 to 28 January 2019.

45. A total of 13 responses were received. Twelve of these were partial, incomplete responses; one was completed without comment. No objections were put forward.

46. There are no changes to the legislation as a result of the consultation.

Competition Assessment

| The competition filter test | |
|---|---------------------|
| Question | Answer yes or no |
| Q1: In the market(s) affected by the new regulation, does any firm have more than 10% market share? | No |
| Q2: In the market(s) affected by the new regulation, does any firm have more than 20% market share? | No |
| Q3: In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share? | No |
| Q4: Would the costs of the regulation affect some firms substantially more than others? | No |
| Q5: Is the regulation likely to affect the market structure, changing the number or size of businesses/organisation? | No |
| Q6: Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet? | No |
| Q7: Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet? | No |
| Q8: Is the sector characterised by rapid technological change? | No |
| Q9: Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products? | No |

The Regulations are not expected to have an impact on competition in Wales or the competitiveness of Welsh businesses.

Eitem 4.8

SL(5)357 – Rheoliadau Marchnata Hadau a Deunyddiau Lluosogi Planhigion (Diwygio) (Cymru) (Ymadael â'r UE) 2019

Cefndir a Diben

Gwneir yr offeryn hwn o dan adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972 a pharagraff 1(1) o Atodlen 2 a pharagraff 21 o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018.

Mae'r Rheoliadau yn diwygio Rheoliadau Marchnata Hadau (Cymru) 2012 a Rheoliadau Marchnata Planhigion Ffrwythau a Deunyddiau Lluosogi (Cymru) 2017. Mae'r offeryn yn diwygio (yn Rhan 2) y ddwy set honno o Reoliadau o fewn 21 diwrnod i'w gosod ac, felly, cyn y Diwrnod Ymadael. Gwneir y rheoliadau hyn o dan ddarpariaethau Deddf 1972. Maent yn cyflwyno cyfeiriadau at yr AEE a'r Swistir.

Yna, mae'r offeryn yn gwneud diwygiadau pellach i'r ddwy set honno o Reoliadau (yn Rhan 3) a fydd yn dod i rym ar y diwrnod ymadael. Gwneir y rheoliadau hyn o dan ddarpariaethau Deddf 2018.

Mae'r darpariaethau'n gwneud newidiadau technegol i sicrhau y bydd y ddwy set o Reoliadau sy'n cael eu diwygio yn parhau i gael eu gweithredu yng Nghymru ar ôl i'r DU adael yr UE.

Gweithdrefn

Negyddol.

Materion technegol: craffu

Nodir y pwynt a ganlyn i gyflwyno adroddiad arno o dan Reol Sefydlog 21.2 mewn perthynas â'r offeryn hwn:

O ran Rheol Sefydlog 21.2(vii), mae'r testun Cymraeg yn rhifo'r Rheoliadau yn anghywir o 2-6 (yn hytrach na'u rhifo o 1-5). Ymhellach, ar ddiwedd Rheoliad 17, yn y testun Cymraeg, mae-

“(c)”

Gwall teipograffyddol yw hwn mae'n amlwg.

Rhinweddau: craffu

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3(ii).

Y goblygiadau yn sgil gadael yr Undeb Ewropeaidd

Gosodwyd drafft o'r Rheoliadau hyn gerbron y Cynulliad ar gyfer sifftio yn unol â pharagraff 4 o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018. Cytunodd y Pwyllgor mai gweithdrefn y penderfyniad negyddol yw'r weithdrefn briodol ar gyfer y Rheoliadau hyn.

Ymateb y Llywodraeth

Mae angen ymateb gan y Llywodraeth.



Cynghorwyr Cyfreithiol
Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol
8 March 2019



OFFERYNNAU STATUDOL
CYMRU

2019 Rhif 368 (Cy. 90)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

HADAU, CYMRU

**Rheoliadau Marchnata Hadau a
Deunyddiau Lluosogi Planhigion
(Diwygio) (Cymru) (Ymadael â'r
UE) 2019**

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn wedi eu gwneud drwy arfer y pwerau a roddir gan baragraff 1(1) o Atodlen 2 a pharagraff 21 o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 (p. 16) er mwyn ymdrin ag unrhyw fethiant yng nghyfraith yr UE a ddargedwir i weithredu'n effeithiol a diffygion eraill sy'n deillio o ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd.

Mae'r Rheoliadau hefyd (drwy arfer y pwerau a roddir gan Ddeddf y Cymunedau Ewropeaidd 1972 (p. 68)) yn gwneud diwygiadau i Rheoliadau Marchnata Hadau (Cymru) 2012 er mwyn cynnwys cyfeiriadau at wladwriaethau yr AEE a'r Swistir pan fo hynny'n briodol.

Mae'r Rheoliadau hyn yn gwneud diwygiadau i is-ddeddfwriaeth, sy'n gymwys o ran Cymru, ym meysydd hadau a marchnata deunyddiau lluosogi planhigion ffrwythau a phlanhigion ffrwythau a fwriedir ar gyfer cynhyrchu ffrwythau.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, ystyriwyd nad oedd yn angenrheidiol cynnal asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn.

OFFERYNNAU STATUDOL
CYMRU

2019 Rhif 368 (Cy. 90)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

HADAU, CYMRU

Rheoliadau Marchnata Hadau a
Deunyddiau Lluosogi Planhigion
(Diwygio) (Cymru) (Ymadael â'r
UE) 2019

*Gofynion sifftio wedi eu bodloni 18 Chwefror
2019*

Gwnaed 25 Chwefror 2019

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru 27 Chwefror 2019*

Yn dod i rym yn unol â rheoliad 1

Mae Gweinidogion Cymru yn gwneud y Rheoliadau hyn drwy arfer y pwerau a roddir—

- (a) mewn perthynas â Rhan 1, gan y pwerau y cyfeirir atynt ym mharagraffau (b) ac (c);
- (b) mewn perthynas â Rhan 2, gan adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972(1);
- (c) mewn perthynas â Rhan 3, gan baragraff 1(1) o Atodlen 2 a pharagraff 21 o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018(2).

-
- (1) 1972 p. 68; diwygiwyd adran 2(2) gan adran 27(1)(a) o Ddeddf Diwygio Deddfwriaethol a Rheoleiddiol 2006 (p. 51), a Rhan 1 o'r Atodlen i Ddeddf yr Undeb Ewropeaidd (Diwygio) 2008 (p. 7). Mae wedi ei diddymu yn rhagolygol gan adran 1 o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 (p. 16) o'r diwrnod ymadael (*gweler* adran 20 o'r Ddeddf honno). Trosglwyddwyd swyddogaethau y cyn Weinidog Amaethyddiaeth, Pysgodfeydd a Bwyd o wneud rheoliadau o dan adran 2(2) i Weinidogion Cymru gan O.S. 1999/672.
- (2) 2018 p. 16.

Mae Gweinidogion Cymru wedi eu dynodi(1) at ddibenion adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972 mewn perthynas â'r polisi amaethyddol cyffredin.

Mae gofynion paragraff 4(2) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 (sy'n ymwneud â gweithdrefn graffu briodol Cynulliad Cenedlaethol Cymru ar gyfer y Rheoliadau hyn) wedi eu bodloni.

RHAN 1

Rhagarweiniol

Enwi, cychwyn a chymhwysu

2.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Marchnata Hadau a Deunyddiau Lluosogi Planhigion (Diwygio) (Cymru) (Ymadael â'r UE) 2019.

(2) Mae'r Rheoliadau hyn yn dod i rym fel a ganlyn—

- (a) o ran y Rhan hon a Rhan 2, 21 o ddiwrnodau ar ôl y diwrnod y gosodir y Rheoliadau hyn;
- (b) o ran Rhan 3, ar y diwrnod ymadael.

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

RHAN 2

Diwygio cyfeiriadau mewn is-ddeddfwriaeth

Rheoliadau Marchnata Hadau (Cymru) 2012

3.—(1) Mae Rheoliadau Marchnata Hadau (Cymru) 2012(2) wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 3(1), ar ôl is-baragraff (b), mewnosoder—

“(c) ystyr “Gwladwriaeth y Farchnad Sengl Ewropeaidd” (“*European Single Market State*”) yw un o wladwriaethau'r AEE neu'r Swistir.”.

(3) Yn Atodlenni 3 a 4, yn lle “Aelod-wladwriaeth” ym mhob lle y mae'n digwydd, rhodder “Gwladwriaeth y Farchnad Sengl Ewropeaidd” (gan dreiglo yn ôl yr angen);

(4) Yn Atodlen 4—

- (a) ym mharagraff 10, ar ôl is-baragraff (6) mewnosoder—

(1) O.S. 2010/2690.

(2) O.S. 2012/245 (Cy. 39), a ddiwygiwyd gan O.S. 2013/889 (Cy.101), 2014/519 (Cy. 61), 2016/1242 (Cy. 294) a 2017/1095 (Cy. 276).

- (b) “(7) Caniateir marchnata yng Nghymru hadau o amrywogaeth anrhestredig sy’n ddarostyngedig i awdurdodiad a ddyroddwyd gan Wladwriaeth AEE arall yn unol â Phenderfyniad y Comisiwn 2004/842/EC(1) at y diben o gasglu gwybodaeth a chael phrofiad ymarferol yn ystod y cyfnod tyfu.
- (c) (8) Rhaid i hadau sy’n cael eu marchnata o dan is-baragraff (7) gael eu labelu yn unol ag Erthygl 28 o Benderfyniad y Comisiwn 2004/842/EC.”;
- (d) ym mharagraff 14, ar y diwedd mewnosoder “, ac eithrio hadau llysiâu o’r rhywogaethau a restrir yng Nghyfarwyddeb y Cyngor 2002/55/EC(2) a gynhyrchir yn y Swistir”.

Rheoliadau Marchnata Planhigion Ffrwythau a Deunyddiau Lluosogi (Cymru) 2017

4.—(1) Mae Rheoliadau Marchnata Planhigion Ffrwythau a Deunyddiau Lluosogi (Cymru) 2017(3) wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 11(7), yn lle “Orchymyn Iechyd Planhigion (Cymru) 2006” rhodder “Orchymyn Iechyd Planhigion (Cymru) 2018(4)”.

RHAN 3

Diwygio is-ddeddfwriaeth mewn perthynas ag ymadael â’r Undeb Ewropeaidd

Rheoliadau Marchnata Hadau (Cymru) 2012

5.—(1) Mae Rheoliadau Marchnata Hadau (Cymru) 2012 wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 3(1), ar ôl is-baragraff (c), mewnosoder—

“(ch) ystyr “gwlad y caniatwyd cywerthedd iddi” (“*country granted equivalence*”) yw gwlad y caniatwyd cywerthedd iddi o dan Benderfyniad y Cyngor 2003/17/EC ar gywerthedd archwiliadau maes a gynhelir mewn trydydd gwledydd ar gnydau sy’n cynhyrchu hadau ac ar gywerthedd hadau a gynhyrchir mewn trydydd gwledydd;

(d) ystyr “Tiriogaeth Ddibynnol y Goron” (“*Crown Dependency*”) yw unrhyw un

(1) OJ L 362 9.12.2004, t. 21.

(2) OJ L 193 20.7.2002, t. 33.

(3) O.S. 2017/691 (Cy. 163).

(4) O.S. 2018/1064 (Cy. 223).

o Ynysoedd y Sianel neu Ynys Manaw.
”

(3) Yn rheoliad 4(2), yn lle “Undeb Ewropeaidd” rhodder “Deyrnas Unedig”.

(4) Yn rheoliad 7, yn lle “neu’r Catalog Cyffredin” rhodder “neu mewn rhestr gywerth mewn gwlad y cyfeirir ati yn yr Atodlen i Benderfyniad y Cyngor 2005/834/EC ar gywerthedd gwiriadau er mwyn cynnal amrywogaethau a gynhelir mewn trydydd gwledydd penodol”.

(5) Ar ôl rheoliad 8 mewnosoder—

“Marchnata hadau o Wladwriaeth y Farchnad Sengl Ewropeaidd

8A.—(1) Ni chaiff unrhyw berson farchnata hadau y mae’r Rheoliadau hyn yn gymwys iddynt a gynhyrchwyd mewn Gwladwriaeth y Farchnad Sengl Ewropeaidd.

(2) Nid yw paragraff (1) yn gymwys i hadau sy’n bodloni’r amodau a bennir ym mharagraff (3).

(3) Yr amodau yw—

- (a) bod yr hadau o amrywogaeth a restrir yn Rhestr Genedlaethol y Deyrnas Unedig neu’r Catalog Cyffredin;
- (b) nad yw’r hadau yn hadau llysiau o’r rhywogaethau a restrir yn y diffiniad o “vegetables” yn Erthygl 2(1)(b) o Gyfarwyddeb y Cyngor 2002/55/EC a gynhyrchir yn y Swistir;
- (c) bod yr hadau wedi eu cynhyrchu gan gydymffurfio â’r gofynion a nodir yng nghyfraith yr UE gan gynnwys Cyfarwyddebau’r Cyngor y cyfeirir atynt yn rheoliad 3(2)(a) i (d) ac (ff); ac
- (ch) bod yr hadau wedi eu mewnforio i Gymru cyn diwedd y cyfnod o ddwy flynedd sy’n dechrau â’r diwrnod ar ôl y diwrnod y mae’r diwrnod ymadael yn digwydd.

(6) Yn rheoliad 10, ym mharagraff (a), yn lle’r geiriau o “amrywogaeth” hyd at y diwedd rhodder—

“amrywogaeth—

- (i) a gofnodwyd yn Rhestr Genedlaethol y Deyrnas Unedig; neu
- (ii) a gofnodwyd yn y Catalog Cyffredin ar unrhyw adeg cyn diwedd y cyfnod o ddwy flynedd sy’n dechrau â’r diwrnod ar ôl y diwrnod y mae’r diwrnod ymadael yn digwydd;”.

(7) Yn lle rheoliad 21A rhodder—

“**21A.**—(1) Caiff Gweinidogion Cymru esemptio drwy drwydded unrhyw berson neu ddosbarth ar berson rhag cydymffurfio ag unrhyw un neu ragor o ddarpariaethau'r Rheoliadau hyn at ddibenion arbrawf dros dro sy'n chwilio am ddulliau amgenach na darpariaethau'r Rheoliadau hyn ac a drefnir yn unol â rheoliadau a wneir o dan adran 16(5) o Ddeddf Amrywogaethau a Hadau Planhigion 1964(1).

(2) Ni chaiff arbrawf barhau am fwy na 7 mlynedd.”.

(8) Yn rheoliad 26, hepgorer “i'r tu allan i'r Undeb Ewropeaidd”.

(9) Yn rheoliad 27—

(a) yn y pennawd ac ym mharagraff (1), yn lle “o'r tu allan i'r Undeb Ewropeaidd” rhodder “i'r Deyrnas Unedig”;

(b) ym mharagraff (3), yn lle “o drydedd wlad” rhodder “i'r Deyrnas Unedig”;

(c) ar ôl paragraff (3) mewnosoder—

“(4) Nid yw paragraffau (1) a (3) yn gymwys i hadau a fewnforir o Wladwriaeth y Farchnad Sengl Ewropeaidd cyn diwedd y cyfnod o ddwy flynedd sy'n dechrau â'r diwrnod ar ôl y diwrnod y mae'r diwrnod ymadael yn digwydd.”.

(10) Ar ôl rheoliad 32, mewnosoder—

“Ardystio mewn Tiriogaeth Ddibynnol y Goron

32A. Ceir marchnata yng Nghymru unrhyw hadau a ardystiwyd ac a labelwyd mewn Tiriogaeth Ddibynnol y Goron o dan ddeddfwriaeth y cydnabyddir gan Weinidogion Cymru ei bod yn cael effaith gywerth i'r Rheoliadau hyn.

Darpariaeth drosiannol ar gyfer labeli swyddogol ar y diwrnod ymadael

32B. At ddibenion rheoliad 17 a pharagraffau 7(1)(a) ac 8(1)(a) o Atodlen 3, caniateir defnyddio label swyddogol sydd wedi ei ragargraffu cyn y diwrnod ymadael sy'n cynnwys y datganiad “EU Rules and Standards” fel label swyddogol cyn diwedd y cyfnod o ddwy flynedd sy'n dechrau â'r diwrnod ar ôl y

(1) 1964 p. 14.

diwrnod y mae'r diwrnod ymadael yn digwydd.
”.

(11) Yn Atodlen 2—

(a) ym mharagraff 7—

- (i) yn is-baragraff (1), ar ôl “Erthygl 2(3)(A)”, mewnosoder “(a) i (d)”;
- (ii) yn is-baragraff (3), yn lle “Atodiad III i'r Gyfarwyddeb honno” rhodder “Atodlen 3”;
- (iii) ar ôl is-baragraff (5), mewnosoder—

“(6) At ddibenion y rheoliad hwn, mae Cyfarwyddeb y Cyngor 2002/54/EC i'w darllen fel pe bai—

- (a) yn Erthygl 2(3)(A)(a)(iii), “licensed by the Welsh Ministers” wedi ei roi yn lle “officially licensed by the seed certification authority of the Member State concerned”;

(b) yn Atodiad 1—

(i) ym mhwynt A—

- (aa) ym mharagraff 3, “Welsh Ministers” wedi ei roi yn lle “certification authority”;
- (bb) yn y paragraff olaf, “United Kingdom National List” wedi ei roi yn lle'r geiriau o “common” hyd at “that Directive”;

(ii) ym mhwynt B, ym mharagraff 3(c)—

- (aa) y cyfeiriad at “Member States” yn gyfeiriad at “The Welsh Ministers”;
- (bb) y cyfeiriad at “Community” wedi ei hepgor.”.

(b) ym mharagraff 15—

- (i) yn is-baragraff (1), ar ôl “Erthygl 2(3)(A)”, mewnosoder “(a) i (d)”;
- (ii) yn is-baragraff (2), ar ôl “Gyfarwyddeb honno”, yn y lle cyntaf y mae'n digwydd, mewnosoder “ (ac eithrio paragraffau 1a(f) ac 1b o Erthygl 7)”;
- (iii) ar ôl is-baragraff (2) mewnosoder—

“(2A) At ddibenion is-baragraffau (1) a (2), mae Cyfarwyddeb y Cyngor 66/402/EEC i'w darllen fel pe bai—

- (a) yn Erthygl 2(3)(A)(a)(iii), “licensed by the Welsh Ministers” wedi ei roi yn lle “officially licensed by the seed certification authority of the Member State concerned”;

- (b) yn Erthygl 7—
 - (i) cyfeiriadau at “Member States” yn gyfeiriadau at “Welsh Ministers”;
 - (ii) ym mharagraff 1a(a), “Welsh Ministers” wedi ei roi yn lle “seed certification authority of the Member State concerned”.
- (c) ym mharagraff 28—
 - (i) yn is-baragraff (1), ar ôl “Erthygl 2(3)(A)”, mewnosoder “(a) i (d)”;
 - (ii) ar ôl is-baragraff (1) mewnosoder—

“(1A) At ddibenion is-baragraff (1), mae Cyfarwyddeb y Cyngor 66/401/EEC i’w darllen fel pe bai—

 - (a) yn Erthygl 2(3)(A)(a)(iii), “licensed by the Welsh Ministers” wedi ei roi yn lle “officially licensed by the seed certification authority of the Member State concerned”;
 - (b) yn Atodiad 1, ym mharagraff 4, yn yr ail is-baragraff, y geiriau o “Upon” hyd at y diwedd wedi eu hepgor.”.
- (d) ym mharagraff 42—
 - (i) yn is-baragraff (1), ar ôl “Erthygl 2(5)(A)”, mewnosoder “(a) i (d)”;
 - (ii) ar ôl is-baragraff (1) mewnosoder—

“(1A) At ddibenion is-baragraff (1), mae Cyfarwyddeb y Cyngor 2002/57/EC i’w darllen fel pe bai—

 - (a) yn Erthygl 2(5)(A)(a)(iii), “licensed by the Welsh Ministers” wedi ei roi yn lle “officially licensed by the seed certification authority of the Member State concerned”;
 - (b) yn Atodiad 2, yn Rhan 1, ym mharagraff 5C, yr is-baragraff olaf wedi ei hepgor.”.
- (e) ym mharagraff 43(2), hepgorer “neu’r Catalog Cyffredin”;
- (f) ym mharagraff 50—
 - (i) yn is-baragraff (1), ar ôl “Erthygl 2(4)(A)”, mewnosoder “(a) i (d)”;
 - (ii) yn is-baragraff (2), ar ôl “Erthygl 25”, mewnosoder “ (ac eithrio paragraffau 1a(f) ac 1b)”;
 - (iii) ar ôl is-baragraff (2), mewnosoder—

“(2A) At ddibenion is-baragraffau (1) a (2), mae Cyfarwyddeb y Cyngor 2002/55/EC i’w darllen fel pe bai—

- (a) yn Erthygl 2(4)(A)(a)(iii), “licensed by the Welsh Ministers” wedi ei roi yn lle “officially licensed by the seed certification authority of the Member State concerned”;
 - (b) yn Erthygl 25—
 - (i) cyfeiriadau at “Member States” yn gyfeiriadau at “Welsh Ministers”;
 - (ii) ym mharagraff 1a(a), “Welsh Ministers” wedi ei roi yn lle “seed certification authority of the Member State concerned”.
- (12) Yn Atodlen 3—
- (a) ym mharagraff 5(5), yn lle’r geiriau o “mewn un o” hyd at y diwedd rhodder “yn Saesneg, ond caiff fod mewn ieithoedd eraill yn ogystal”;
 - (b) ym mharagraff 6(1)—
 - (i) ym mharagraff (a), yn lle “enw’r”, rhodder “enw a gwlad neu flaenlythrennau gwlad yr”;
 - (ii) hepgorer paragraff (b);
 - (c) ym mharagraffau (7)(1) ac 8(1)—
 - (i) ym mharagraff (a), yn lle “EU” rhodder “UK”;
 - (ii) ym mharagraff (b), yn lle “enw’r”, rhodder “enw a gwlad neu flaenlythrennau gwlad yr”;
 - (iii) hepgorer paragraff (c);
 - (d) ym mharagraff 9(1)—
 - (i) ym mharagraff (a), ar y dechrau, mewnosoder “enw a gwlad neu flaenlythrennau gwlad”;
 - (ii) hepgorer paragraff (b);
 - (e) ym mharagraffau 12(2)(a) a 14(1)(a), yn lle “neu’r Catalog Cyffredin” rhodder “neu wedi ei dderbyn neu wedi ei derbyn ar y Catalog Cyffredin a’r hadau yn cael eu marchnata cyn diwedd y cyfnod o ddwy flynedd sy’n dechrau â’r diwrnod ar ôl y diwrnod y mae’r diwrnod ymadael yn digwydd”;
 - (f) ym mharagraff 19—
 - (i) yn is-baragraff (2), hepgorer “UE”;
 - (ii) yn is-baragraff (2), hepgorer “EU”;
 - (iii) yn is-baragraff (4)—
 - (aa) ym mharagraff (a), hepgorer “EU”;
 - (bb) ym mharagraff (d), yn lle “neu flaenlythrennau Gwladwriaeth y Farchnad Sengl Ewropeaidd”

rhodder “neu flaenlythrennau’r wlad lle y cynhyrchwyd yr hadau”;

- (g) ym mharagraff 20(4)(a), yn lle “EU” rhodder “UK”;
 - (h) ym mharagraffau 21 a 22, hepgorer “UE” ac “EU”, yn ôl y digwydd, ym mhob lle y maent yn digwydd;
 - (i) ym mharagraff 23—
 - (i) hepgorer “EU” ac “UE”, yn ôl y digwydd, ym mhob lle y maent yn digwydd;
 - (ii) yn is-baragraffau (2)(c)(ii) ac (ch)(iii), yn lle “neu flaenlythrennau Gwladwriaeth y Farchnad Sengl Ewropeaidd” rhodder “neu flaenlythrennau’r wlad lle y cynhyrchwyd yr hadau”;
 - (j) ym mharagraffau 24 a 25, yn lle “EU”, ym mhob lle y mae’n digwydd, rhodder “UK”.
- (13) Yn Atodlen 4—
- (a) ym mharagraff 4(1), yn lle “y Gyfarwyddeb” rhodder “y Rheoliadau hyn”;
 - (b) ym mharagraff 5(2), yn lle “o drydedd wlad” rhodder “i’r Deyrnas Unedig”;
 - (c) ym mharagraff 6, yn lle “yng Nghyfarwyddeb y Cyngor 66/402/EEC” rhodder “yn y Rheoliadau hyn”;
 - (d) ym mharagraff 7—
 - (i) ar ôl is-baragraff (5) mewnosoder—

“(5A) At ddibenion is-baragraff (5)—

 - (a) mae Erthygl 14 o Gyfarwyddeb y Comisiwn 2008/62/EC i’w darllen fel pe bai—
 - (i) yn y paragraff cyntaf—
 - (aa) y geiriau “Each Member State shall ensure that, “ wedi eu hepgor;
 - (bb) cyfeiriad at “the United Kingdom” yn cael ei roi yn lle’r cyfeiriad at “that Member State”;
 - (ii) yn yr ail baragraff—
 - (aa) y geiriau “in each Member State” wedi eu hepgor;
 - (bb) cyfeiriadau at “the United Kingdom” yn cael eu rhoi yn lle’r cyfeiriadau at “the Member State”, yn y ddau le y maent yn digwydd”;

- (b) mae Erthygl 15 o Gyfarwyddeb y Comisiwn 2009/145/EC i'w darllen fel pe bai—
 - (i) y geiriau “Each Member State shall ensure that,” wedi eu hepgor;
 - (ii) “must” wedi ei roi yn lle “does.”;
- (ii) yn is-baragraff (7), yn lle'r geiriau o “yng Nghyfarwyddeb y Cyngor 2002/54/EC” hyd at “(yn ôl fe y digwydd)” rhodder “yn y Rheoliadau hyn”;
- (iii) yn is-baragraff (8)—
 - (aa) ym mharagraff (a), yn lle'r geiriau o “yng Nghyfarwyddeb y Cyngor 2002/55/EC” hyd at “llysiau” rhodder “yn y Rheoliadau hyn”;
 - (bb) ym mharagraff (b), yn lle “y Gyfarwyddeb honno” rhodder “y Rheoliadau hyn”;
- (e) ym mharagraff 8—
 - (i) yn is-baragraff (3)(b), yn lle'r geiriau o “yn unol” hyd at y diwedd rhodder “ar ôl ystyried unrhyw wybodaeth sydd ar gael oddi wrth sefydliadau adnoddau genetig planhigion”;
 - (ii) yn is-baragraff (4)(a), yn lle “EU” rhodder “UK”;
 - (iii) yn is-baragraff (7), ar ôl “y Gyfarwyddeb honno”, mewnosoder “yn ddarostyngedig i is-baragraff (8)”;
 - (iv) ar ôl is-baragraff (7) mewnosoder—

“(8) At ddibenion y paragraff hwn, mae Erthygl 1(a) o Gyfarwyddeb y Comisiwn 2010/60/EU i'w darllen fel pe bai'r diffiniad o “source area” a gynhwysir yn yr Erthygl honno yn ei ddiffinio i olygu ardal a ddynodwyd yn ardal cadwraeth arbennig neu'n ardal sy'n cyfrannu at gadwraeth adnoddau genetig planhigion yn unol â chyfraith yr UE a ddargedwir.”
- (f) ym mharagraff 10—
 - (i) yn is-baragraff (1), yn lle'r geiriau “yn Rhestr Genedlaethol” hyd at y diwedd rhodder “yn y Rhestr Genedlaethol”;
 - (ii) yn is-baragraff (7)—
 - (aa) ar y dechrau mewnosoder “Yn ddarostyngedig i is-baragraff (9),”;
 - (bb) hepgorer y gair “arall”;
 - (iii) ar ôl is-baragraff (8) mewnosoder—
 - (iv) “(9) Rhaid i hadau sy'n cael eu marchnata o dan is-baragraff (7) gael eu marchnata cyn diwedd y cyfnod o ddwy

flynedd sy'n dechrau â'r diwrnod ar ôl y diwrnod y mae'r diwrnod ymadael yn digwydd.”.

(g) ym mharagraff 11(2), hepgorer “neu'r Catalog Cyffredin”;

(h) ym mharagraff 12—

(i) mae'r testun presennol yn dod yn is-baragraff (1);

(ii) yn is-baragraff (1)—

(aa) yn y geiriau cyn paragraff (a), hepgorer “ar gyfer ei dyfu wedi ei awdurdodi o dan naill ai”;

(bb) ym mharagraff (a), ar y dechrau, yn lle “Cyfarwyddeb” rhodder “cyn y diwrnod y mae'r diwrnod ymadael yn digwydd, wedi ei awdurdodi o dan Gyfarwyddeb”, ac, ar y diwedd, hepgorer “neu”;

(cc) ym mharagraff (b), ar y dechrau, yn lle “Rheoliad” rhodder “wedi ei awdurdodi o dan Reoliad”, ac, ar y diwedd, mewnosoder “neu”;

(dd) ar ôl paragraff (b), mewnosoder—

“(c) wedi ei awdurdodi o dan y Rheoliadau GMO.

(2) At ddiben paragraff (1), ystyr “y Rheoliadau GMO” yw—

(a) o ran Cymru, Reoliadau Organeddau a Addaswyd yn Enetig (Eu Gollwng yn Fwriadol) (Cymru) 2002(1);

(b) o ran Lloegr, Reoliadau Organeddau a Addaswyd yn Enetig (Eu Gollwng yn Fwriadol) 2002(2);

(c) o ran yr Alban, Reoliadau Organeddau a Addaswyd yn Enetig (Eu Gollwng yn Fwriadol) (Yr Alban) 2002(3);

(d) o ran Gogledd Iwerddon, Reoliadau Organeddau a Addaswyd yn Enetig (Eu Gollwng yn Fwriadol) (Gogledd Iwerddon) 2003(4).”;

(i) ym mharagraff 13—

(1) O.S. 2002/3188 (Cy. 304), a ddiwygiwyd gan O.S. 2005/1913 (Cy. 156), 2005/2759, 2011/1043, 2013/755 (Cy. 90), 2018/1216 (Cy. 249).

(2) O.S. 2002/2443, fel y'i diwygiwyd gan O.S. 2004/2411, 2005/2759, 2009/1892, 2011/1043, 2018/575.

(3) O.S.A. 2002/541, a ddiwygiwyd gan O.S. 2005/2759 a 2011/1043; a chan O.S.A. 2004/439, 2015/100.

(4) Rh. St. 2003 Rhif 167.

- (i) yn is-baragraff (1), yn lle “Gwladwriaeth y Farchnad Sengl Ewropeaidd arall, neu mewn trydedd wlad” rhodder “gwlad y caniatawyd cywerthedd iddi”;
- (ii) yn is-baragraff (3)—
 - (aa) hepgorer paragraff (a);
 - (bb) ym mharagraff (b), hepgorer “os yw’r hadau yn dod o drydedd wlad”;
 - (cc) yn y geiriau ar ôl paragraff (b), yn lle “ac yn y ddau achos, rhaid” rhodder “a rhaid”;
- (j) hepgorer paragraff 14 a’i bennawd;
- (k) ym mharagraff 15(3), yn lle “yng Nghyfarwyddeb y Cyngor 2002/55/EC ar farchnata hadau llysiau” rhodder “yn y Rheoliadau hyn”;
- (l) ym mharagraff 16—
 - (i) yn y pennawd, hepgorer “arall”;
 - (ii) yn is-baragraff (1)—
 - (aa) yn lle “Yn achos hadau” rhodder “Cyn diwedd y cyfnod o ddwy flynedd sy’n dechrau â’r diwrnod y mae’r diwrnod ymadael yn digwydd, yn achos hadau”;
 - (bb) ym mharagraff (a)(i), yn lle’r geiriau o “naill ai” hyd at y diwedd rhodder “mewn Gwladwriaeth y Farchnad Sengl Ewropeaidd neu wlad y caniatawyd cywerthedd iddi”;
 - (cc) ym mharagraff (a)(ii), yn lle “trydedd wlad o’r fath” rhodder “gwlad y caniatawyd cywerthedd iddi”;
 - (dd) ym mharagraff (b), hepgorer “arall”;
 - (iii) yn is-baragraff (3)(a), yn lle “flaenlythrennau Gwladwriaeth y Farchnad Sengl Ewropeaidd” rhodder “flaenlythrennau’r wlad”;
- (m) ym mharagraff 17—
 - (i) yn y pennawd ac, yn is-baragraff (1), yn y geiriau cyn paragraff (a), yn lle “trydedd wlad” rhodder “gwlad y caniatawyd cywerthedd iddi”;
 - (ii) yn is-baragraff (1)(a)(i), yn lle’r geiriau o “mewn Gwladwriaeth y Farchnad Sengl Ewropeaidd” hyd at y diwedd, rhodder “yn y Deyrnas Unedig, mewn Tiriogaeth Ddibynnol y Goron (ar yr amod bod yr hadau hynny wedi eu cynhyrchu o dan

ddeddfwriaeth y mae Gweinidogion Cymru yn cydnabod bod ei heffaith yn gywerth ag effaith y Rheoliadau hyn) neu wlad y caniatawyd cywerthedd iddi”;

(iii) yn lle is-baragraff (1)(a)(ii), rhodder—

“(ii) drwy groesi hadau sylfaenol a ardystiwyd yn swyddogol yn y Deyrnas Unedig neu mewn Tiriogaeth Ddibynnol y Goron (ar yr amod bod yr hadau hynny wedi eu cynhyrchu o dan ddeddfwriaeth y mae Gweinidogion Cymru yn cydnabod bod ei heffaith yn gywerth ag effaith y Rheoliadau hyn) gyda hadau sylfaenol a ardystiwyd mewn gwlad y caniatawyd cywerthedd iddi;”;

(n) ym mharagraff 18, hepgorer “neu’r Catalog Cyffredin”.

Rheoliadau Marchnata Planhigion Ffrwythau a Deunyddiau Lluosogi (Cymru) 2017

6.—(1) Mae Rheoliadau Marchnata Planhigion Ffrwythau a Deunyddiau Lluosogi (Cymru) 2017 wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 2—

(a) yn y diffiniad o “deunyddiau sylfaenol”, ym mharagraff (b), yn lle “Erthygl 15 o Gyfarwyddeb 2014/98/EU;” rhodder

“—

(i) yn achos deunyddiau a gynhyrchir yn y Deyrnas Unedig, y rheoliadau marchnata ffrwythau perthnasol;

(ii) yn achos deunyddiau a gynhyrchir mewn Tiriogaeth Ddibynnol y Goron, ddeddfwriaeth y mae Gweinidogion Cymru yn cydnabod bod ei heffaith yn cyfateb i effaith rheoliad 9(1) a (2);

(iii) yn achos deunyddiau a gynhyrchir mewn Aelod-wladwriaeth, Erthygl 15 o Gyfarwyddeb 15 o Gyfarwyddeb 2014/98/EU;”;

(b) yn y diffiniad o “deunyddiau CAC”, ym mharagraff (b), yn lle “Erthygl 23 o Gyfarwyddeb 2014/98/EU;” rhodder—

“—

(i) yn achos deunyddiau a phlanhigion a gynhyrchir yn y Deyrnas Unedig, y rheoliadau marchnata ffrwythau perthnasol;

- (ii) yn achos deunyddiau a phlanhigion a gynhyrchir mewn Tiriogaeth Ddibynnol y Goron, ddeddfwriaeth y mae Gweinidogion Cymru yn cydnabod bod ei heffaith yn cyfateb i effaith Atodlen 1;
 - (iii) yn achos deunyddiau a phlanhigion a gynhyrchir mewn Aelod-wladwriaeth, Erthygl 23 o Gyfarwyddeb 2014/98/EU;”;
- (c) yn y diffiniad o “deunyddiau ardystiedig” ym mharagraff (b), yn lle “Erthygl 20 o Gyfarwyddeb 2014/98/EU;” rhodder—
- “(i) yn achos deunyddiau a phlanhigion a gynhyrchir yn y Deyrnas Unedig, y rheoliadau marchnata ffrwythau perthnasol;
 - (ii) yn achos deunyddiau a phlanhigion a gynhyrchir mewn Tiriogaeth Ddibynnol y Goron, ddeddfwriaeth y mae Gweinidogion Cymru yn cydnabod bod ei heffaith yn cyfateb i effaith rheoliad 9(1) a (2);
 - (iii) yn achos deunyddiau a phlanhigion a gynhyrchir mewn Aelod-wladwriaeth, Erthygl 20 o Gyfarwyddeb 2014/98/EU;”;
- (d) yn y lle priodol mewnosoder—
- “ystyr “Tiriogaeth Ddibynnol y Goron” (“*Crown Dependency*”) yw Ynys Manaw neu unrhyw un o Ynysoedd y Sianel;”;
- (e) yn y lle priodol mewnosoder—
- “ystyr “y rheoliadau marchnata ffrwythau” (“*the fruit marketing regulations*”) yw—
- (a) o ran Lloegr, Reoliadau Marchnata Planhigion Ffrwythau a Deunyddiau Lluosogi (Lloegr) 2017(1);
 - (b) o ran yr Alban, Reoliadau Marchnata Planhigion Ffrwythau a Deunyddiau Lluosogi (Yr Alban) 2017(2);
 - (c) o ran Gogledd Iwerddon, Reoliadau Marchnata Planhigion Ffrwythau a Deunyddiau Lluosogi (Gogledd Iwerddon) 2017(3)—

(1) O.S. 2017/595.
 (2) O.S.A. 2017/177.
 (3) Rh. St. 2017 Rhif 119.

ac ystyr “y rheoliadau marchnata ffrwythau perthnasol” (“the relevant fruit marketing regulations”), mewn perthynas ag unrhyw ran gyfansoddol o’r Deyrnas Unedig, yw’r rheoliadau marchnata ffrwythau sy’n gymwys mewn perthynas â’r rhan honno;”

- (f) yn y diffiniad o “label swyddogol” ym mharagraff (b), yn lle’r geiriau “Erthygl 2 o Gyfarwyddeb 2014/96/EU;” rhodder—

“—

- (i) yn achos deunyddiau a gynhyrchir yn y Deyrnas Unedig, y rheoliadau marchnata ffrwythau perthnasol;
 - (ii) yn achos deunyddiau planhigion a gynhyrchir mewn Tiriogaeth Ddibynnol y Goron, ddeddfwriaeth y mae Gweinidogion Cymru yn cydnabod bod ei heffaith yn cyfateb i effaith Rhan 1 o Atodlen 2;
 - (iii) yn achos deunyddiau planhigion a gynhyrchir mewn Aelod-wladwriaeth, Erthygl 2 o Gyfarwyddeb 2014/96/EU;”;
- (g) yn y diffiniad o “y tu allan i Gymru”, yn lle’r geiriau o “neu unrhyw Aelod-wladwriaeth” hyd at y diwedd, rhodder “, unrhyw Aelod-wladwriaeth neu unrhyw Dirioogaeth Ddibynnol y Goron”;
- (h) yn y diffiniad o “hawliau amrywogaeth planhigion”—
- (i) ym mharagraff (a), ar y diwedd mewnosoder “neu”;
 - (ii) hepgorer paragraff (b).
- (i) yn y diffiniad o “deunyddiau cyn-sylfaenol”, ym mharagraff (b), yn lle “Erthyglau 3 neu 4 o Gyfarwyddeb 2014/98/EU;” rhodder—

“—

- (i) yn achos deunyddiau a gynhyrchir yn y Deyrnas Unedig, y rheoliadau marchnata ffrwythau perthnasol;
- (ii) yn achos deunyddiau a gynhyrchir mewn Tiriogaeth Ddibynnol y Goron, ddeddfwriaeth y mae Gweinidogion Cymru yn cydnabod bod ei heffaith yn cyfateb i effaith rheoliad 9(1) a (2);
- (iii) yn achos deunyddiau a gynhyrchir mewn Aelod-wladwriaeth,

Erthyglau 3 neu 4 o Gyfarwyddeb 2014/98/EU;”.

(3) Yn rheoliad 4(3), yn lle “Undeb Ewropeaidd” rhodder “Deyrnas Unedig”.

(4) Ar ôl rheoliad 5(4) mewnosoder—

“(5) Ni chaiff unrhyw berson farchnata yng Nghymru ddeunyddiau planhigion a gynhyrchwyd mewn Aelod-wladwriaeth.

(6) Nid yw paragraff (5) yn gymwys i ddeunyddiau planhigion sy’n bodloni’r amodau a nodir ym mharagraff (7).

(7) Yr amodau yw bod y deunyddiau planhigion—

- (a) o amrywogaeth y caniateir ei marchnata o dan reoliad 7 neu sydd wedi ei chofrestru fel amrywogaeth gan yr awdurdod perthnasol mewn Aelod-wladwriaeth yn unol ag Erthygl 4 o Gyfarwyddeb 2014/97/EU;
- (b) wedi eu cynhyrchu gan gydymffurfio â’r gofynion a nodir yng Nghyfarwyddebau 2008/90/EC, 2014/98/EU a 2014/96/EU; ac
- (c) wedi eu mewnforio i Gymru cyn diwedd y cyfnod o ddwy flynedd sy’n dechrau â’r diwrnod ar ôl y diwrnod y mae’r diwrnod ymadael yn digwydd.”.

(5) Yn rheoliad 7—

(a) ym mharagraff (3), yn lle’r geiriau o “ag ail baragraff” hyd at y diwedd rhodder “â’r paragraff hwnnw”;

(b) ym mharagraff (4), yn lle is-baragraff (b) rhodder—

“(b) cofrestru fel amrywogaeth gan yr awdurdod cyfrifol mewn unrhyw ran o’r Deyrnas Unedig y tu allan i Gymru yn unol ag—

- (i) o ran Lloegr, Atodlen 4 i Reoliadau Marchnata Planhigion Ffrwythau a Deunyddiau Lluosogi (Lloegr) 2017;
- (ii) o ran yr Alban, Atodlen 4 i Reoliadau Marchnata Planhigion Ffrwythau a Deunyddiau Lluosogi (Yr Alban) 2017;
- (iii) o ran Gogledd Iwerddon, Atodlen 3 i Reoliadau Marchnata Planhigion Ffrwythau a Deunyddiau Lluosogi (Gogledd Iwerddon) 2017.”.

(6) Yn rheoliad 10(6), yn lle “Chyfarwyddeb 2000/29/EC” rhodder “Gorchymyn Iechyd Planhigion (Cymru) 2018”.

(7) Yn rheoliad 15(1)(g)(iii), yn lle “yn yr Atodiadau i Gyfarwyddeb 2000/29/EC” rhodder “yng Ngorchymyn Iechyd Planhigion (Cymru) 2018”.

(8) Ar ôl rheoliad 28 mewnosoder—

“Darpariaeth drosiannol ar gyfer labeli swyddogol ar y dyddiad ymadael

28A. At ddibenion rheoliad 10 a pharagraff 4(b) o Atodlen 2, caniateir defnyddio label swyddogol sydd wedi ei raggraffu cyn y diwrnod ymadael sy'n cynnwys y datganiad “EU Rules and Standards” fel label swyddogol ar gyfer deunyddiau planhigion cyn diwedd y cyfnod o ddwy flynedd sy'n dechrau â'r diwrnod ar ôl y diwrnod y mae'r diwrnod ymadael yn digwydd.”

(9) Yn Atodlen 2—

(a) Ym mharagraff 4(b), yn lle “EU” rhodder “UK”;

(b) ym mharagraff 5, yn lle “gael eu hargraffu'n” hyd at y diwedd rhodder—

“—

(a) bod yn hawdd i'w gweld a'u darllen, a

(b) cael eu hargraffu'n annileadwy yn Saesneg (ond caniateir eu hargraffu mewn ieithoedd eraill yn ogystal)”;

(c) ym mharagraff 8—

(i) yn is-baragraff (a), yn lle “EU” rhodder “UK”;

(ii) yn is-baragraffau (b)(i) ac (x), yn lle “Aelod-wladwriaeth” rhodder “wlad”;

(d) ym mharagraff 9, yn lle “gael eu hargraffu'n” hyd at y diwedd rhodder—

“—

(a) bod yn hawdd i'w gweld a'u darllen, a

(b) cael eu hargraffu'n annileadwy yn Saesneg (ond caniateir eu hargraffu mewn ieithoedd eraill yn ogystal)”.

(10) Mae Atodlen 4 wedi ei diwygio yn unol â pharagraffau 11 i 16.

(11) Ym mharagraff 1—

(a) yn y diffiniad o “protocol priodol”—

(i) hepgorer paragraff (a);

(ii) ym mharagraff (b)—

(aa) hepgorer y geiriau o “pan na fo” hyd at “berthnasol, ”;

(bb) ar ôl y gair “sefydlogrwydd” mewnosoder “ar gyfer y genws penodol neu’r rhywogaeth benodol o dan sylw”;

(iii) ym mharagraff (c)—

(aa) hepgorer “protocolau a grybwyllir ym mharagraff (a) na’r”;

(bb) ar ôl y gair “sefydliwr” mewnosoder “neu a gydnabyddir”;

(b) yn y lle priodol mewnosoder—

ystyr “y Rheoliadau GMO” (“*the GMO Regulations*”) yw—

(a) o ran Cymru, Reoliadau Organeddau a Addaswyd yn Enetig (Eu Gollwng yn Fwriadol) (Cymru) 2002(1);

(b) o ran Lloegr, Reoliadau Organeddau a Addaswyd yn Enetig (Eu Gollwng yn Fwriadol) 2002(2);

(c) o ran yr Alban, Reoliadau Organeddau a Addaswyd yn Enetig (Eu Gollwng yn Fwriadol) (Yr Alban) 2002(3);

(d) o ran Gogledd Iwerddon, Reoliadau Organeddau a Addaswyd yn Enetig (Eu Gollwng yn Fwriadol) (Gogledd Iwerddon) 2003(4);”.

(12) Ym mharagraff 2—

(a) yn is-baragraff (2)(b), hepgorer “neu mewn Aelod-wladwriaeth arall,”;

(b) yn is-baragraff (3), yn lle “Aelod-wladwriaeth arall” rhodder “gwlad arall sy’n aelod o UPOV”.

(13) Ym mharagraff 3—

(a) yn is-baragraff (1)(c), yn lle’r geiriau o “wedi ei awdurdodi” hyd at y diwedd rhodder—

“—

(i) wedi ei awdurdodi i’w dyfu yn unol â Rheoliad (EC) Rhif 1829/2003 neu’r Rheoliadau GMO, neu

(ii) cyn y diwrnod y mae’r diwrnod ymadael yn digwydd, wedi ei awdurdodi i’w dyfu yn unol â Chyfarwyddeb 2001/18/EC.”;

(1) O.S. 2002/3188 (Cy. 304), a ddiwygiwyd gan O.S. 2005/1913 (Cy. 156), 2005/2759, 2013/755 (Cy. 90), 2018/1216 (Cy. 249).

(2) O.S. 2002/2443, fel y’i diwygiwyd gan O.S.2004/2411, 2005/2759, 2009/1892, 2011/1043, 2018/575.

(3) O.S.A. 2002/541, a ddiwygiwyd gan O.S.A. 2004/439, 2015/100 ac O.S. 2005/2759 a 2011/1043.

(4) Rh. St. 2003 Rhif 167.

- (b) yn is-baragraff (3), yn lle “y tu allan i Gymru” rhodder “mewn man arall yn y Deyrnas Unedig neu mewn gwlad arall sy’n aelod o UPOV”.

(14) Ym mharagraff 6(1)—

- (a) ym mharagraff (c), yn lle “neu mewn Aelod-wladwriaeth arall” rhodder “neu”;
- (b) ar ôl paragraff (c) mewnosoder—
 - “(d) gan awdurdod cymwys y tu allan i’r Deyrnas Unedig os yw Gweinidogion Cymru wedi eu bodloni bod y treialon tyfu hynny o safon sy’n cyfateb i’r rhai a gynhelir gan Weinidogion Cymru neu ar eu rhan.”.

(15) Ym mharagraff 7—

- (a) yn is-baragraff (1)(a), yn lle’r geiriau o “sy’n ffurfio’r amrywogaeth” hyd at y diwedd rhodder—
 - “sy’n ffurfio’r amrywogaeth—
 - (i) wedi ei awdurdodi i’w dyfu yn unol â Rheoliad (EC) Rhif 1829/2003(1) neu’r Rheoliadau GMO, neu
 - (ii) wedi ei awdurdodi, cyn y diwrnod y mae’r diwrnod ymadael yn digwydd, i’w dyfu yn unol â Chyfarwyddeb 2001/18/EC; neu”;
- (b) yn is-baragraff (4)(a), yn lle “Chyfarwyddeb 2001/18/EC neu Reoliad” rhodder “Rheoliad”.

(16) Ym mharagraff 8(1)(d), yn lle’r geiriau o “yn peidio â” hyd at y diwedd rhodder—

- “—
 - (i) yn peidio â bod yn awdurdodedig yn unol â Rheoliad (EC) Rhif 1829/2003 neu’r Rheoliadau GMO; neu
 - (ii) wedi ei awdurdodi, cyn y diwrnod y mae’r diwrnod ymadael yn digwydd, i’w dyfu yn unol â Chyfarwyddeb 2001/18/EC a’i fod yn peidio â bod yn awdurdodedig”

(17) Yn Atodlen 5—

- (a) ym mharagraff 5—
 - (i) yn is-baragraff (4), yn lle “y tu allan i Gymru” rhodder “mewn unrhyw ran o’r

(1) Fe’i diffinnir ym mharagraff 1 o Atodlen 4 i O.S. 2017/691 (Cy. 163).

Deyrnas Unedig ac eithrio Cymru neu mewn gwlad arall sy'n aelod o UPOV”;

(ii) yn is-baragraff (7), yn lle'r diffiniad o “cofrestr amrywogaethau” rhodder—

“ystyr “cofrestr amrywogaethau” (“*register of varieties*”), mewn perthynas â chofrestru amrywogaethau, yw'r gofrestr a gynhelir—

(a) yng Nghymru, o dan baragraff 4(1) o Atodlen 4;

(b) yn Lloegr, o dan baragraff 4(1) o Atodlen 4 i Reoliadau Marchnata Planhigion Ffrwythau a Deunyddiau Lluosogi (Lloegr) 2017;

(c) yn yr Alban, o dan baragraff 2(1) o Atodlen 4 i Reoliadau Marchnata Planhigion Ffrwythau a Deunyddiau Lluosogi (Yr Alban) 2017;

(d) yng Ngogledd Iwerddon, at ddibenion paragraff 1 o Atodlen 3 i Reoliadau Marchnata Planhigion Ffrwythau a Deunyddiau Lluosogi (Gogledd Iwerddon) 2017;”;

(b) hepgorer paragraff 8(2)(a).

(c)

Lesley Griffiths

Gweinidog yr Amgylchedd, Ynni a Materion Gwledig,
un o Weinidogion Cymru
25 Chwefror 2019

Explanatory Memorandum to The Marketing of Seeds and Plant Propagating Material (Amendment) (Wales) (EU Exit) Regulations 2019

This Explanatory Memorandum has been prepared by the Department for Environment and Rural Affairs and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Marketing of Seeds and Plant Propagating Material (Amendment) (Wales) (EU Exit) Regulations 2019.

I have made the statements required by the European Union (Withdrawal) Act 2018. These statements can be found in Part 2 of the annex to this memorandum.

Lesley Griffiths
Minister for Environment, Energy and Rural Affairs
27 February 2019

1 PART 1

1. Description

- 1.1 This instrument makes amendments to the Seed Marketing Regulations (Wales) 2012 and the Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017. It addresses deficiencies in domestic legislation on the marketing of seeds and fruit plant and propagating material arising from the withdrawal of the United Kingdom from the European Union so that such will continue to be operable after EU exit.
- 1.2 This instrument comes into force on “exit day”, which section 20(1) of the European Union (Withdrawal) Act 2018 defines as 29 March 2019 at 11.00pm.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

- 2.1 This instrument is being made using the powers conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018 (c.16) (the “2018 Act”) in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.
- 2.2 It also (in exercise of the powers conferred by the European Communities Act 1972 (c.68)) makes amendments to the Seed Marketing Regulations (Wales) 2012 to include references to EEA states and Switzerland where appropriate.
- 2.3 As set out in the Ministerial statement in Annex 2 of this Explanatory Memorandum it is proposed that the instrument be subject to the negative procedure. The instrument makes minor and technical changes and as such should be subject to annulment. 1.1
- 2.4 The CLA Committee considered a draft of these regulations on 18 February 2019, and agreed that the negative procedure is appropriate for these regulations. A copy of the published CLA report can be accessed via the following link:
<http://www.assembly.wales/laid%20documents/cr-ld12192/cr-ld12192-e.pdf>

3. Legislative background

- 3.1 This instrument is being made using the power in Part 1 of Schedule 2 to the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the European Union. In accordance with the requirements of that Act the Minister for Environment, Energy and Rural Affairs, Lesley Griffiths has made the relevant

statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.

4. Purpose and intended effect of the legislation

What did any relevant EU law do before exit day?

- 4.1 The marketing of seed and plant propagating material is regulated at Community level by EU Directive. The directives prescribe processes to ensure minimum quality standards and traceability. The directives also set out administrative provisions (including, where appropriate, provision for fees), impose record-keeping requirements and provide for the licensing of crop inspectors, seed samplers and seed testing stations.
- 4.2 This instrument makes amendments to the Seed Marketing Regulations (Wales) 2012 and the Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017.
- 4.3 The Seed Marketing Regulations (Wales) 2012 implement;
- Council Directive 66/401/EEC on the marketing of fodder plant seed
 - Council Directive 66/402/EEC on the marketing of cereal seed
 - Council Directive 2002/54/EC on the marketing of beet seed
 - Council Directive 2002/55/EC on the marketing of vegetable seed
 - Council Directive 2002/57/EC on the marketing of seed of oil and fibre plants
 - Commission Directive 2009/74/EC amending Council Directives 66/401/EEC, 66/402/EEC, 2002/55/EC and 2002/57/EC as regards the botanical names of plants, the scientific names of other organisms and certain Annexes to Directives 66/401/EEC, 66/402/EEC and 2002/57/EC in the light of developments of scientific and technical knowledge
 - Commission Directive 2010/60/EU providing for certain derogations for marketing of fodder plant seed mixtures intended for use in the preservation of the natural environment
 - Commission Decision 2011/180/EU implementing Council Directive 2002/55/EC as regards conditions under which the placing on the market of small packages of mixtures of standard seed of different vegetable varieties belonging to the same species may be authorised
 - Commission Directive 2008/62/EC providing for certain derogations for acceptance of agricultural landraces and varieties which are naturally adapted to the local and regional conditions and threatened by genetic erosion and for marketing of seed and seed potatoes of those landraces and varieties; and
 - Commission Directive 2009/145/EC providing for certain derogations, for acceptance of vegetable landraces and varieties which have been traditionally grown in particular localities and regions and are threatened by genetic erosion and of vegetable varieties with no intrinsic value for commercial crop production but developed for growing under particular conditions and for marketing of seed of those landraces and varieties.
- 4.4 To comply with the Seed Marketing Regulations, and in order to market the main varieties of agricultural crops or vegetables in Wales, a person must hold a licence to market seed and have successfully applied to

have seed certified to show the seed meets EU quality standards. A person is considered to be marketing seed if they are holding or keeping them before sale; offering them for sale e.g.: by advertising; giving them to someone else; packing, sealing or labelling seed; processing seed; or collecting and preparing preservation mixtures of seed.

- 4.5 The Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017 implement;
- Council Directive 92/34/EEC on the marketing of fruit plant propagating material and fruit plants intended for fruit production
 - Commission Directive 93/48/EEC setting out the schedule indicating the conditions to be met by fruit plant propagating material and fruit plants intended for fruit production, pursuant to Council Directive 92/34/EEC
 - Commission Directive 93/79/EEC setting out additional implementing provisions for lists of varieties of fruit plant propagating material and fruit plants, as kept by suppliers under Council Directive 92/34/EEC
- 4.6 The Regulations set quality standards to be met by certain genera and species of fruit plant material when marketed and prescribe conditions to be satisfied by suppliers of fruit plant material. Suppliers may not market plant material unless it is substantially free on visual inspection from harmful organisms and diseases and unless it satisfies minimum quality requirements. Producers are required to take certain measures if such organisms and diseases are found. Fruit plant material must be marketed with reference to the variety to which it belongs or, in the case of rootstocks which do not belong to a variety, to the appropriate species or interspecific hybrid.

Why is it being changed?

- 4.7 This instrument amends provisions in The Seed Marketing (Wales) Regulations 2012 and The Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017 which are inappropriate or redundant as a result of the withdrawal of the UK from the EU and makes appropriate changes to these regulations to ensure that the law functions correctly after exit.

What will it now do?

- 4.8 The changes made by this instrument are necessary to ensure that current legislation for seed marketing and fruit propagating material continues to operate effectively after the UK leaves the EU in a “no deal” scenario. The amendments do not amount to changes in policy and will not have a substantive impact on current marketing practices or standards. The instrument remedies deficiencies that will arise in domestic marketing legislation for example by removing references to the Commission, Community and Member States, replacing references

to “third countries” and removing reporting obligations to the Commission.

- 4.9 In order to guarantee supplies of seed on which the UK is currently dependent, the instrument provides for a temporary two year period during which time supplies of certified seed from a European Single Market State may continue to be marketed in the UK. To avoid financial loss to UK seed merchants, the instrument also provides a temporary two year interim period to allow existing stocks of pre-printed EU certification labels to be used up.
- 4.10 This instrument amends the Seeds Marketing Regulations 2011 using powers under section 2(2) of the European Communities Act to include references to the European Economic Area States and Switzerland where appropriate.
- 4.11 Three other EU Exit SIs have been produced in the field of plant varieties and seeds which apply on a UK, or GB, or England and Wales basis. These include;
- The Plant Breeders’ Rights (Amendment etc.) (EU Exit) Regulations 2018. These Regulations make amendments to primary and secondary legislation in the field of plant variety rights (The Plant Varieties Act 1997, the Plant Breeders’ Rights (Farm Saved Seed) (Specified Information) Regulations 1998, the Plant Breeders’ Rights Regulations 1998, the Plant Breeders’ Rights (Information Notices) Regulations 1998 and the Plant Breeders’ Rights (Naming and Fees) Regulations 2006).
 - The Marketing of Seeds and Plant Propagating Material (Amendment etc.) (EU Exit) Regulations 2018. These Regulations make amendments to retained and directly applicable EU implementing legislation on the marketing of plant propagating material. They also address deficiencies in the Seeds (National Lists of Varieties) Regulations 2001, as a result of EU exit.
 - The Marketing of Seed and Plant Propagating Material (Amendment etc.) (England and Wales) (EU Exit) Regulations 2018. These Regulations make amendments to domestic legislation regulating the marketing of agricultural seed, forestry and vegetative propagating material. They amend the Marketing of Vegetable Plant Material Regulations 1995 and the Marketing of Ornamental Plant Propagating Material Regulations 1999 in relation to England and Wales and the Seeds Marketing Regulations, Marketing of Fruit Plant and Propagating Material and the Forest Reproductive Material (Great Britain) Regulations 2002 in relation to England.
- 4.12 Amendments to the Forest Reproductive Material (Great Britain) Regulations 2002 in relation to Wales will be made through a separate Wales only SI.

5. Consultation

- 5.1 As there is no policy change, no public consultation was undertaken. The purpose of the instrument is solely to enable the current legislative and policy framework to remain unchanged by the withdrawal of the United Kingdom from the European Union.

6. Regulatory Impact Assessment (RIA)

- 6.1 An RIA has not been conducted as these are minor technical changes necessary as a result of the UK's withdrawal from the EU. A public consultation was not required because no policy changes are being made via this statutory instrument. As this instrument relates to maintaining existing legislation after EU Exit there is no, or no significant, impact on business, charities or voluntary bodies. There is no, or no significant, impact on the public sector.

Annex 1

Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required of the Welsh Ministers under the 2018 Act. The table also sets out those statements that may be required of Ministers of the Crown under the 2018 Act, which the Welsh Ministers have committed to also provide when required. The required statements can be found in Part 2 of this annex.

| Statement | Where the requirement sits | To whom it applies | What it requires |
|-----------------|---|--|---|
| Sifting | Paragraphs 3(7) and 4(3), Schedule 7 <i>Paragraph 3(7) (anticipated to be a requirement on Welsh Ministers in Standing Orders)</i> | The Welsh Ministers exercising powers in Part 1 of Schedule 2 to make a Negative SI Paragraph 3(7) applies to Ministers of the Crown, but Welsh Ministers have committed to make the same statement | A statement to explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation of the CLA Committee (as sifting committee) |
| Appropriateness | Sub-paragraph (2) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement that the SI does no more than is appropriate. |
| Good Reasons | Sub-paragraph (3) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have | A statement to explain the good reasons for making the instrument and that what is being done is a reasonable course of action. |

| | | | |
|-------------------|--|--|--|
| | | committed to make the same statement when exercising powers in Schedule 2 | |
| Equalities | Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | <p>A statement to explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them.</p> <p>A statement that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.</p> |
| Explanations | Sub-paragraph (6) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement to explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g. whether minor or technical changes only are intended to the EU retained law. |
| Criminal offences | Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement setting out the 'good reasons' for creating a criminal offence, and the penalty attached. |
| Sub-delegation | Paragraph 30, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority. | A statement to explain why it is appropriate to create such a sub-delegated power. |

| | | | |
|---------|--|--|--|
| | | Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 or paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority | |
| Urgency | Sub-paragraph (2) and (8) of paragraph 7, Schedule 7 | Welsh Ministers exercising powers in Part 1 of Schedule 2 but using the urgent procedure in paragraph 7 of Schedule 7 | A statement that the Welsh Ministers are of the opinion that it is necessary to make the SI using the urgent procedure and the reasons for that opinion. |

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

1. Sifting statement(s)

The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view The Marketing of Seeds and Plant Propagating Material (Amendment) (Wales) (EU Exit) Regulations 2019 should be subject to annulment in pursuance of a resolution of the National Assembly for Wales (i.e. the negative procedure)”. This is the case because the changes being made are technical in nature and make no substantive changes to how the Seed Marketing Regulations 2011 and the Marketing of Fruit Plant and Propagating Material (England) Regulations 2017 operate.

2. Appropriateness statement

The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view The Marketing of Seeds and Plant Propagating Material (Amendment) (Wales) (EU Exit) Regulations 2019 does no more than is appropriate. This is the case because all changes being made are solely in order to address deficiencies arising from EU Exit”.

3. Good reasons

The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action”. This is because the provisions ensure that protections provided by The Marketing of Seeds and Plant Propagating Material (Amendment) (Wales) (EU Exit) Regulations 2019 continue to be operable after the UK leaves the European Union.

4. Equalities

4.1 The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement(s):

“The instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts.

- 4.2 The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the instrument, I, Lesley Griffiths, have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010”.

- 4.3 Little or no impact on equalities is expected.

5. Explanations

- 5.1 The explanations statement has been made in paragraph 4 (Purpose & intended effect of the legislation) of the main body of this explanatory memorandum.

6. Criminal offences

Not applicable / required.

7. Legislative sub-delegation

Not applicable / required.

8. Urgency

Not applicable / required.

Eitem 4.9

SL(5)358 – Rheoliadau'r Fasnach mewn Anifeiliaid a Chynhyrchion Perthynol (Diwygio) (Cymru) (Ymadael â'r UE) 2019

Cefndir a Diben

Mae'r Rheoliadau hyn yn gwneud diwygiadau i Rheoliadau Semen Buchol (Cymru) 2008 a Rheoliadau'r Fasnach mewn Anifeiliaid a Chynhyrchion Perthynol (Cymru) 2011 i geisio sicrhau bod y llyfr statud yn parhau i fod yn weithredol ar ôl i'r DU ymadael â'r UE.

Gwneir y Rheoliadau gan ddefnyddio'r pŵer a roddir gan baragraff 1(1) o Atodlen 2 a pharagraff 21 o Atodlen 7 i Ddeddf Ymadael 2018.

Gweithdrefn

Negyddol

Materion technegol: craffu

Nodwyd y pwyntiau a ganlyn i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.2 mewn perthynas â'r offeryn hwn:

1. Mae testun Saesneg rheoliad 3(11)(c) wedi'i rannu'n ddau is-baragraff; mae tri pharagraff yn y testun Cymraeg. Mae hyn oherwydd bod cyd-destun y diwygiadau i'r testun Cymraeg yn gofyn iddynt gael eu mynegi ychydig yn wahanol, fel bod is-baragraff (ii) yn y testun Saesneg yn cyfateb i is-baragraffau (ii) a (iii) yn y testun Cymraeg. Byddai'r cysylltiad rhwng y paragraffau yn gliriach pe bai'r ddau newid wedi'u cysylltu gan 'ac' o fewn is-baragraff (ii) o'r testun Cymraeg yn hytrach na'u rhannu'n ddau is-baragraff. **(Rheol Sefydlog 21.2(vi) – ei bod yn ymddangos bod gwaith drafftio'r offeryn neu'r drafft yn ddiffygiol neu ei fod yn methu â bodloni gofynion statudol).**
2. Mae'r modd y rhifwyd testun Cymraeg rheoliad 3(21)(e) yn ddiffygiol, ac nid yw'n cyfateb i'r modd y rhifwyd y Saesneg. Mae is-baragraff (ii) yn cyflwyno is-baragraff (1A) newydd i'r prif Rheoliadau; dylai testun y mewnosodiad ddilyn yn syth o hynny yn hytrach nag ymddangos fel is-baragraff (iii). Mae'r un broblem hefyd yn codi gydag is-baragraffau (iv) a (v). Felly mae dau is-baragraff ychwanegol yn y testun Cymraeg nag sydd yn y testun Saesneg. **(Rheol Sefydlog 21.2(vi) – ei bod yn ymddangos bod gwaith drafftio'r offeryn neu'r drafft yn ddiffygiol neu ei fod yn methu â bodloni gofynion statudol).**

Rhinweddau: craffu

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.



Y goblygiadau yn sgil gadael yr Undeb Ewropeaidd

Gosodwyd drafft o'r Rheoliadau hyn gerbron y Cynulliad ar gyfer sifftio yn unol â pharagraff 4 o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018. Cytunodd y Pwyllgor mai gweithdrefn y penderfyniad negyddol yw'r weithdrefn briodol ar gyfer y Rheoliadau hyn.

Ymateb y Llywodraeth

Mae angen ymateb gan y Llywodraeth.

Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

8 Mawrth 2019



OFFERYNNAU STATUDOL
CYMRU

2019 Rhif 367 (Cy. 89)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

ANIFEILIAID, CYMRU

IECHYD ANIFEILIAID

**Rheoliadau'r Fasnach mewn
Anifeiliaid a Chynhyrchion
Perthynol (Diwygio) (Cymru)
(Ymadael â'r UE) 2019**

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn wedi eu gwneud drwy arfer y pwerau a roddir gan baragraff 1(1) o Atodlen 2 a pharagraff 21 o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 (p. 16) er mwyn ymdrin ag unrhyw fethiant yng nghyfraith yr UE a ddargedwir i weithredu'n effeithiol a diffygion eraill sy'n deillio o ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd.

Mae'r Rheoliadau hyn yn gwneud diwygiadau i is-ddeddfwriaeth, sy'n gymwys o ran Cymru, sy'n berthnasol i'r fasnach mewn anifeiliaid a chynhyrchion perthynol.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, ystyriwyd nad oedd yn angenrheidiol cynnal asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn.

OFFERYNNAU STATUDOL
CYMRU

2019 Rhif 367 (Cy. 89)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

ANIFEILIAID, CYMRU

IECHYD ANIFEILIAID

**Rheoliadau'r Fasnach mewn
Anifeiliaid a Chynhyrchion
Perthynol (Diwygio) (Cymru)
(Ymadael â'r UE) 2019**

*Gofynion sifftio wedi eu bodloni 11 Chwefror
2019*

Gwnaed 25 Chwefror 2019

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru 27 Chwefror 2019*

Yn dod i rym yn unol â rheoliad 1(2)

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir gan baragraff 1(1) o Atodlen 2 a pharagraff 21 o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018(1), yn gwneud y Rheoliadau a ganlyn.

Mae gofynion paragraff 4(2) o Atodlen 7 i'r Ddeddf honno (sy'n ymwneud â gweithdrefn graffu briodol Cynulliad Cenedlaethol Cymru ar gyfer y Rheoliadau hyn) wedi eu bodloni.

Enwi, cychwyn a chymhwysu

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau'r Fasnach mewn Anifeiliaid a Chynhyrchion Perthynol (Diwygio) (Cymru) (Ymadael â'r UE) 2019.

(2) Daw'r Rheoliadau hyn i rym ar y diwrnod ymadael.

(1) 2018 p. 16.

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

Rheoliadau Semen Buchol (Cymru) 2008

2.—(1) Diwygir Rheoliadau Semen Buchol (Cymru) 2008⁽¹⁾ fel a ganlyn.

(2) Yn y Rheoliadau hyn—

- (a) yn lle “CE”, ym mhob lle y mae'n digwydd, rhodder “trwyddedig” (gan dreiglo yn ôl yr angen).

(3) Yn rheoliad 2(1)—

- (a) yn y lle priodol mewnosoder—
 “ystyr “trwyddedig” (“*licensed*”) yw wedi ei drwyddedu gan Weinidogion Cymru”;
- (b) yn y diffiniad o “mangre brosesu sydd heb ei thrwyddedu” (“*unlicensed processing premises*”), ym mharagraff (a)(ii) yn lle “y fasnach ryng-Gymunedol” rhodder “masnach ag Aelod-wladwriaeth”.

(4) Yn rheoliad 3—

- (a) ym mharagraff (2), yn y geiriau ar ôl is-baragraff (c), yn lle “masnach ryng-Gymunedol” rhodder “masnach ag Aelod-wladwriaeth”; a
- (b) hepgorer paragraff (4).

(5) Yn rheoliad 4—

- (a) ym mharagraff (b), yn is-baragraff (i) a (ii), yn lle “masnach ryng-Gymunedol” rhodder “masnach ag Aelod-wladwriaeth”;
- (b) ym mharagraff (c), yn is-baragraff (i) a (ii), yn lle “masnach ryng-Gymunedol” rhodder “masnach ag Aelod-wladwriaeth”.

(6) Yn rheoliad 29(c), yn lle “o Aelod-wladwriaeth arall neu o drydedd wlad” rhodder “o'r tu allan i'r Deyrnas Unedig”.

(7) Yn rheoliad 30—

- (a) yn lle'r pennawd rhodder “Y fasnach mewn semen i Aelod-wladwriaeth”;
- (b) ym mharagraff (1)—
- (i) yn y geiriau cyn is-baragraff (a), yn lle “ar gyfer masnach ryng-Gymunedol” rhodder “i Aelod-wladwriaeth”;
- (ii) yn is-baragraff (b), yn lle “o Aelod-wladwriaeth arall neu a fewnforir o drydedd wlad yn unol â'r Gyfarwyddeb” rhodder “o'r tu allan i'r Deyrnas Unedig”;

(1) O.S. 2008/1040 (Cy. 110) fel y'i diwygiwyd gan O.S. 2013/398 (Cy. 48); ceir diwygiadau eraill nad ydynt yn berthnasol i'r Rheoliadau hyn.

- (c) ym mharagraff (2), yn lle'r geiriau "ar gyfer masnach ryng-Gymunedol" hyd at y diwedd, rhodder "i Aelod-wladwriaeth sicrhau bod y dystysgrif iechyd anifeiliaid fel y'i cyhoeddir gan Weinidogion Cymru o bryd i'w gilydd yn mynd gydag ef."

(8) Yn rheoliad 38(1), hepgorer "arall".

(9) Yn Atodlen 3—

(a) yn Rhan 2—

(i) ym mharagraff 2—

(aa) yn is-baragraff (1), yn lle "gyflenwi ar gyfer masnach ryng-Gymunedol" rhodder "osod ar y farchnad";

(bb) yn is-baragraff (2), yn lle "ni chaiff fod yn destun masnach ryng-Gymunedol" rhodder "ni chaniateir iddo gael ei osod ar y farchnad";

(ii) ym mharagraff 3, yn lle "ryng-Gymunedol" rhodder "ag Aelod-wladwriaeth";

(b) yn Rhan 3, ym mharagraffau 1(b)(i) ac (c), yn lle "ryng-Gymunedol" rhodder "arall".

(10) Yn Atodlen 5, yn Rhan 3, ym mharagraff 1—

(a) yn is-baragraff (a)(ii), yn lle "Aelod-wladwriaeth arall", rhodder "mewn Aelod-wladwriaeth";

(b) yn is-baragraff (b), yn lle'r geiriau o "marciau" hyd at y diwedd rhodder "marciau amlwg sy'n wahanol i'r marciau a ddefnyddir mewn canolfannau casglu a chanolfannau storio trwyddedig".

(11) Yn Atodlen 8, yn Rhan 1, yn is-baragraffau (a)(ii) a (b)(ii), yn lle "Aelod-wladwriaeth arall" rhodder "Aelod-wladwriaeth".

Rheoliadau'r Fasnach mewn Anifeiliaid a Chynhyrchion Perthynol (Cymru) 2011

3.—(1) Diwygir Rheoliadau'r Fasnach mewn Anifeiliaid a Chynhyrchion Perthynol (Cymru) 2011(1) fel a ganlyn.

(2) Yn rheoliad 2(1), yn y lle priodol mewnosoder—

"ystyr "system Traces yr UE" ("*EU Traces system*") yw'r system Traces a sefydlwyd o dan Benderfyniad y Comisiwn 2004/292/EC(2) (ar gyflwyno'r system

(1) O.S. 2011/2379 (Cy. 252), y ceir diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.

(2) OJ Rhif L 94, 31.3.2004, t. 63.

Traces ac yn diwygio Penderfyniad 92/486/EEC);”;

“ystyr “trydedd wlad” (“*third country*”) yw unrhyw wlad heblaw Ynysoedd Prydain neu Aelod-wladwriaeth”.

(3) Yn rheoliad 4, yn lle “rhwng Aelod-wladwriaethau” rhodder “ag Aelod-wladwriaethau yn unol â’r cytundebau hynny”.

(4) Yn Rhan 2, yn y pennawd, yn lle “Symud rhwng” rhodder “Mewnforio o”.

(5) Yn rheoliad 5—

- (a) yn lle’r pennawd, rhodder “Mewnforio anifeiliaid a deunydd genetig o Aelod-wladwriaethau”;
- (b) ym mharagraff (1), yn lle’r geiriau o “i unrhyw” hyd at y diwedd, rhodder “dod ag unrhyw anifail na deunydd genetig i Gymru o Aelod-wladwriaeth oni bai bod tystysgrif iechyd berthnasol ar gyfer yr anifail neu’r deunydd genetig hwnnw wedi ei chwblhau ac wedi ei llofnodi yn dod gydag ef.”

(6) Hepgorer rheoliad 6.

(7) Yn rheoliad 7—

- (a) yn y pennawd, yn lle “rhwng Aelod-wladwriaethau”, rhodder “i Gymru”.
- (b) hepgorer paragraff (1);
- (c) ym mharagraff (2)—
 - (i) hepgorer y gair “arall”; a
 - (ii) ar ôl y geiriau “Gweinidogion Cymru” mewnosoder “drwy’r system hysbysu ynghylch mewnforion sy’n disodli system Traces yr UE yn y Deyrnas Unedig”.

(8) Yn rheoliad 11—

- (a) ym mharagraff (1), yn lle “y Comisiwn Ewropeaidd” rhodder “Gweinidogion Cymru”;
- (b) ym mharagraff (4)—
 - (i) hepgorer y geiriau o “a geir” hyd at “eu trefnu”; a
 - (ii) hepgorer y geiriau o “a hysbysu’r” hyd at “drosto”.

(9) Yn rheoliad 12(4), ar ôl y gair “gymeradwyaeth” mewnosoder “gan Weinidogion Cymru”.

(10) Yn rheoliad 14—

- (a) ym mharagraff (1), ar ôl y gair “ffin” mewnosoder “drwy’r system ar gyfer hysbysu ynghylch mewnforion sy’n disodli system Traces yr UE yn y Deyrnas Unedig”;

- (b) ym mharagraff (2), ar ôl y gair “ffin” mewnosoder “drwy’r system ar gyfer hysbysu ynghylch mewnfurion sy’n disodli system Traces yr UE yn y Deyrnas Unedig”;
- (c) ym mharagraff (4), hepgorer y gair “arall”.

(11) Yn rheoliad 15—

- (a) ar ôl paragraff (1), mewnosoder—

“(1A) At ddibenion paragraff (1)(a), mae Erthygl 4 o Gyfarwyddeb y Cyngor 97/78/EC i gael ei darllen fel pe bai “retained EU law” wedi ei roi yn lle’r cyfeiriadau at “Community legislation” ym mharagraff 4(a)(i) a (b)(i).”

- (b) ar ôl paragraff (1A), mewnosoder—

“(1B) At ddibenion paragraff (1)(b), mae Erthygl 4 o Gyfarwyddeb y Cyngor 91/496/EEC i gael ei darllen fel pe bai—

- (a) ym mharagraff 1—
 - (i) y cyfeiriad at “Member States” yn gyfeiriad at “The Welsh Ministers”;
 - (ii) yn yr ail indent, y geiriau o “at Community level” hyd at ddiwedd yr indent hwnnw wedi eu hepgor;
 - (iii) yn y trydydd indent, “Community rules” wedi ei ddisodli gan “retained EU law”;
 - (iv) yn yr indent olaf, y geiriau o “through” hyd at ddiwedd yr indent hwnnw wedi eu hepgor;

- (b) ym mharagraff 2—
 - (i) yn is-baragraff (b), bod “retained EU law” wedi ei roi yn lle “Community rules”;
 - (ii) yn is-baragraff (d), y geiriau “For the purposes of” hyd at “his direction” wedi eu hepgor;
 - (c) paragraff 5 wedi ei hepgor.”; ac

- (c) ym mharagraff (4)—
 - (i) yn is-baragraff (a), yn lle’r geiriau o “y rhestr” hyd at y diwedd rhodder “rhestr o drydydd gwledydd a gymeradwywyd, neu os gwaherddir mewnfurion o’r diriogaeth honno fel arall”;
 - (ii) yn is-baragraffau (b) ac (c), yn lle “yn neddfwriaeth yr Undeb Ewropeaidd” rhodder “yng nghyfraith yr UE a ddargedwir”;
 - (iii) yn is-baragraff (d) yn lle “deddfwriaeth yr Undeb Ewropeaidd” rhodder “cyfraith yr UE a ddargedwir”.

(12) Yn rheoliad 18—

- (a) ym mharagraff (2), yn lle “Undeb Ewropeaidd” rhodder “Deyrnas Unedig”; a
 - (b) hepgorer paragraff (4).
- (13) Yn rheoliad 20(1)(b), yn lle “y tu allan i'r Undeb Ewropeaidd” rhodder “i drydedd wlad”.
- (14) Yn lle rheoliad 22(1) rhodder—
- “(1) Os bydd gwiriadau milfeddygol yn datgelu bod cynhyrchion trydedd wlad yn gysylltiedig â thorcyfraith difrifol neu fynych o ran unrhyw ofyniad mewnfario, neu pan fo'r gwiriadau hynny yn datgelu bod y lefelau gweddillion uchaf yn uwch na'r hyn a ganiateir, caiff Gweinidogion Cymru gymhwyso'r rheoliad hwn at gynhyrchion tebyg dilynol y deuir â hwy i Gymru o drydedd wlad benodol, rhan o drydedd wlad neu sefydliad penodol nes eu bod wedi eu bodloni nad oes rhagor o dorcyfraith yn digwydd.”
- (15) Yn rheoliad 23—
- (a) ym mharagraff (1)(c), hepgorer “, y tu allan i'r Undeb Ewropeaidd”; a
 - (b) ym mharagraff (3)(b), hepgorer “y tu allan i'r Undeb Ewropeaidd”.
- (16) Yn rheoliad 27—
- (a) ym mharagraff (1), yn y geiriau o flaen is-baragraff (a), yn lle “Undeb Ewropeaidd” rhodder “Deyrnas Unedig”;
 - (b) ym mharagraff (3)(a), hepgorer “yn yr Aelod-wladwriaeth”.
- (17) Yn rheoliad 33(2), hepgorer “, gan gynnwys unrhyw gynrychiolydd o'r Comisiwn Ewropeaidd”.
- (18) Yn rheoliad 35—
- (a) yn y pennawd a pharagraff (1), hepgorer “arall”;
 - (b) yn lle paragraff (2)(c), rhodder—
- “(c) dychwelyd yr anifeiliaid neu'r deunydd genetig i'r Aelod-wladwriaeth yr anfonwyd hwy neu yr anfonwyd ef ohoni, gydag awdurdodiad yr awdurdod cymwys, a hynny ar ôl hysbysu unrhyw Aelod-wladwriaeth y byddant neu y bydd yn mynd drwyddi ymlaen llaw.”
- (19) Yn rheoliad 39, yn y tabl—
- (a) yng ngholofn 1, hepgorer “rheoliad 6(5)” a'r cofnod cyfatebol yng ngholofn 2;
 - (b) yng ngholofn 1, hepgorer “rheoliad 6(6)” a'r cofnod cyfatebol yng ngholofn 2.
- (20) Diwygir Atodlen 2 yn unol â pharagraffau (21) a (22).
- (21) Yn Rhan 1—

- (a) yn y pennawd, yn lle “masnach rhwng” rhodder “mewnforion o”;
- (b) ym mharagraff 2(1), yn lle “rhwng” rhodder “o”;
- (c) hepgorer paragraff 3;
- (d) ym mharagraff 4, yn y geiriau o flaen is-baragraff (a) hepgorer “sy’n ymwneud â masnach rhwng Aelod-wladwriaethau”;
- (e) ym mharagraff 5—
 - (i) yn lle is-baragraff (1), rhodder—

“(1) Ni chaiff neb fewnforio epa, (simia a prosimian) oni bai ei fod yn dod o ganolfan a gymeradwywyd gan awdurdod cymwys Aelod-wladwriaeth a’i fod wedi ei fwriadu ar gyfer canolfan a gymeradwywyd gan Weinidogion Cymru yn unol â Chyfarwyddeb y Cyngor 92/65/EEC (“Cyfarwyddeb Balai”).”;
 - (ii) ar ôl is-baragraff (1), mewnosoder—
 - (iii) “(1A) Mae is-baragraff (1) yn ddarostyngedig i is-baragraff (1B).”
 - (iv) ar ôl is-baragraff (1A), mewnosoder—
 - (v) “(1B) Caiff Gweinidogion Cymru awdurdodi corff cymeradwy yn ysgrifenedig i gaffael epa gan unigolyn.”
 - (vi) yn is-baragraff (2), ar y diwedd mewnosoder “(gan ddarllen cyfeiriadau yn Erthygl 13 at Aelod-wladwriaeth a gyrchir fel cyfeiriad at Gymru, darllen cyfeiriad at awdurdod cymwys Aelod-wladwriaeth fel cyfeiriad at Weinidogion Cymru, a chan hepgor paragraffau 2(d) ac (e)).”
 - (vii) yn is-baragraff (3), ar y diwedd mewnosoder “(gan ddarllen cyfeiriadau ym mhwynt 6 o Atodiad C at yr awdurdod cymwys fel cyfeiriad at Weinidogion Cymru, darllen cyfeiriadau at ddeddfwriaeth Gymunedol fel cyfeiriadau at gyfraith yr UE a ddargedwir, a chan hepgor paragraff (d) o bwynt 6).”;
 - (viii) yn is-baragraff (4), yn lle’r geiriau o “rhwng Aelod-wladwriaethau” hyd at y diwedd, rhodder “mewn ofa ac embryonau rhywogaethau’r ddafad, yr afr a’r ceffyl a semen rhywogaethau’r ddafad, yr afr a’r ceffyl a semen moch.”;
 - (ix) hepgorer is-baragraff (5);
- (f) yn lle paragraff 6(3) rhodder—

“(3) Ni chaiff neb fynd yn groes i Erthygl 10(1) o’r Rheoliad Comisiwn hwnnw (hysbysiad o symud).”;

(g) yn lle paragraff 7, rhodder—

“Sgil-gynhyrchion anifeiliaid

7. Ni chaiff neb fewnforio i Gymru sgil-gynnyrch anifail y mae Erthygl 48 o Reoliad (EC) Rhif 1069/2009 yn gymwys iddo oni bai ei fod yn cael ei fewnforio yn unol â'r Erthygl honno.”;

(22) Yn Rhan 2, ym mharagraff 9, cyn “Rheoliad” mewnosoder “mewnforio adar penodol ac amodau cwarantŷn at ddiben”.

(23) Yn Atodlen 3, ym mharagraff 5 —

- (a) yn y pennawd, yn lle “Aelod-wladwriaeth arall” rhodder “rhan arall o'r Deyrnas Unedig”;
- (b) ar ôl “chynhyrchion” mewnosoder “o drydedd wlad”;
- (c) yn lle “Aelod-wladwriaeth arall neu ran” mewnosoder “rhan”.

Lesley Griffiths

Gweinidog yr Amgylchedd, Ynni a Materion Gwledig,
un o Weinidogion Cymru
25 Chwefror 2019

Explanatory Memorandum to The Trade in Animals and Related Products (Amendment) (Wales) (EU Exit) Regulations 2019

This Explanatory Memorandum has been prepared by the Office of the Chief Veterinary Officer and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Trade in Animals and Related Products (Amendment) (Wales) (EU Exit) Regulations 2019.

I have made the statements required by the European Union (Withdrawal) Act 2018. These statements can be found in Part 2 of the Annex to this memorandum.

Lesley Griffiths
Minister for Environment, Energy and Rural Affairs
27 February 2019

PART 1

1. Description

- 1.1. This instrument makes amendments to the Bovine Semen (Wales) Regulations 2008 (“the 2008 Regulations” and the Trade in Animals and Related Products (Wales) Regulations 2011 (“the 2011 Regulations”). These amendments are to ensure that the statute book remains operable following the UK’s exit from the EU and will address deficiencies in domestic legislation arising from EU Exit.
- 1.2. This instrument comes into force on “exit day”, which section 20(1) of the European Union (Withdrawal) Act 2018 (“the 2018 Act”) defines as 29 March 2019 at 11.00pm.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

- 2.1 This instrument is being made using the power conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to, the Withdrawal Act 2018.
- 2.2 As set out in the Ministerial statement in Annex 2 to this Explanatory Memorandum it is proposed that the instrument be subject to negative procedure. The instrument makes minor and technical changes and as such should be subject to annulment.
- 2.3 The CLA Committee considered a draft of these regulations on 11 February 2019 and agreed that the negative procedure is appropriate for these regulations. A copy of the published CLA report can be accessed via the following link: <http://www.assembly.wales/laid%20documents/cr-ld12150/cr-ld12150-e.pdf>

3. Legislative background

- 3.1 This instrument is being made using the power conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the 2018 Act in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the European Union. In accordance with the requirements of that Act the Minister has made the relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.

4. Purpose and intended effect of the legislation

What did any relevant EU law do before exit day?

- 4.1 The domestic legislation amended by this instrument is derived from four pieces of EU legislation (Council Directive 89/662/EEC,, Council Directive 90/425/EEC, Council Directive 91/496/EEC and Council Directive 97/78/EC) which ensure that veterinary controls on EU trade

and imports of live animals and animal products are safe with regard to animal and public health and that they meet the specific import conditions laid down in the relevant EU legislation.

- 4.2 That domestic legislation is related to imports of live animals, products of animal origin, germplasm, animal by-products, and the non-commercial movement of pet animals and equines. Its primary aim is to ensure sufficient pre-notification of arrival, proper certification, checks of certain consignments and isolation and vaccination facilities where necessary to ensure strong biosecurity protection of animals and related products brought into Great Britain.
- 4.3 A summary of the domestic Regulations subject to amendment is set out in the following paragraphs.
- 4.4 The 2008 Regulations implement Council Directive 2003/43/EC laying down the animal requirements applicable to intra-Community trade in, and imports of, semen of domestic animals of the bovine species. They control the collection, processing and storage of bovine semen, and establish two regimes: one by which semen may be collected and processed for trade with other EU Member States, and one by which semen may be collected for use in other parts of the UK. Failure to comply with the Regulations is an offence under the Animal Health and Welfare Act 1984, which also provides for inspectors appointed by the Welsh Ministers to enforce the Regulations.
- 4.5 The 2011 Regulations establish a system for trade with other EU Member States in live animals and genetic material and for the importation of live animals, genetic material, products of animal origin and animal by-products from outside the European Union. They also list the EU legislation required to be complied with before animals or goods can be released from control at the port of importation. The Welsh Ministers are empowered to prohibit importation into Wales of any animal or product in the event of a disease outbreak outside the UK. They are enforced by the Welsh Ministers, port health authorities, local authorities and the United Kingdom Border Force. The Regulations establish various offences, punishable on summary conviction to a fine up to the statutory maximum or on conviction on indictment to an unlimited fine.

Why is it being changed?

- 4.6 After EU Exit, without amendment, certain provisions within the 2008 and 2011 Regulations will be inoperable and, as a result, existing law will either be unclear or will not function effectively. The Welsh Ministers make this instrument in exercise of the powers conferred by the Withdrawal Act to make the necessary technical changes to ensure that it will continue to operate effectively after the UK has left the EU.

4.7 The changes include:

- references to “EC” collection, quarantine and storage centres so that they are rendered references to collection, quarantine and storage centres licensed by the Welsh Ministers;
- references to “intra—Community trade” becoming references to “trade with a member State”;
- occurrences of trade “between Member States” becoming references to trade “into Wales”; and
- occurrences of “Movement between Member States” becoming references to “Import from Member States”;
- references to European legislation concerning current EU health certificates becoming references to replacement documentation;
- references to the “EU Traces system” becoming references to “the system for the notification of imports that in the United Kingdom replaces the EU Traces system”;
- the EU Commission’s powers to approve a Border Inspection Post being assumed by the Welsh Ministers;
- lists of approved third countries that certain animals or products of animal origin can be imported drawn up by the EU becoming references to lists drawn up by the Welsh Ministers.

What will it now do?

- 4.8 The instrument will make technical amendments to allow the 2008 and 2011 Regulations to be fully operable after exit day and thereby enable the trade in bovine semen, animals and animal related products to operate effectively, and halt any animals or products that are deemed to be a threat to animal and/or public health. There are no policy changes introduced in this instrument.

5. Consultation

- 5.1 As there is no policy change, no public consultation was undertaken. The purpose of the instrument is solely to enable the current legislative and policy framework to remain operable by the withdrawal of the United Kingdom from the European Union.

6. Regulatory Impact Assessment (RIA)

- 6.1 An RIA has not been conducted as these are minor technical changes necessary as a result of the UK’s withdrawal from the EU. A public consultation was not required because no policy changes are being made via this statutory instrument. As this instrument relates to maintaining existing legislation after EU Exit there is no, or no significant,

impact on business, charities or voluntary bodies. There is no, or no significant, impact on the public sector.

Annex

Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required of the Welsh Ministers under the 2018 Act. The table also sets out those statements that may be required of Ministers of the Crown under the 2018 Act, which the Welsh Ministers have committed to also provide when required. The required statements can be found in Part 2 of this annex.

| Statement | Where the requirement sits | To whom it applies | What it requires |
|-----------------|---|--|---|
| Sifting | Paragraphs 3(7) and 4(3), Schedule 7 <i>Paragraph 3(7) (anticipated to be a requirement on Welsh Ministers in Standing Orders)</i> | The Welsh Ministers exercising powers in Part 1 of Schedule 2 to make a Negative SI Paragraph 3(7) applies to Ministers of the Crown, but Welsh Ministers have committed to make the same statement | A statement to explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation of the CLA Committee (as sifting committee) |
| Appropriateness | Sub-paragraph (2) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement that the SI does no more than is appropriate. |
| Good Reasons | Sub-paragraph (3) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have | A statement to explain the good reasons for making the instrument and that what is being done is a reasonable course of action. |

| | | | |
|-------------------|--|--|--|
| | | committed to make the same statement when exercising powers in Schedule 2 | |
| Equalities | Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | <p>A statement to explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them.</p> <p>A statement that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.</p> |
| Explanations | Sub-paragraph (6) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement to explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g. whether minor or technical changes only are intended to the EU retained law. |
| Criminal offences | Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement setting out the 'good reasons' for creating a criminal offence, and the penalty attached. |
| Sub-delegation | Paragraph 30, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority. | A statement to explain why it is appropriate to create such a sub-delegated power. |

| | | | |
|---------|--|--|--|
| | | Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 or paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority | |
| Urgency | Sub-paragraph (2) and (8) of paragraph 7, Schedule 7 | Welsh Ministers exercising powers in Part 1 of Schedule 2 but using the urgent procedure in paragraph 7 of Schedule 7 | A statement that the Welsh Ministers are of the opinion that it is necessary to make the SI using the urgent procedure and the reasons for that opinion. |

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

1. Sifting statement(s)

The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Trade in Animals and Related Products (Amendment) (Wales) (EU Exit) Regulations 2019 should be subject to annulment in pursuance of a resolution of the National Assembly for Wales (i.e. the negative procedure). This is the case because the changes being made are technical in nature and make no substantive changes to how the two instruments included in the Regulations operate.”

2. Appropriateness statement

The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Trade in Animals and Related Products (Amendment) (Wales) (EU Exit) Regulations 2019 does no more than is appropriate. This is the case because all the changes being made are solely in order to address deficiencies arising from EU exit.”

3. Good reasons

The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action. This is because the provisions ensure that protections provided by Trade in Animals and Related Products (Amendment) (Wales) (EU Exit) Regulations 2019 continue to be operable after the UK leaves the European Union.”

4. Equalities

4.1 The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement(s):

“The instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts.”

- 4.2 The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the instrument, I, Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.”

- 4.3 Little or no impact on equalities is expected.

5. Explanations

- 5.1 The explanations statement has been made in paragraph 4 (Purpose & intended effect of the legislation) of the main body of this explanatory memorandum.

6. Criminal offences

Not applicable/required.

7. Legislative sub-delegation

Not applicable/required.

8. Urgency

Not applicable/required.

SL(5)359 – The Fisheries and Marine Management (Amendment) (Wales) (EU Exit) Regulations 2019

Background and Purpose

These Regulations make amendments to subordinate legislation, which apply in relation to Wales and the Welsh Zone, in the fields of fisheries and marine management. These Regulations make amendments to the following domestic instruments:

- a. The Registration of Fish Buyers and Sellers and Designation of Fish Auction Sites (Wales) Regulations 2006,
- b. The Marine Licencing (Exempted Activities) (Wales) Order 2011; and
- c. The European Maritime and Fisheries Fund (Grants) (Wales) Regulations 2016.

The amendments are required to ensure that the statute book remains operable following the UK's exit from the EU by addressing deficiencies in domestic legislation arising from the UK's exit from the EU.

Procedure

Negative.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

One point is identified for reporting under Standing Order 21.3 in respect of this instrument.

1. Standing Order 21.3(ii) - that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly

A draft of these Regulations was laid before the Assembly for sifting in accordance with paragraph 4 of Schedule 7 to the European Union (Withdrawal) Act 2018. The Committee agreed that the negative procedure was the appropriate procedure for these Regulations.

Implications arising from exiting the European Union

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Government Response

No government response is required.

Legal Advisers

Constitutional and Legislative Affairs Committee

March 2019



OFFERYNNAU STATUDOL
CYMRU

2019 Rhif 370 (Cy. 91)

**YMADAEL Â'R UNDEB
EWROPEAIDD**

**PYSGODFEYDD MÔR,
CYMRU**

RHEOLI MOROL, CYMRU

Rheoliadau Pysgodfeydd a Rheoli
Morol (Diwygio) (Cymru)
(Ymadael â'r UE) 2019

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn wedi eu gwneud drwy arfer y pwerau a roddir gan baragraff 1(1) o Atodlen 2 a pharagraff 21 o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 (p. 16) er mwyn ymdrin ag unrhyw fethiant yng nghyfraith yr UE a ddargedwir i weithredu'n effeithiol a diffygion eraill sy'n deillio o ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd.

Mae'r Rheoliadau hyn yn diwygio is-ddeddfwriaeth, sy'n gymwys o ran Cymru a pharth Cymru, ym meysydd pysgodfeydd a rheoli morol.

Mae i ddiwygiad a wneir gan y Rheoliadau hyn yr un cymhwysiad â'r deddfiad sy'n cael ei ddiwygio.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, ystyriwyd nad oedd yn angenrheidiol cynnal asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn.

OFFERYNNAU STATUDOL
CYMRU

2019 Rhif 370 (Cy. 91)

**YMADAEL Â'R UNDEB
EWROPEAIDD**

**PYSGODFEYDD MÔR,
CYMRU**

RHEOLI MOROL, CYMRU

Rheoliadau Pysgodfeydd a Rheoli
Morol (Diwygio) (Cymru)
(Ymadael â'r UE) 2019

Gofynion siffio wedi eu bodloni 18 Chwefror 2019

Gwnaed 25 Chwefror 2019

Gosodwyd gerbron Cynulliad Cenedlaethol Cymru 27
Chwefror 2019

Yn dod i rym yn unol â rheoliad 1(2)

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir gan baragraff 1(1) o Atodlen 2 a pharagraff 21 o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018(1), yn gwneud y Rheoliadau a ganlyn.

Mae gofynion paragraff 4(2) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 (sy'n ymwneud â gweithdrefn briodol y Cynulliad ar gyfer y Rheoliadau hyn) wedi eu bodloni.

Enwi, cychwyn a chymhwyso

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Pysgodfeydd a Rheoli Morol (Diwygio) (Cymru) (Ymadael â'r UE) 2019.

(2) Daw'r Rheoliadau hyn i rym ar y diwrnod ymadael.

(1) 2018 p. 16.

(3) Mae i ddiwygiad a wneir gan y Rheoliadau hyn yr un cymhwysiad â'r deddfiad sy'n cael ei ddiwygio.

Rheoliadau Cofrestru Prynwyr a Gwerthwyr Pysgod a Dynodi Safleoedd Arwerthu Pysgod (Cymru) 2006

2. Yn rheoliad 2(1) o Reoliadau Cofrestru Prynwyr a Gwerthwyr Pysgod a Dynodi Safleoedd Arwerthu Pysgod (Cymru) 2006(1), yn y diffiniad o “cwch pysgota trwyddedig”, hepgorer “gan Aelod-Wladwriaeth arall neu”.

Gorchymyn Trwyddedu Morol (Gweithgareddau Esempt) (Cymru) 2011

3.—(1) Mae Gorchymyn Trwyddedu Morol (Gweithgareddau Esempt) (Cymru) 2011(2) wedi ei ddiwygio fel a ganlyn.

(2) Ar ôl erthygl 3, mewnosoder—

“3A Addasu'r Gyfarwydddeb Fframwaith Gwastraff

(1) At ddibenion y Gorchymyn hwn, mae'r Gyfarwydddeb Fframwaith Gwastraff i'w darllen yn unol â'r erthygl hon.

(2) Mae cyfeiriad at un Aelod-wladwriaeth neu ragor mewn darpariaeth sy'n gosod rhwymedigaeth ar Aelod-wladwriaeth neu Aelod-wladwriaethau, neu sy'n rhoi disgresiwn iddi neu iddynt, i'w ddarllen fel cyfeiriad at yr awdurdod priodol neu'r awdurdod lleol a oedd, yn union cyn y diwrnod ymadael, yn gyfrifol am gydymffurfedd y Deyrnas Unedig â'r rhwymedigaeth honno neu a oedd yn gallu arfer y disgresiwn hwnnw o ran Cymru.

(3) Mae Erthygl 2 i'w darllen fel pe bai—

(a) ym mharagraff 2—

(i) yn y geiriau yn union cyn pwynt (a), “retained EU law” wedi ei roi yn lle “other Community legislation”;

(ii) ym mhwyntiau (b) ac (c), “Regulation (EC) No 1069/2009” wedi ei roi yn lle “Regulation (EC) No 1774/2002”;

(iii) ym mhwynt (d), “the Mining Waste Directive” wedi ei roi yn

(1) O.S. 2006/1495 (Cy. 145) fel y'i diwygiwyd gan O.S. 2018/1095 (Cy. 228).

(2) O.S. 2011/559 (Cy. 81) fel y'i diwygiwyd gan O.S. 2013/414 (Cy. 50), O.S. 2013/755 (Cy. 90), O.S. 2016/690 (Cy. 188), O.S. 2017/1012, O.S. 2017/1013, O.S. 2018/724 (Cy. 141), a chan Ddeddf Cymru 2017 (p. 4).

- lle'r geiriau o "Directive 2006/21/EC(1)" hyd at y diwedd;
- (b) ym mharagraff 3, y geiriau o "Without prejudice" hyd at "Community legislation" wedi eu hepgor;
- (c) paragraff 4 wedi ei hepgor.
- (4) Mae Erthygl 5 i'w darllen fel pe bai paragraff 2 wedi ei hepgor.
- (5) Mae Erthygl 6 i'w darllen fel pe bai—
- (a) paragraffau 1 i 3 wedi eu hepgor;
- (b) ym mharagraff 4—
- (i) yn y frawddeg gyntaf, "Except where waste ceases to be waste in accordance with Council Regulation (EU) No 333/2011, Commission Regulation (EU) No 1179/2012 or Commission Regulation (EU) No 715/2013" wedi ei roi yn lle'r geiriau o "Where criteria" hyd at "paragraphs 1 and 2";
- (ii) yr ail frawddeg wedi ei hepgor.
- (6) Mae Erthygl 7 i'w darllen fel pe bai—
- (a) ym mharagraff 1—
- (i) y frawddeg gyntaf a'r ail frawddeg wedi eu hepgor;
- (ii) yn y drydedd frawddeg, "shall, subject to paragraph 1A, be binding" wedi ei roi yn lle "shall be binding";
- (b) ar ôl paragraff 1, y canlynol wedi ei fewnosod—
- "1A.** Paragraph 1 is subject to—
- (a) a determination by the Welsh Ministers under regulation 8(1) of the Hazardous Waste (Wales) Regulations 2005(2) that a specific batch of waste is to be treated as hazardous waste;
- (b) a decision made by the Welsh Ministers under regulation 9(1) of the Hazardous Waste (England and Wales) Regulations 2005(3) that a specific batch of waste is to be treated as non-hazardous waste;

(1) OJ Rhif L 102, 11.4.2006, t. 15, fel y'i diwygiwyd gan Reoliad (EC) Rhif 596/2009 Senedd Ewrop a'r Cyngor (OJ Rhif L 188, 18.7.2009, t. 14).

(2) O.S. 2005/1806 (Cy. 183).

(3) O.S. 2005/894.

- (c) the treating of a specific batch of waste as hazardous or, as the case may be, non-hazardous, in accordance with regulation 8(2) or 9(2) of the Hazardous Waste (Wales) Regulations 2005;
- (d) regulations (if any) made by the Welsh Ministers under section 62A(2) of the Environmental Protection Act 1990(1) (lists of waste displaying hazardous properties).”;

(c) paragraffau 2, 3 a 5 wedi eu hepgor;

(d) ar ôl paragraff 6, y canlynol wedi ei fewnosod—

“6A. In this Article, the “list of waste” means the list established by Commission Decision 2000/532/EC.”;

(e) paragraff 7 wedi ei hepgor.

(7) Mae Erthygl 23 i’w darllen fel pe bai—

(a) cyfeiriad at y “competent authority” yn gyfeiriad at yr “appropriate authority”;

(b) ym mharagraff 5, “or Community” wedi ei hepgor.

(8) Mae Atodiad 3 i’w ddarllen fel pe bai, yng nghofnod HP 9, yn yr ail frawddeg, “in the Member States” wedi ei hepgor.

(9) Wrth ddarllen y Gyfarwydddeb Fframwaith Gwastraff yn unol â’r erthygl hon—

(a) ystyr “awdurdod priodol” (“*appropriate authority*”) yw Gweinidogion Cymru neu Gorff Adnoddau Naturiol Cymru;

(b) ystyr “awdurdod lleol” (“*local authority*”) yw cyngor sir neu gyngor bwrdeistref sirol yng Nghymru.

3B Ystyr “y Gyfarwydddeb Gwastraff Mwyngloddio”

(1) Wrth ddarllen Erthygl 2 o’r Gyfarwydddeb Fframwaith Gwastraff yn unol ag erthygl 3A, ystyr y cyfeiriad at “the Mining Waste Directive” (fel y’i mewnosodir gan erthygl 3A(3)(a)(iii)) yw Cyfarwydddeb 2006/21/EC Senedd Ewrop a’r Cyngor ar reoli gwastraff o ddiwydiannau echdynnol, y’i darllenir yn unol â pharagraffau (2) i (4).

(2) Mae Erthygl 2 i’w darllen fel pe bai—

(1) 1990 p. 43.

(a) ym mharagraff 2(c), y cyfeiriad at Erthygl 11(3)(j) o Gyfarwyddeb 2000/60/EC(1) yn gyfeiriad at yr Erthygl honno, y'i darllenir yn unol â pharagraff (4) o'r erthygl hon;

(b) paragraffau 3 a 4 wedi eu hepgor.

(3) Mae Erthygl 3(1) i'w darllen fel pe bai "Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive" wedi ei roi yn lle "Article 1(a) of Directive 75/442/EEC".

(4) Wrth ddarllen y Gyfarwyddeb Gwastraff Mwyngloddio yn unol â'r erthygl hon, mae i'r cyfeiriad at y "Waste Framework Directive" (fel y'i mewnosodir gan baragraff (3)) yr ystyr a roddir gan erthygl 3 o'r Gorchymyn hwn, y'i darllenir yn unol ag erthygl 3A.

(5) At ddibenion paragraff (2), mae Erthygl 11(3)(j) o Gyfarwyddeb 2000/60/EC i'w darllen fel pe bai—

(a) y cyfeiriadau at "Member States" yn gyfeiriadau at "Weinidogion Cymru neu Gorff Adnoddau Naturiol Cymru";

(b) ar y diwedd, y canlynol wedi ei fewnosod—

"and "environmental objective", in relation to a river basin district (within the meaning of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017)(2), has the same meaning as in those Regulations."

(3) Yn erthygl 33(2)—

(a) yn is-baragraff (a), yn lle "(ac eithrio Gibraltar) nad yw'n Aelod-wladwriaeth; a" rhodder "ac eithrio'r Deyrnas Unedig.";

(b) hepgorer is-baragraff (b).

Rheoliadau Cronfa'r Môr a Physgodfeydd Ewrop (Grantiau) (Cymru) 2016

4.—(1) Mae Rheoliadau Cronfa'r Môr a Physgodfeydd Ewrop (Grantiau) (Cymru) 2016(3) wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 2—

(a) ym mharagraff (1)—

-
- (1) OJ Rhif L 327, 22.12.2000, t. 1, fel y'i diwygiwyd ddiwethaf gan Gyfarwyddeb y Comisiwn 2014/101/EC (OJ Rhif L 311, 31.10.2014, t. 32).
- (2) O.S. 2017/407, y gwnaed diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.
- (3) O.S. 2016/665 (Cy. 182).

- (i) yn y diffiniad o “gweithrediad a gymeradwywyd”, ar y diwedd, mewnosoder “(gweler paragraff 3)”;
- (ii) yn y diffiniad o “person awdurdodedig”, hepgorer “, ac mae’n cynnwys unrhyw swyddog y Comisiwn a benodwyd yn briodol ac sy’n mynd gyda’r person awdurdodedig hwnnw”;
- (iii) hepgorer y diffiniad o “y Comisiwn”;
- (iv) hepgorer y diffiniad o “cymorth yr UE”;
- (v) yn y diffiniad o “gweithrediad”, ym mharagraff (b), yn lle “cymorth yr UE” rhodder “cymorth yn unol â Rheoliad 508/2014”.

(b) ar ôl paragraff (2), mewnosoder—

“(3) Er mwyn osgoi amheuaeth, mae “gweithrediad a gymeradwywyd” yn cynnwys gweithrediad a gymeradwywyd mewn ysgrifan gan Weinidogion Cymru i gael cymorth ariannol o dan reoliad 4 cyn y diwrnod ymadael.”

(3) Yn rheoliad 8(2)(d), yn lle “cymorth yr UE” rhodder “cymorth yn unol â Rheoliad 508/2014”.

(4) Yn rheoliad 11—

- (a) hepgorer paragraff (1)(j)(i);
- (b) hepgorer paragraff (3).

Lesley Griffiths

Gweinidog yr Amgylchedd, Ynni a Materion Gwledig,
un o Weinidogion Cymru
25 Chwefror 2019

Explanatory Memorandum to the Fisheries and Marine Management (Amendment) (Wales) (EU Exit) Regulations 2019.

This Explanatory Memorandum has been prepared by the Department for Energy, Environment and Rural Affairs and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Cabinet Secretary's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Fisheries and Marine Management (Amendment) (Wales) (EU Exit) Regulations 2019.

I have made the statements required by the European Union (Withdrawal) Act 2018. These statements can be found in Part 2 of the Annex to this memorandum.

Lesley Griffiths

Minister for Environment, Energy and Rural Affairs.

27 February 2019

1. Description

- 1.1. The Fisheries and Marine Management (Amendment) (Wales) (EU Exit) Regulations 2019 (the “2019 Regulations”) make amendments to the following domestic instruments:
 - a. The Registration of Fish Buyers and Sellers and Designation of Fish Auction Sites (Wales) Regulations 2006,
 - b. The Marine Licencing (Exempted Activities) (Wales) Order 2011; and
 - c. The European Maritime and Fisheries Fund (Grants) (Wales) Regulations 2016.
- 1.2. The amendments are required to ensure that the statute book remains operable following the UK’s exit from the EU by addressing deficiencies in domestic legislation arising from EU Exit.
- 1.3. The instrument comes into force on “exit day”, which section 20(1) of the European Union (Withdrawal) Act 2018 (“the 2018 Act”) defines as 29 March 2019 at 11.00 pm.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

- 2.1 The 2019 Regulations are made in exercise of the power conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the 2018 Act.
- 2.2 As set out in the Ministerial Statement in Part 2 of the Annex to this Explanatory Memorandum, it is proposed that the instrument be subject to the negative procedure.
- 2.3 The CLA Committee considered a draft of these regulations on 18 February 2019, and agreed that the negative procedure is appropriate for these regulations. A copy of the published CLA report can be accessed via the following link: <http://www.assembly.wales/laid%20documents/cr-ld12192/cr-ld12192-e.pdf>

3. Legislative Background

- 3.1 The 2019 Regulations are made in order to address deficiencies in domestic legislation and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

4. Purpose and Intended effect of the Legislation

- 4.1 The 2019 Regulations make amendments to subordinate legislation, which apply in relation to Wales and the Welsh zone, in the fields of fisheries and marine management.

What did the relevant legislation do before exit day?

- 4.2 The Registration of Fish Buyers and Sellers and Designation of Fish Auction Sites (Wales) Regulations 2006 make provision for the administration and enforcement of Article 22 of Council Regulation (EC) No 2371/2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy, and Article 9 of Council Regulation (EEC) No 2847/93 which impose requirements relating to the first marketing and purchasing of fish (first sale fish) (now repealed and replaced by Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy). The Regulations also make provision for the registration by the Welsh Ministers of sellers of first sale fish, designation of fish auction sites and registration of buyers of first sale fish. The Regulations require registered fish sellers to maintain records of their sales of first sale fish and require buyers of first sale fish to maintain records of their purchases of first sale fish.
- 4.3 The Marine Licensing (Exempted Activities) (Wales) Order 2011 specifies activities which do not need a marine licence, or do not need a marine licence if conditions specified within the Order are satisfied. It applies in relation to any licensable marine activity carried on in Wales and the Welsh inshore region, in relation to which the Welsh Ministers are the appropriate licensing authority under section 113 of the Marine and Coastal Access Act 2009 (Article 2). The Order also contains provisions, relating to waste (which implement in part Directive 2008/98/EC of the European Parliament and of the Council on waste).
- 4.4 The European Maritime and Fisheries Fund (Grants) (Wales) Regulations 2016 apply to the operational programme established under Regulation (EU) No 508/2014 on the European Maritime and Fisheries Fund and Regulation (EU) No 1303/2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund. These Regulations provide that the Welsh Ministers may make payments for approved operations (defined in Title V of Regulation (EU) 508/2014). These Regulations enable operations to be approved by the Welsh Ministers in Wales, thus allowing for the payment of funds, and also provide powers of entry and inspection that may be exercised by the Welsh Ministers, and stipulate record keeping requirements for those who benefit from the financial assistance available.

What are the changes being made

- 4.5 The changes made by the 2019 Regulations are necessary to ensure that the current legislation continues to operate effectively after we leave the EU.
- 4.6 **The Registration of Fish Buyers and Sellers and Designation of Fish Auction Sites (Wales) Regulations 2006**

The 2019 Regulations amend regulation 2(1) of these Regulations to redefine the meaning of “licenced fishing vessel” so that it no longer refers to “another Member State”. This will result in only vessels licenced under section 4 of the

Sea Fish (Conservation) Act 1967 being recognised as ‘licenced fishing vessels’ for the purposes of the 2006 Regulations. .

4.7 **The Marine Licencing (Exempted Activities) (Wales) Order 2011**

The 2011 Order includes a cross reference to the Waste Framework Directive 2008/98/EC (WFD). As European Directives are not being incorporated into domestic law under the European Union (Withdrawal) Act 2018, a non-textual modification to the WFD has been included in the amendments to the 2011 Order to enable the WFD to be read correctly for the purposes of domestic law.

This modification provides for changes such as identifying the “Competent Authority” as the Welsh Ministers, Natural Resources Wales or a Local Authority, which immediately before exit day was responsible for the UK’s compliance with an obligation, or exercised a discretion in relation to that obligation in respect of Wales. Such changes will allow the 2011 Order to operate effectively on exit from the European Union. The 2019 Regulations also amend the definition of a ‘third country vessel,’ by removing the reference to Gibraltar. Any vessel that is not registered in the UK will therefore be considered a third country vessel for the purposes of Article 4 of the 2011 Order.

4.8 **The European Maritime and Fisheries Fund (Grants) (Wales) Regulations 2016**

The 2016 Regulations have been amended to recognise that upon exiting the EU, the UK will no longer be a beneficiary of the European and Maritime Fisheries Fund (EMFF) scheme. Future funding will come from HM Treasury. In line with this change, and the amendments that are to be made to the Retained EU Regulation 508/2014, the 2016 Regulations will in future apply to financial assistance provided to the fishing and aquaculture sector in the UK.

Amendments such as that to Regulation 2(1) and the definition of “operation” have therefore been made. This amendment removes reference to ‘EU assistance’ and instead refers to “assistance pursuant to Regulation 508/2014”. Consequently the same amendment is made to Regulation 8(2)(d). This amendment is required as Title V of Regulation 508/2014 will form part of Retained EU law, and will provide guidance on the nature of operations that will qualify for assistance under the new funding structure post EU exit.

In Regulation 2(1) the definition of “authorised person” is amended to remove the wording “and includes any duly appointed official of the Commission who accompanies such an authorised person”.

Further, Regulation 2(3) is inserted to provide clarification that an ‘approved operation’ for the purposes of the 2016 Regulations includes an operation approved by the Welsh Ministers in line with Regulation 4 of the 2016 Regulations before exit day. This provision makes express reference to ‘exit day’ and this will be interpreted in line with the Interpretation Act 1978

definition, as amended by paragraph 22 of Schedule 8 to, and sections 20(1)-(5) of the 2018 Act.

5. Consultation

- 5.1 The amendments required are of a technical nature and do not alter the intended purpose of the specified Regulations. Therefore, no public consultation was undertaken.

6. Regulatory Impact Assessment

- 6.1 The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations. This legislation has no impact on the statutory duties (sections 77-79 Government of Wales Act 2006) or statutory partners (sections 72-75 Government of Wales Act 2006).

7. Monitoring & review

- 7.1 As this instrument is made under the Withdrawal Act, no extra review arrangement is required.

Annex

Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required of the Welsh Ministers under the 2018 Act. The table also sets out those statements that may be required of Ministers of the Crown under the 2018 Act, which the Welsh Ministers have committed to also provide when required. The required statements can be found in Part 2 of this annex.

| Statement | Where the requirement sits | To whom it applies | What it requires |
|-----------------|---|--|---|
| Sifting | Paragraphs 3(7) and 4(3), Schedule 7 <i>Paragraph 3(7) (anticipated to be a requirement on Welsh Ministers in Standing Orders)</i> | The Welsh Ministers exercising powers in Part 1 of Schedule 2 to make a Negative SI Paragraph 3(7) applies to Ministers of the Crown, but Welsh Ministers have committed to make the same statement | A statement to explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation of the CLA Committee (as sifting committee) |
| Appropriateness | Sub-paragraph (2) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement that the SI does no more than is appropriate. |
| Good Reasons | Sub-paragraph (3) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh | A statement to explain the good reasons for making the instrument and that what is being done is a reasonable course of action. |

| | | | |
|-------------------|--|--|--|
| | | Ministers have committed to make the same statement when exercising powers in Schedule 2 | |
| Equalities | Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | <p>A statement to explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them.</p> <p>A statement that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.</p> |
| Explanations | Sub-paragraph (6) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement to explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g. whether minor or technical changes only are intended to the EU retained law. |
| Criminal offences | Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement setting out the 'good reasons' for creating a criminal offence, and the penalty attached. |
| Sub-delegation | Paragraph 30, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority. | A statement to explain why it is appropriate to create such a sub-delegated power. |

| | | | |
|---------|--|--|--|
| | | Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 or paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority | |
| Urgency | Sub-paragraph (2) and (8) of paragraph 7, Schedule 7 | Welsh Ministers exercising powers in Part 1 of Schedule 2 but using the urgent procedure in paragraph 7 of Schedule 7 | A statement that the Welsh Ministers are of the opinion that it is necessary to make the SI using the urgent procedure and the reasons for that opinion. |

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

1. Sifting statement(s)

The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view The Fisheries and Marine Management (Amendment) (Wales) (EU Exit) Regulations 2019 should be subject to annulment in pursuance of a resolution of the National Assembly for Wales (i.e. the negative procedure). This is the case because the changes being made are technical in nature and make no substantive changes to how the three Instruments included in this Regulation operate”.

2. Appropriateness statement

The Minister for Environment, Energy and Rural Affairs has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view The Fisheries and Marine Management (Amendment) (Wales) (EU Exit) Regulations 2019 does no more than is appropriate. This is the case because all the changes being made are solely in order to address deficiencies arising from EU exit”.

3. Good reasons

The Minister for Environment, Energy and Rural Affairs has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action. This is because the provisions ensure that protections provided by all the statutory instruments being amended continue to be operable after the UK leaves the European Union.”

4. Equalities

4.1 The Minister for Environment, Energy and Rural Affairs has made the following statement:

“The Fisheries and Marine Management (Amendment) (Wales) (EU Exit) Regulations 2019 instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts.”

4.2 The Minister for Environment, Energy and Rural Affairs has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the instrument, I, Lesley Griffiths have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.”

5. Explanations

The explanations statement has been made in paragraph 4 (Purpose & intended effect of the legislation) of the main body of this explanatory memorandum.

6. Criminal offences

Not applicable/required.

7. Legislative sub-delegation

Not applicable/required.

8. Urgency

Not applicable/required.

Eitem 4.11

SL(5)360 – Rheoliadau Clefydau Egsotig mewn Anifeiliaid (Diwygiadau Amrywiol) (Cymru) (Ymadael â'r UE) 2019

Cefndir a Diben

Mae'r Rheoliadau Clefydau Egsotig mewn Anifeiliaid (Diwygiadau Amrywiol) (Cymru) (Ymadael â'r UE) ("y Rheoliadau hyn") wedi eu gwneud drwy arfer y pwerau a roddir gan baragraff 1(1) o Atodlen 2 a pharagraff 21 o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 er mwyn ymdrin ag unrhyw fethiant yng nghyfraith yr UE a ddargedwir i weithredu'n effeithiol a diffygion eraill sy'n deillio o ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd.

Mae'r Rheoliadau hyn yn gwneud diwygiadau i is-ddeddfwriaeth, sy'n gymwys o ran Cymru, ym maes rheoli ac atal clefydau egsotig mewn anifeiliaid.

Gweithdrefn

Negyddol.

Materion technegol: craffu

Nodir pedwar pwynt i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.2 mewn perthynas â'r offeryn hwn.

1. Rheol Sefydlog 21.2(vi) – ei bod yn ymddangos bod gwaith drafftio'r offeryn neu'r drafft yn ddiffygiol neu ei fod yn methu â bodloni gofynion statudol

Mae rheoliad 3(2) o'r Rheoliadau hyn yn cyfeirio at gyfeiriadau at "Member States" ac "Erthygl 2(u) o Gyfarwyddeb 2001/89/EC" ym mhwynt 3.2 o Atodiad X i Gyfarwyddeb y Cyngor 2003/85/EC ("Cyfarwyddeb 2003"). Fodd bynnag, nid yw'r un o'r cyfeiriadau hyn yn ymddangos ym mhwynt 3.2 o Atodiad X i Gyfarwyddeb 2003. Fodd bynnag, mae'r ddau yn ymddangos ym mhwynt 3.1 o Atodiad X i Gyfarwyddeb 2003, sy'n awgrymu mai hwn oedd y cyfeiriad priodol.

2. Rheol Sefydlog 21.2(vi) – ei bod yn ymddangos bod gwaith drafftio'r offeryn neu'r drafft yn ddiffygiol neu ei fod yn methu â bodloni gofynion statudol

Mae rheoliad 4(2) o'r Rheoliadau hyn yn disodli geiriad yn rheoliad 9(5) o Reoliadau Ffliw Adar (Mesurau Atal) (Cymru) 2006. Effaith y geiriad newydd hwn yw bod rhaid i Gynulliad Cenedlaethol Cymru sicrhau y gwneir gwaith brechu yn unol â'r cynllun brechu ataliol a gymeradwywyd yn unol ag Erthygl 56(2) o Gyfarwyddeb y Cyngor 2005/94/EC ("Cyfarwyddeb 2005"), fel y'i darllenir gydag Erthygl 5 o Benderfyniad y Comisiwn 2007/598. Fodd bynnag, mae Erthygl 56(2) o Gyfarwyddeb 2005 yn darparu bod rhaid cyflwyno'r cynllun brechu ataliol i Gomisiwn yr UE er mwyn ei gymeradwyo, ac nid yw'r Rheoliadau hyn yn darparu bod y cyfeiriad at Gomisiwn yr UE yn Erthygl 56(2) o Gyfarwyddeb 2005 yn cael ei ddarllen yn wahanol. Felly, ymddengys fod hyn yn ddiffygiol.

3. Rheol Sefydlog 21.2(vi) – ei bod yn ymddangos bod gwaith drafftio'r offeryn neu'r drafft yn ddiffygiol neu ei fod yn methu â bodloni gofynion statudol



Mae rheoliad 7(3) o'r Rheoliadau hyn yn hepgor y gair "other" o erthygl 9(1) o Orchymyn Ffliw Adar (H5N1 mewn Dofednod) (Cymru) 2006 ("Gorchymyn 2006"). Fodd bynnag, mae'r gair "other" yn ymddangos ddwywaith yn erthygl 9(1) o Orchymyn 2006. Nid yw'n glir a yw rheoliad 7(3) o'r Rheoliadau hyn yn cyfeirio at y ddau achos lle mae'r gair "other" yn ymddangos, yn enwedig o wybod bod un o'r cyfeiriadau, "other captive bird", yn ymadrodd diffiniedig yn erthygl 2 o Orchymyn 2006.

4. Rheol Sefydlog 21.2(vi) – ei bod yn ymddangos bod gwaith drafftio'r offeryn neu'r drafft yn ddiffygiol neu ei fod yn methu â bodloni gofynion statudol

Mae rheoliad 7(5) o'r Rheoliadau hyn yn dirymu paragraffau (1)(b) a (2) o erthygl 12 o Orchymyn Ffliw Adar (H5N1 mewn Dofednod) (Cymru) 2006. Fodd bynnag, mae'r darpariaethau hyn eisoes wedi'u dirymu gan Reoliadau yr Amgylchedd, Cynllunio a Materion Gwledig (Diwygiadau Amrywiol) (Cymru) 2018.

Rhinweddau: craffu

Nodir un pwynt i gyflwyno adroddiad arno o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.

1. Rheol Sefydlog 21.3(ii) – ei fod o bwysigrwydd gwleidyddol neu gyfreithiol neu ei fod yn codi materion polisi cyhoeddus sy'n debygol o fod o ddiddordeb i'r Cynulliad

Dylai'r cyfeiriad at "the Foot and Mouth Disease (Wales) Order 2006" yn rheoliad 2 o'r Rheoliadau hyn (Saesneg yn unig) ddarllen "the Foot-and-Mouth Disease (Wales) Order 2006", gan gynnwys y llinellau toriad.

Y goblygiadau yn sgil gadael yr Undeb Ewropeaidd

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.

Ymateb y Llywodraeth

Mae'r Pwyllgor wedi codi pedwar pwynt adrodd o dan Reol Sefydlog 21.2.

(1) Croesgyfeiriad

Mae'r pwynt adrodd cyntaf yn ymwneud â chroesgyfeiriadau anghywir. Mae Llywodraeth Cymru yn cydnabod y pwynt. Bydd diwygiad yn cael ei wneud pan fydd y cyfle nesaf yn codi.

(2) Diwygio Offeryn gan yr UE

Gwneir diwygiadau i Benderfyniad y Comisiwn 2007/598 gan Reoliad 13 o Reoliadau Clefydau Egsotig (Diwygio etc.) (Ymadael â'r UE) 2018 Rhif 1410 sy'n cael yr effaith na fydd y Comisiwn bellach yn cymeradwyo cynlluniau brechu ataliol a fydd yn cael eu gwneud yn y dyfodol.

Mae paragraff (1) o erthygl 5 o Benderfyniad y Comisiwn 2007/598 yn darparu ar gyfer cymeradwyo cynlluniau brechu ataliol a gyflwynir yn unol ag Erthygl 56(2) o Gyfarwyddeb 2005/94/EC ac a restrir yn Rhan I o Atodiad III i'r Penderfyniad hwnnw. Mae paragraff (2) o erthygl 5 yn darparu bod y Comisiwn i gyhoeddi'r cynlluniau brechu ataliol a gymeradwywyd y cyfeirir atynt ym mharagraff 1.

Mae rheoliad 13 o Reoliadau Clefydau Egsotig (Diwygio etc.) (Ymadael â'r UE) 2018 yn rhoi erthygl newydd yn lle erthygl 5 o Benderfyniad y Comisiwn 2007/598/EC ac effaith hynny yw bod cynlluniau brechu ataliol ar gyfer y Deyrnas Unedig sydd eisoes wedi eu cyflwyno yn unol ag Erthygl 56(2) o Gyfarwyddeb 2005/94/EC ac wedi eu cymeradwyo gan Gomisiwn yr UE ar 27 Mehefin 2007 o dan Erthygl 57(2) o'r Gyfarwyddeb honno yn parhau i fod mewn grym.



Mae'r diwygiad hefyd yn darparu bod rhaid i'r Ysgrifennydd Gwladol, gyda chydysyniad pob awdurdod arall sy'n Weinidog priodol mewn perthynas ag unrhyw ran gyfansoddol o'r Deyrnas Unedig, gyhoeddi cynlluniau brechu ataliol a gymeradwywyd o dan Erthygl 57 o Gyfarwyddeb 2005/94/EC, ar y sail bod swyddogaethau'r Aelod-wladwriaethau i'w darllen fe pe baent yn cyfeirio at swyddogaethau'r Gweinidog priodol.

(3) Cyfeiriad at y term "other"

Mae rheoliad 7(3) o'r Rheoliadau hyn yn hepgor y gair "other" o erthyglau 9(1), 10(1) ac 11(1) o Orchymyn Ffliw Adar (H5N1 mewn Dofednod) (Cymru) 2006 ("Gorchymyn 2006"). Er bod y gair "other" yn ymddangos ddwywaith yn erthygl 9(1) o Orchymyn 2006, mae'n glir bod rheoliad 7(3) o'r Rheoliadau hyn yn cyfeirio at yr achos pan fo'r gair yn ymddangos cyn "member state", o ystyried bod y diwygiadau yn cael eu gwneud er mwyn ymdrin ag unrhyw fethiant yng nghyfraith yr UE a ddargedwir i weithredu'n effeithiol, a bod yr un diwygiadau yn cael eu gwneud mewn perthynas ag erthyglau 10(1) ac 11(1).

(4) Dirymu darpariaeth

Mae rheoliad 7(5) o'r Rheoliadau hyn yn dirymu paragraffau (1)(b) a (2) o erthygl 12 o Orchymyn Ffliw Adar (H5N1 mewn Dofednod) (Cymru) 2006. Mae Llywodraeth Cymru yn cydnabod bod y darpariaethau hyn eisoes wedi eu dirymu gan Reoliadau yr Amgylchedd, Cynllunio a Materion Gwledig (Diwygiadau Amrywiol) (Cymru) 2018. Bydd diwygiad yn cael ei wneud pan fydd y cyfle nesaf yn codi.

Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

11 Mawrth 2019



2019 Rhif (Cy.)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

ANIFEILIAID, CYMRU

Rheoliadau Clefydau Egsotig mewn
Anifeiliaid (Diwygiadau Amrywiol)
(Cymru) (Ymadael â'r UE) 2019

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn wedi eu gwneud drwy arfer y pwerau a roddir gan baragraff 1(1) o Atodlen 2 a pharagraff 21 o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 (p. 16) er mwyn ymdrin ag unrhyw fethiant yng nghyfraith yr UE a ddargedwir i weithredu'n effeithiol a diffygion eraill sy'n deillio o ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd.

Mae'r Rheoliadau hyn yn gwneud diwygiadau i is-ddeddfwriaeth, sy'n gymwys o ran Cymru, ym maes rheoli ac atal clefydau egsotig mewn anifeiliaid.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Aseidiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, ystyriwyd nad oedd yn angenrheidiol cynnal asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn.

2019 Rhif (Cy.)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

ANIFEILIAID, CYMRU

**Rheoliadau Clefydau Egsotig mewn
Anifeiliaid (Diwygiadau Amrywiol)
(Cymru) (Ymadael â'r UE) 2019**

Gofynion sifftio wedi eu bodloni 28 Ionawr 2019

Gwnaed 25 Chwefror 2019

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru 27 Chwefror 2019*

Yn dod i rym yn unol â rheoliad 1(2)

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir gan baragraff 1(1) o Atodlen 2 a pharagraff 21 o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018(1), yn gwneud y Rheoliadau a ganlyn.

Mae gofynion paragraff 4(2) o Atodlen 7 i'r Ddeddf honno (sy'n ymwneud a gweithdrefn graffu briodol Cynulliad Cenedlaethol Cymru ar gyfer y Rheoliadau hyn) wedi eu bodloni.

Enwi, cychwyn a chymhwyso

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Clefydau Egsotig mewn Anifeiliaid (Diwygiadau Amrywiol) (Cymru) (Ymadael â'r UE) 2019.

(2) Daw'r Rheoliadau hyn i rym ar y diwrnod ymadael.

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

Gorchymyn Clwy'r Traed a'r Genau (Cymru) 2006

2. Yng Ngorchymyn Clwy'r Traed a'r Genau (Cymru) 2006(1), ym mharagraff 7 o Atodlen 7, yn lle “another member State” rhodder “a member State, Norway, Iceland or Liechtenstein”.

Rheoliadau Clwy'r Traed a'r Genau (Rheoli Brechu) (Cymru) 2006

3.—(1) Diwygir Rheoliadau Clwy'r Traed a'r Genau (Rheoli Brechu) (Cymru) 2006(2) fel a ganlyn.

(2) Yn rheoliad 9, ar ôl paragraff (3) mewnosoder—

“(4) At ddibenion paragraff (1)(c), mae pwynt 3.2 o Atodiad X i Gyfarwyddeb y Cyngor 2003/85/EC i'w ddarllen fel pe bai—

(a) y cyfeiriad at “Member States” yn gyfeiriad at “the Welsh Ministers”;

(b) Erthygl 2(u) o Gyfarwyddeb 2001/89/EC fel y mae'n gymwys i bwynt 3.2 wedi ei haddasu fel bod—

(i) y geiriau “region, as defined in Article 2(2)(p) of Council Directive 64/432/EEC”, wedi eu disodli gan “county or county borough in Wales”;

(ii) “such a region” wedi ei ddisodli gan “such a county or county borough”.

(3) Yn rheoliad 27—

(a) yn lle “o fewn y Gymuned” rhodder “ag Aelod-wladwriaeth, Norwy, Gwlad yr Iâ neu Liechtenstein”;

(b) disodlir pennawd y rheoliad hwnnw gan “Masnach mewn anifeiliaid a frechwyd”.

(4) Yn rheoliad 35(2)(a), yn lle “rhwymedigaethau UE” rhodder “chyfraith yr UE a ddargedwir”.

Rheoliadau Ffliw Adar (Mesurau Atal) (Cymru) 2006

4.—(1) Diwygir Rheoliadau Ffliw Adar (Mesurau Atal) (Cymru) 2006(3) fel a ganlyn.

(2) Yn rheoliad 9(5), yn lle'r geiriau o “gan y Comisiwn Ewropeaidd” hyd at y diwedd, rhodder “yn unol ag Erthygl 56(2) o Gyfarwyddeb y Cyngor

(1) O.S. 2006/179 (Cy. 30) y ceir diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.

(2) S.I. 2006/180 (Cy. 31) fel y'i diwygiwyd gan O.S. 2011/1043 ac y ceir diwygiadau eraill iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.

(3) O.S. 2006/2803 (Cy. 242) fel y'i diwygiwyd gan O.S. 2011/1043 ac y ceir diwygiadau eraill iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.

2005/94/EC ynghylch mesurau Cymunedol i reoli fflw adar ac yn diddymu Cyfarwyddeb 92/40/EEC fel y'i darllenir gydag Erthygl 5 o Benderfyniad y Comisiwn 2007/598 ynghylch mesurau i atal fflw adar pathogenig iawn rhag ymledu i adar caeth eraill a gedwir mewn swau a mangreoedd cyrff, sefydliadau a chanolfannau a gymeradwywyd" (ond nid yw'r troednodyn i reoliad 9(5) i gael ei ddisodli).

(3) Yn rheoliad 11, ym mharagraffau (2)(a) a (3), hepgorer "arall".

(4) Yn rheoliad 18(3)(c), yn lle "rhwymedigaethau Cymunedol" rhodder "cyfraith yr UE a ddargedwir".

Gorchymyn Fflw Adar a Fflw sy'n Dod o Adar mewn Mamaliaid (Cymru) (Rhif 2) 2006

5.—(1) Diwygir Gorchymyn Fflw Adar a Fflw sy'n Dod o Adar mewn Mamaliaid (Cymru) (Rhif 2) 2006(1) fel a ganlyn.

(2) Yn erthygl 22(2), yn lle "another" rhodder "a".

(3) Yn erthygl 32, yn lle "intra-Community or international trade" rhodder "export outside the United Kingdom".

(4) Yn erthygl 50(1)(b)(ii), yn lle "another", yn y ddau le y mae'n digwydd, rhodder "a".

(5) Yn erthygl 63(5), yn lle "intra-Community or international trade" rhodder "export outside the United Kingdom".

Rheoliadau Fflw Adar (Brechu) (Cymru) (Rhif 2) 2006

6.—(1) Diwygir Rheoliadau Fflw Adar (Brechu) (Cymru) (Rhif 2) 2006(2) fel a ganlyn.

(2) Yn rheoliad 2—

(a) ym mharagraff (1)—

(i) yn lle'r diffiniad o "cynllun brechu brys" rhodder—

"ystyr "cynllun brechu brys" (*emergency vaccination plan*) yw cynllun brechu brys a gyhoeddir yn unol ag Erthygl 53 o'r Gyfarwyddeb fel y'i darllenir gyda'r addasiadau a nodir ym mharagraff (3)";

(ii) yn lle'r diffiniad o "cynllun brechu ataliol" rhodder—

"ystyr "cynllun brechu ataliol" (*preventive vaccination plan*) yw cynllun brechu ataliol a gyhoeddir yn unol ag Erthygl 56 o'r Gyfarwyddeb

(1) O.S. 2006/2927 (Cy. 262) y ceir diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.

(2) O.S. 2006/2932 (Cy. 265) y ceir diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.

fel y'i darllenir gyda'r addasiadau a nodir ym mharagraff (4)";

(b) ar ôl paragraff (2) mewnosoder—

“(3) At ddibenion y diffiniad o “cynllun brechu brys” ym mharagraff (1), mae Erthygl 53 o'r Gyfarwyddeb i'w darllen fel pe bai wedi ei haddasu fel a ganlyn—

(a) ym mharagraff 1—

- (i) yn lle “A Member State” rhodder “The Welsh Ministers”;
- (ii) yn lle'r geiriau o “the Member State concerned” hyd at y diwedd rhodder “Wales”;

(b) ym mharagraff 2—

- (i) yn lle “a Member State intends” rhodder “the Welsh Ministers intend”;
- (ii) yn lle “it shall submit an emergency vaccination plan to the Commission for its approval” rhodder “the Welsh Ministers must publish an emergency vaccination plan”;
- (iii) yn is-baragraff (g), yn lle “the measures provided for in Sections 3, 4 and 5 of Chapter IV and Section 3 of Chapter V” rhodder “any provision of—
 - (i) the Avian Influenza (Preventive Measures) (Wales) Regulations 2006 (S.I. 2006/2803);
 - (ii) the Avian Influenza and Influenza of Avian Origin in Mammals (Wales) (No. 2) Order 2006 (S.I. 2006/2927);
 - (iii) the Avian Influenza (Vaccination) (Wales) (No. 2) Regulations 2006 (S.I. 2006/2932)”;

(c) hepgorer paragraff 3.

(4) At ddibenion y diffiniad o “cynllun brechu ataliol” ym mharagraff (1), mae Erthygl 56 o'r Gyfarwyddeb i gael ei darllen fel pe bai wedi ei haddasu fel a ganlyn—

(a) ym mharagraff 1—

- (i) yn lle “Member States” rhodder “The Welsh Ministers”;
- (ii) yn lle “their territory” rhodder “Wales”;

(b) ym mharagraff 2—

- (i) yn lle “a Member State intends” rhodder “the Welsh Ministers intend”;
- (ii) yn lle “it shall submit a preventive vaccination plan to the Commission for its approval” rhodder “the Welsh Ministers must publish a preventive vaccination plan”;
- (iii) yn is-baragraff (g), yn lle “the measures provided for in Sections 3, 4 and 5 of Chapter IV and Section 3 of Chapter V” rhodder “any provision of—
 - (i) the Avian Influenza (Preventive Measures) (Wales) Regulations 2006 (S.I. 2006/2803);
 - (ii) the Avian Influenza and Influenza of Avian Origin in Mammals (Wales) (No. 2) Order 2006 (S.I. 2006/2927);
 - (iii) the Avian Influenza (Vaccination) (Wales) (No. 2) Regulations 2006 (S.I. 2006/2932)”;

(c) hegorer paragraff 3.

(3) Yn rheoliad 6(3), yn lle “pan gyflwynir hysbysiad brechu brys ar ôl i gynllun brechu brys gael ei ddwyn gerbron y Comisiwn Ewropeaidd a'i gymeradwyo ganddo yn unol ag Erthyglau 53 a 54 o'r Gyfarwyddeb” rhodder “gyhoeddir”.

(4) Yn rheoliad 7(2)(b), yn lle “wedi'i ddwyn gerbron y Comisiwn Ewropeaidd ac wedi'i gymeradwyo ganddo yn unol ag Erthyglau 56 a 57 o'r Gyfarwyddeb” rhodder “wedi'i gyhoeddi”.

(5) Yn rheoliad 10—

- (a) disodlir y pennawd gan “Brechu brys heb gynllun wedi'i gyhoeddi”;
- (b) ym mharagraff (1), yn lle “gymeradwyo gan y Comisiwn Ewropeaidd yn unol ag Erthygl 54 o'r Gyfarwyddeb” rhodder “gyhoeddi”;
- (c) ym mharagraff (7), yn lle “i gynllun brechu brys gael ei gymeradwyo gan y Comisiwn Ewropeaidd yn unol ag Erthygl 54 o'r Gyfarwyddeb” rhodder “i gynllun sy'n cyfateb i gynllun brechu brys gael ei gyhoeddi gan Weinidogion yr Alban, yr Ysgrifennydd Gwladol neu Weithrediaeth Gogledd Iwerddon, yn ôl y digwydd”.

(6) Yn rheoliad 19(3)(c), yn lle “rhwymedigaethau UE” rhodder “cyfraith yr UE a ddargedwir”.

**Gorchymyn Ffliw Adar (H5N1 mewn Dofednod)
(Cymru) 2006**

7.—(1) Diwygir Gorchymyn Ffliw Adar (H5N1 mewn Dofednod) (Cymru) 2006(1) fel a ganlyn.

(2) Yn erthygl 2—

(a) Yn y diffiniad o “approved body”, yn lle’r geiriau o “in accordance with” hyd at y diwedd rhodder “—

- (a) where the body is in Wales, by the Welsh Ministers,
- (b) where the body is in England, by the Secretary of State,
- (c) where the body is in Scotland, by the Scottish Ministers,
- (d) where the body is in Northern Ireland, by the Northern Ireland Executive, or
- (e) where the body is in a member State, in accordance with Article 2(1)(c) of Directive 92/65/EEC laying down animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos not subject to animal health requirements laid down in specific Community rules referred to in Annex A(I) to Directive 90/425/EEC;”

(b) ar ôl y diffiniad o “temporary movement restriction zone” mewnosoder—

““third country” means any country that is neither the United Kingdom nor a member State;”

(3) Yn erthyglau 9(1), 10(1) ac 11(1), hepgorer y gair “other”.

(4) Yn erthyglau 9(3)(c) a 10(3)(c) ac (e), yn lle “another” rhodder “a”.

(5) Yn erthygl 12, hepgorer paragraffau (1)(b) a (2).

(6) Yn erthygl 14—

(a) ym mharagraff (1)(d), yn lle “another” rhodder “a”;

(b) ar ôl paragraff (3) mewnosoder—

“(3A) In paragraph (2)(p), the reference to “the competent authority” includes the Secretary of State, the Welsh Ministers, the

(1) O.S. 2006/3309 (Cy. 299) fel y’i diwygiwyd gan O.S. 2011/600 (Cy. 88), O.S. 2011/2377 (Cy. 250), ac O.S. 2014/517 (Cy. 60).

Scottish Ministers or the Northern Ireland Assembly, as the case may be.”.

Rheoliadau'r Tafod Glas (Cymru) 2008

8. Yn Rheoliadau'r Tafod Glas (Cymru) 2008(1), yn lle rheoliad 19(4) rhodder—

“(4) Dim ond os yw'r penderfyniad i ddefnyddio'r brechlyn wedi ei seilio ar ganlyniad asesiad risg penodol a gyflawnwyd gan Weinidogion Cymru y caniateir i Weinidogion Cymru roi trwydded o dan baragraff (1) neu ddatgan parth o dan baragraff (2).”

Rheoliadau Cynhyrchion sy'n Dod o Anifeiliaid (Rheoli Clefydau) (Cymru) 2008

9.—(1) Diwygir Rheoliadau Cynhyrchion sy'n Dod o Anifeiliaid (Rheoli Clefydau) (Cymru) 2008(2) fel a ganlyn.

(2) Yn rheoliad 17, yn lle paragraff (15) rhodder—

“(15) Caiff arolygydd sy'n mynd i mewn i unrhyw fangre, sefydliad neu gerbyd fynd ag unrhyw bersonau eraill y mae'n barnu eu bod yn angenrheidiol.”

(3) Yn Atodlen 3, ym mharagraff 1(b), hepgorer paragraff (iii).

Gorchymyn Compartmentau Dofednod (Cymru) 2010

10. Yng Ngorchymyn Compartmentau Dofednod (Cymru) 2010(3), yn erthygl 5(1)(dd) yn lle “â chynrychiolydd o'r Comisiwn Ewropeaidd gydag ef neu” mewnosoder “ag”.

Rheoliadau Clefyd Affricanaidd y Ceffylau (Cymru) 2013

11.—(1) Diwygir Rheoliadau Clefyd Affricanaidd y Ceffylau (Cymru)(4) fel a ganlyn.

(2) Yn rheoliad 20(1)(a), yn lle “gadarnhau'n swyddogol at ddibenion Cyfarwyddeb y Cyngor 92/35/EEC, sy'n gosod rheolau a mesurau rheoli i drechu clefyd Affricanaidd y ceffylau” rhodder “gadarnhau”.

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- (1) O.S. 2008/1090 (Cy. 116) fel y'i diwygiwyd gan O.S. 2012/2403 (Cy. 257) ac y ceir diwygiadau eraill iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.
- (2) O.S. 2008/1275 (Cy. 132) fel y'i diwygiwyd gan O.S. 2018/806 (Cy. 162) ac y ceir diwygiadau eraill iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.
- (3) O.S. 2010/1780 (Cy. 169).
- (4) O.S. 2013/1662 (Cy. 158).

(3) Yn lle rheoliad 29(8)(b) rhodder—

“(b) mynd ag unrhyw bersonau eraill y mae'n barnu eu bod yn angenrheidiol.”

Lesley Griffiths

Gweinidog yr Amgylchedd, Ynni a Materion Gwiedig,
un o Weinidogion Cymru
25 Chwefror 2019

Explanatory Memorandum to The Exotic Diseases in Animals (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019.

This Explanatory Memorandum has been prepared by Department for Environment, Energy and Rural Affairs and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Exotic Diseases in Animals (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019.

I have made the statements required by the European Union (Withdrawal) Act 2018. These statements can be found in Part 2 of the annex to this memorandum.

Lesley Griffiths
Minister for Environment, Energy and Rural Affairs
27 February 2019

PART 1

1. Description

- 1.1. This instrument makes amendments to subordinate legislation, which apply in relation to Wales, in the field of control and prevention of exotic diseases in animals. The instrument ensures that the subordinate legislation applicable in Wales which relates to control and prevention of exotic diseases in animals will continue to be operable in Wales after the United Kingdom leaves the European Union.
- 1.2. The instrument comes into force on “exit day”, which section 20(1) of the European Union (Withdrawal) Act 2018 (“the 2018 Act”) defines as 29 March 2019 at 11.00 pm.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

- 2.1. This instrument is being made using the power conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 (“the 2018 Act”).
- 2.2. As set out in the Ministerial statement in Annex 2 of this Explanatory Memorandum it is proposed that the instrument be subject to negative procedure. The instrument makes minor and technical changes and as such should be subject to annulment.
- 2.3. The CLA Committee considered a draft of these regulations on 28 January 2019 and agreed that the negative procedure is appropriate for these regulations. A copy of the published CLA report can be accessed via the following link: <http://www.assembly.wales/laid%20documents/cr-ld12093/cr-ld12093-e.pdf>

3. Legislative background

- 3.1. This instrument is being made using the power conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the 2018 Act in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the European Union. In accordance with the requirements of that Act the Minister has made the relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum

4. Purpose and intended effect of the legislation

What did any relevant EU law do before exit day?

- 4.1. The ten instruments that are subject to these deficiency amendments are listed below together with the Directives/EU Regulations which are implemented by the instruments:

- (i) The Foot and Mouth Disease (Wales) Order 2006 (which implements, in part, [Council Directive 2003/85/EC](#) of the 29 September 2003 on Community measures for the control of foot and mouth disease.)
- (ii) The Foot-and-Mouth Disease (Control of Vaccination) (Wales) Regulations 2006 (which implement those aspects of [Council Directive 2003/85/EC](#) on Community measures for the control of foot and mouth disease that relate to vaccination against foot and mouth disease
- (iii) The Avian Influenza (Preventive Measures) (Wales) Regulations 2006 (which implement provisions requiring or dependant on the identification of poultry premises under [Council Directive 2005/94/EC](#) on Community measures for the control of avian influenza and repealing [Directive 92/40/EC](#).)
- (iv) The Avian Influenza and Influenza of Avian Origin in Mammals (Wales) (No 2) Order 2006 (which implements [Council Directive 2005/94/EC](#) on Community measures for the control of avian influenza and repealing [Directive 92/40/EC](#), and partly implements in part (a) [Commission Decision 2005/734/EC](#) laying down biosecurity measures to reduce the risk of transmission of highly pathogenic avian influenza caused by influenza A virus of subtype H5N1 from birds living in the wild to poultry and other captive birds and providing for an early detection system in areas at particular risk and [Commission Decision 2006/474/EC](#) concerning measures to prevent the spread of highly pathogenic avian influenza caused by influenza A virus of subtype H5N1 to birds kept in zoos and approved bodies, institutes and centres in the Member States and repealing [Decision 2005/744/EC](#).)
- (v) The Avian Influenza (Vaccination) (Wales) (No.2) Regulations 2006 (which implement [Council Directive 2005/94/EC](#) on Community measures for the control of avian influenza repealing [Directive 92/40/EEC](#) (OJ No L10, 14.1.2006, p 16) insofar as it deals with vaccination against avian influenza.)
- (vi) The Avian Influenza (H5N1 in Poultry) (Wales) Order 2006 (which implements [Commission Decision 2006/415/EC](#) concerning certain protection measures in relation to highly pathogenic avian influenza of subtype H5N1 in poultry in the Community and repealing [Decision 2006/135/EC](#).)
- (vii) The Bluetongue (Wales) Regulations 2008 (which implement [Council Directive 2000/75/EC](#) laying down specific provisions for the control and eradication of bluetongue.)
- (viii)The Products of Animal Origin (Disease Control) (Wales) Regulations 2008 (which implement [Articles 3 and 4](#) of Council Directive 2002/99/EC laying down the animal health rules governing the

production, processing, distribution and introduction of products of animal origin for human consumption.)

(ix) The Poultry Compartments (Wales) Order 2010 (which implements [Commission Regulation \(EC\) No 616/2009](#) which makes provision for the recognition of poultry compartments which meet high standards of biosecurity.)

(x) The African Horse Sickness (Wales) Regulations 2013 (which implement the provisions of [Council Directive 92/35/EEC](#) laying down control rules and measures to combat African horse sickness.)

- 4.2. These instruments deal with the controls for exotic notifiable diseases, where owners and their veterinarians are obliged to notify Welsh Government of suspicion of the relevant disease. The instruments also cover preventative measures, vaccination and products of animal origin.
- 4.3. These instruments ensure that if there is an outbreak of such disease (including Foot and Mouth Disease, Bluetongue or Avian Influenza), the Welsh Government is able to respond in a timely, effective and coordinated manner to control and eradicate disease, demonstrate disease freedom, restore normal trade in the affected species and then work to assist the recovery of local communities.

Why is it being changed?

- 4.4. The minor and technical changes made by the instrument are necessary to ensure that the amended instruments continue to operate effectively following the UK's withdrawal from the European Union.
- 4.5. The changes are made to ensure the operability of the ten amended instruments by, for example, the omission of references to the European Commission which will no longer be relevant after exit day; the omission of references to "intra-Community trade"; and amendments which correct references which are characterised by their inclusion of Wales as a constituent nation of a "Member State", or, likewise, by the exclusion of Wales from the ambit of a "third country".

What will it now do?

- 4.6. The instrument will ensure that Wales will continue to be able to respond to outbreaks of exotic notifiable animal disease as before. There are no policy changes introduced in this instrument.

5. Consultation

- 5.1. As there is no policy change, no public consultation was undertaken. The purpose of the instrument is solely to enable the current legislative

and policy framework to remain unchanged by the withdrawal of the United Kingdom from the European Union.

6. Regulatory Impact Assessment (RIA)

- 6.1. An RIA has not been conducted as these are minor technical changes necessary as a result of the UK's withdrawal from the EU. A public consultation was not required because no policy changes are being made via this statutory instrument. As this instrument relates to maintaining existing legislation after EU Exit there is no, or no significant, impact on business, charities or voluntary bodies. There is no, or no significant, impact on the public sector.

Annex

Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required of the Welsh Ministers under the 2018 Act. The table also sets out those statements that may be required of Ministers of the Crown under the 2018 Act, which the Welsh Ministers have committed to also provide when required. The required statements can be found in Part 2 of this annex.

| Statement | Where the requirement sits | To whom it applies | What it requires |
|-----------------|---|--|---|
| Sifting | Paragraphs 3(7) and 4(3), Schedule 7 <i>Paragraph 3(7) (anticipated to be a requirement on Welsh Ministers in Standing Orders)</i> | The Welsh Ministers exercising powers in Part 1 of Schedule 2 to make a Negative SI Paragraph 3(7) applies to Ministers of the Crown, but Welsh Ministers have committed to make the same statement | A statement to explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation of the CLA Committee (as sifting committee) |
| Appropriateness | Sub-paragraph (2) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement that the SI does no more than is appropriate. |
| Good Reasons | Sub-paragraph (3) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have | A statement to explain the good reasons for making the instrument and that what is being done is a reasonable course of action. |

| | | | |
|-------------------|--|--|--|
| | | committed to make the same statement when exercising powers in Schedule 2 | |
| Equalities | Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | <p>A statement to explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them.</p> <p>A statement that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.</p> |
| Explanations | Sub-paragraph (6) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement to explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g. whether minor or technical changes only are intended to the EU retained law. |
| Criminal offences | Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement setting out the 'good reasons' for creating a criminal offence, and the penalty attached. |
| Sub-delegation | Paragraph 30, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority. | A statement to explain why it is appropriate to create such a sub-delegated power. |

| | | | |
|---------|--|--|--|
| | | Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 or paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority | |
| Urgency | Sub-paragraph (2) and (8) of paragraph 7, Schedule 7 | Welsh Ministers exercising powers in Part 1 of Schedule 2 but using the urgent procedure in paragraph 7 of Schedule 7 | A statement that the Welsh Ministers are of the opinion that it is necessary to make the SI using the urgent procedure and the reasons for that opinion. |

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

1. Sifting statement(s)

The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view The Exotic Diseases in Animals (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 should be subject to annulment in pursuance of a resolution of the National Assembly for Wales (i.e. the negative procedure)”. This is the case because the changes being made are technical in nature and make no substantive changes to how the ten instruments included in the Regulations operate.

2. Appropriateness statement

The Minister for Environment, Energy and Rural Affairs has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view The Exotic Diseases in Animals (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 does no more than is appropriate. This is the case because all the changes being made are solely in order to address deficiencies arising from EU exit.”

3. Good reasons

The Minister for Environment, Energy and Rural Affairs, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action. This is because the provisions ensure that protections provided by The Exotic Diseases in Animals (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 continue to be operable after the UK leaves the European Union.

4. Equalities

4.1 The Minister for Environment, Energy and Rural Affairs, has made the following statement(s) “The [draft] instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts.

4.2 The Minister for Environment, Energy and Rural Affairs, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

4.3 “In relation to the instrument, I, Lesley Griffiths have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.”

5. Explanations

5.1 The explanations statement has been made in paragraph 4 (Purpose & intended effect of the legislation) of the main body of this explanatory memorandum.

6. Criminal offences

Not applicable/required.

7. Legislative sub-delegation

Not applicable/required.

8. Urgency

Not applicable/required.

SL(5)362 - The Genetically Modified Organisms (Deliberate Release and Transboundary Movement) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019

Background and Purpose

The Genetically Modified Organisms (Deliberate Release and Transboundary Movement) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 amend the existing implementation of Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of GMOs (“the Deliberate Release Directive”). The Directive specifies a framework of controls on the release of GMOs, both for trial purposes and for placing on the market.

Under the Directive, proposed releases require prior authorisation, based on the GMO in question passing a scientific assessment of its potential impact on human health and the environment. In the case of releases for trial, the decision whether to approve lies with Member States, and, in the UK, these decisions are devolved, including to Wales. By contrast, decisions on GMO releases for commercial marketing are currently taken collectively at EU level. The Directive also deals specifically with GMO seeds for cultivation: in this regard, the Directive allows Member States to block cultivation in their territory, despite the seeds having EU approval. Decisions on this matter are also devolved to Wales.

The Directive is implemented in Wales by The Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002 (“the 2002 Deliberate Release Wales Regulations”).

The Regulations under scrutiny also amend the Genetically Modified Organisms (Transboundary Movements) (Wales) Regulations 2005 (“the 2002 Transboundary Movements Wales Regulations”), which govern the export of GMOs from Wales, as part of the EU, to third (non-EU) countries. The key requirement is for the planned first export of a GMO intended for environmental release to be notified to the receiving country for approval before shipment.

The 2002 Transboundary Movements Wales Regulations currently implement, in Wales, Regulation (EC) No. 1946/2003 of the European Parliament and of the Council of 15 July 2003. This EU Regulation, in turn, implements an international treaty (to which the EU and UK are each a Party), the Cartagena Biosafety Protocol to the United Nations Convention on Biological Diversity Regulation.

Most of the amendments to these two Wales statutory instruments are made under powers in paragraph 1(1) of Schedule 2, and paragraph 21 of Schedule 7, to the EUWA. Paragraph 1(1) of Schedule 2 gives the Welsh Ministers the power to address, within devolved competence, failures of retained EU law to operate effectively, and other deficiencies in retained EU law, arising from the UK’s withdrawal from the European Union. Paragraph 21 of Schedule 7 gives Welsh Ministers the power to make provision that is supplementary, consequential, incidental,



transitional, transitory or saving, when addressing those failures or deficiencies, including the power to restate any retained EU law in a clearer or more accessible way.

The Wales statutory instruments amended by these Regulations constitute retained EU law for the purposes of section 2 of the European Union (Withdrawal) Act 2018 (“EUWA”). The EU Regulations and Decisions referred to in these Regulations also constitute retained EU law, under section 3 of the EUWA.

Some amendments made do not, however, arise out of the UK’s withdrawal from the EU, but, rather, correct out of date references. These amendments are made using powers given under section 2(2) of the European Communities Act 1972 (“the ECA”). Although that Act will be repealed on exit day by section 1 of the EUWA, the amendments made to domestic legislation will continue to have effect, by virtue of section 2 of that Act.

The amendments made by the Regulations under scrutiny can be broadly categorised as:

- Removing references to provisions being ‘in accordance with [particular EU legislation]’, and other references to EU law or obligations, and instead referring to that EU law or those obligations as they are transformed into retained EU law by virtue of the EUWA;
- Copying out definitions within EU instruments, so that they become part of domestic legislation, instead of defining terms by reference to those EU instruments; alternatively, specifying that references should be to specific ‘versions’ of pieces of EU legislation, so that post-Brexit changes to that legislation will not read across;
- Updating references to other sets of legislation that will be changed following EU exit or where references were simply to an out of date piece of legislation;
- Changing references from EU law concepts to UK ones, e.g. changing ‘Member State level’ to ‘any law of any part of the UK’; and
- Removing provisions which requires Welsh Ministers to take action on an EU level, such as to notify the Commission or other EU Member States.

Procedure

Negative.

Technical Scrutiny

11 points are identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(i) – that there appears to be doubt as to whether it is intra vires, or Standing Order 21.2(ii) – that it appears to make unusual or unexpected use of the powers conferred by the enactment under which it is made
 - 1.1 Regulation 3(10)(a)
 - 1.1.1 Regulation 3(10)(a) substitutes (inter alia) a new paragraph (4) in regulation 25 of the 2002 Deliberate Release Wales Regulations. Regulation 25 of the 2002 Deliberate Release Wales Regulations deals with consent to market GMOs, and the original paragraph (4) provided that



the maximum period for which the National Assembly (now, the Welsh Ministers) could grant consent was 10 years. The amendments made by these regulations appear to remove that cap on consent periods.

- 1.1.2 We cannot immediately see how the cap would cause a failure of retained EU law to operate effectively, or other deficiency in retained EU law, arising from the UK's withdrawal from the European Union; and therefore we cannot see how removing the cap falls within the powers given to the Welsh Ministers by paragraph 1(1) of Schedule 2 to the EUWA. Moreover, we consider that removing a cap on GMO consent periods cannot be said to fall within the power in paragraph 21 of Schedule 7 to the EUWA; it does not appear to us to be supplementary, consequential, incidental, transitional or transitory provision.

1.2 Regulation 3(16)(b)

- 1.2.1 This provision inserts a new paragraph (3A) into regulation 35 of the 2002 Deliberate Release Wales Regulations, which deals with data to be included on a public register of information about GMOs, maintained by the Welsh Ministers under section 122 of the Environmental Protection Act 1990 (and under obligations in and under the Deliberate Release Directive).
- 1.2.2 New paragraph (3A) will mean that additional information will be placed on a public register when someone applies for permission to market a GMO. Confidential information is, however, exempt.
- 1.2.3 We note that applications for permission to market will, post-Brexit, be decided by the Welsh Ministers, not the European Commission. For that reason, we understand why new sub-paragraph (3A)(e) is appropriate; it makes administrative sense for the Welsh Ministers to assign an application reference code to each application and to link this to any information about that application on the register. Therefore, we see sub-paragraph (3A)(e) as covered by the incidental powers provided by paragraph 21 of Schedule 7 to the EUWA.
- 1.2.4 In relation to the other sub-paragraphs, however, we are less clear as to vires. The provisions do not appear to be required by pre-Brexit EU law, and therefore the powers given by the ECA do not seem relevant. In terms of the powers provided by the EUWA, we would expect these to be used to replace, as closely as possible, any obligations on the Commission to put information about applications to market GMOs in the public domain.
- 1.2.5 However, it appears to us that the Commission's obligations in this regard are to publish the summary information provided by the applicant, together with the Member State's assessment of the application, if favourable. Clearly, the second part of this obligation will fall away once the Welsh Ministers become the final decision-taker and so it is appropriate not to replicate this in the regulations. But the first part of the obligation appears to be transferred to the Welsh Ministers by new sub-paragraph (i), inserted into regulation 35(3). At first sight, this would appear to us appropriate to prevent any failure in retained EU law to operate effectively, arising out of the UK's withdrawal from the EU (taken together with the new provision in sub-paragraph (3A)(e)).
- 1.2.6 We wish to emphasise that we are very supportive of the aim of transparency in Welsh Minister decisions, and particularly so on subjects that directly affect all citizens of Wales, such as the availability of GMOs on the market. However, what we are concerned with here is



vires to ensure that transparency. If new paragraph (3A)(a)-(d) and (f)-(g) go further than giving the Welsh Ministers duties which mirror the present Commission obligations to publish, it is difficult to see how this is covered either by the powers in paragraph 1 of Schedule 2 to the EUWA, or the supplemental ones in paragraph 21 of Schedule 7. Therefore we would ask the Welsh Ministers to clarify these matters so as to remove any doubt about vires.

2. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

2.1 Regulation 3(2)(a) and (f), amending definitions contained in regulation 2(1) of the 2002 Deliberate Release Wales regulations

2.1.1 Regulation 3(2)(a) changes the definition of an “approved product”, for the purposes of permission to be marketed in Wales. Essentially, the present definition of an “approved product” becomes the definition of a “pre-exit approved product”, by virtue of a new definition inserted into regulation 2(1) of the 2002 Deliberate Release Wales regulations by regulation 3(2)(f) of the present Regulations.

2.1.2 The new definition of an “approved product” is, in essence a product that has either been given consent by the Welsh Ministers under section 111(1) of the Environmental Protection Act 1990, or authorised under Regulation 1829/2003 EC, known (and referred to in the present regulations) as the Food and Feed Regulation.

2.1.3 The Food and Feed Regulation will pass into domestic law on exit day, by virtue of section 3 of the EUWA. Regulation 3 of the present regulations will not come into force until exit day. Therefore, for the purposes of post-Brexit Welsh law, authorisation under the Food and Feed Regulation appears to mean an authorisation granted after exit day. This is also logical in view of the creation of a separate definition for “pre-exit approved product[s]”.

2.1.4 However, this raises two issues. First, the Food and Feed Regulation is already in force. Further explanation is requested as to why the definition of a “pre-exit approved product” does not include products approved under that Regulation before exit day.

2.1.5 The second issue is a Merits point and is reported below under Standing Order 21.3(ii).

2.2 Regulation 3(6)(b) and (c), amending regulation 17(2)(g) and (j) of the 2002 Deliberate Release Wales Regulations

2.2.1 These provisions update the references to documents setting out the format for applications for consent to market GMOs, where those applications are made to the Welsh Ministers. They are, therefore, important provisions for applicants. Regulation 3(6)(b) provides that applicants must provide a monitoring plan prepared, inter alia, according to a format set out in the Annex to Commission Decision 2002/811/EC.

2.2.2 The application forms set out in that Annex refer in a number of places to the European Community (now, of course, the European Union) and to the European Commission. In particular, they require an applicant to describe, as part of the monitoring plan that forms a mandatory part of the application, the conditions in which the applicant will report to the



Commission. More explanation is required as to why and how the format set out in this Annex is appropriate for post-Brexit applications for consent to the Welsh Ministers.

2.2.3 Regulation 3(6)(c) relates to the mandatory summary which has to form part of the application. We raise, below, the point that the document identified in regulation 3(6)(c) as setting out the format for this summary appears not to be the correct one. For the purposes of this reporting point, we will assume that the intention was to mandate applicants to follow the format set out in the Annex to Council Decision 2002/812 EC.

2.2.4 That Annex also includes a number of references to the EC (*sic*) which appear to require further explanation. For instance, applicants are required to state whether their product is being notified to another "Member State", and whether another product with the same combination of GMOs has been placed on the "EC market" by another person. In the latter case, it is not clear to us how applicants will have this information after the UK leaves the EU. Applicants are also required to provide an estimate of the demand in export markets for "EC supplies" of the product (pre-Brexit, UK supplies would of course have counted as EC supplies but will not do so post-Brexit).

2.3 Regulation 3(8)(b), amending regulation 22(6) of the 2002 Deliberate Release Wales Regulations

Our concerns about this provision are similar to those set out in 1.2. Applicants are required, by the new provision, to provide information in a format set out in the Annex to a Commission Decision (2003/71/EC). That Annex makes various references that appear difficult to operate post-Brexit, including a requirement for applicants to quote a "European notification number".

2.4 Regulation 3(9)(a)(ii), amending regulation 24(1)(e) of the 2002 Deliberate Release Wales Regulations

2.4.1 This provision replaces regulation 24(1)(e) of the 2002 Deliberate Release Wales regulations with a new provision. The fact of replacement does not require further explanation, as the original provision places a duty on the Welsh Ministers *vis a vis* the European Commission, which will clearly no longer be operable after exit day. However, we consider that the placement of the new provision in regulation 24(1) does require some explanation. Regulation 24(1)(d) deals with the Welsh Ministers' duties to notify an applicant of their decision. The original 24(1)(e) dealt with action following that decision. However, the new 24(1)(e) requires the Welsh Ministers to take into account certain matters in taking their decision. Logically, therefore, it appears that the new regulation 24(1)(e) should precede regulation 24(1)(d), not follow it.

2.5 Regulation 3(16)(b) and (17), amending regulations 35 and 36 of the 2002 Deliberate Release (Wales) Regulations

2.5.1 As discussed above, regulation 3(16)(b) imposes duties on the Welsh Ministers to publish additional information in the public register concerning GMOs. However, regulation 3(17) does not amend regulation 36 of the 2002 Deliberate Release (Wales) Regulations so as to prescribe a deadline for the Welsh Ministers to do so. It may be that it was not the Welsh Ministers' policy intention to impose such a deadline on themselves. However, regulation 36 of the 2002 Deliberate Release (Wales) Regulations does so for all the other categories of



information listed in regulation 35 (although the amendments made by the regulations under scrutiny lift those deadlines in relation to pre-Brexit decisions of the European Commission or other Member States).

2.5.2 Further explanation of the absence of a deadline for publication of the relevant information is, therefore, requested.

2.6 Throughout regulation 3

- 2.6.1 A number of the amendments made by regulation 3 have the effect that the 2002 Deliberate Release Wales regulations will use two different names to refer to what is now the same legal person, i.e. “the [former] National Assembly for Wales” and “the Welsh Ministers”. All these references are to be interpreted as references to the Welsh Ministers, by virtue of paragraphs 28 and 30 of Schedule 11 to the Government of Wales Act 2006. However, that will not be immediately apparent to those seeking to understand the legislation. In certain places, both names will appear in the same provision – for instance, in regulation 24 of the 2002 Deliberate Release Wales regulations (see regulation 3(9)(a) of the regulations under scrutiny).
- 2.6.2 In our view, the Welsh Ministers would have had the vires to change all references to the National Assembly into references to themselves, where appropriate, under paragraph 21 of Schedule 7 to the EUWA, as they would be supplementary or incidental to provision made under paragraph 1(1) of Schedule 2 to that Act, and would restate retained EU law (the Wales statutory instruments amended) in a clearer and more accessible way.
- 2.6.3 However, we understand that the Welsh Government is working under severe pressure to make all the essential amendments to retained EU law, as it applies in Welsh devolved competence, before exit day and that it may not always have been practicable to make amendments that were, arguably, desirable without being necessary for post-exit operability.
- 2.6.4 We also request further explanation of the rationale behind amendments to the way in which some EU legislation is referred to in the regulations. This legislation will become retained EU law on exit day, by virtue of the EUWA.
- 2.6.5 Regulation 3(2)(e) provides that references in the 2002 Deliberate Release Wales regulations to the First Simplified Procedure (crop plants) Decision is a reference to that Decision as it applied immediately before exit day. However, the regulations do not amend other references to retained direct EU law in the 2002 Deliberate Release Wales regulations in that way (for instance, the references, in regulation 2 of those regulations, to the Food and Feed Regulation, Council Regulation 1829/2003/EC).
- 2.6.6 Nor are new references in the regulations to retained direct EU law (EU Regulations and Decisions) treated in this way (see for instance the reference to Council Decision 2002/813/EC, inserted by regulation 3(4)(b)).
- 2.6.7 It appears to us that all of these references to EU legislation – whether existing in or newly inserted into the 2002 Deliberate Release Wales regulations - will be treated as references to the EU legislation as it applied immediately before exit day, by virtue of the European Union (Withdrawal) Act 2018 (Consequential Modifications and Repeals and Revocations) (EU Exit) Regulations 2019, currently in draft. This is because none of the references are “ambulatory”



(i.e. they are not stated to be references to the EU instruments as amended from time to time by the EU institutions; nor are they stated to be references to those instruments as they applied at a particular time prior to exit day). Indeed, it would be outside the EUWA powers to render new references in domestic law to EU instruments ambulatory in this sense; the EUWA does not give Ministers powers to track future EU-law developments in this way, in subordinate legislation.

2.6.8 Further explanation of the rationale for the Welsh Ministers choosing to make provision of the kind of regulation 3(2)(e) in some cases and not others is therefore requested in the interests of transparency, both for the Assembly and the users of the legislation.

2.7 Regulation 4 – amendments to the Schedule to the 2005 Transboundary Movements Wales regulations

2.7.1 Many provisions of the 2005 Transboundary Movements Wales regulations are dependent on “the specified Community provisions”, i.e. those provisions of Regulation (EC) No. 1946/2003 listed in the Schedule to the regulations. For example, regulation 3 provides that the National Assembly (now, the Welsh Ministers) must enforce and execute the specified Community provisions, while regulation 8 provides that it is an offence for anyone to contravene, or fail to comply with, the specified Community provisions. Therefore, the exact meaning of the specified Community provisions is extremely important.

2.7.2 Regulation 4 of the regulations under scrutiny amends the description of two of the “specified Community provisions” in the Schedule. Both of the amendments appear, in themselves, appropriate in terms of adapting the 2005 Transboundary Movements Wales regulations in consequence of the UK leaving the EU. One simply removes a reference to “the Commission”, while the other amends the rules on what authorisations are necessary to export GMOs for direct use as food or feed or for processing. Previously, authorisation for import into a particular country could have been agreed within the EU; the regulations under scrutiny replace this from exit day with a provision that permission to market in the UK is sufficient.

2.7.3 However, it is not clear to us how these amendments are effective unless the relevant provisions of Regulation No. 1946/2003 itself are amended in the same way, as retained EU law. The provisions in the Schedule to the 2005 Transboundary Movements Wales regulations are defined as provisions of that Regulation. In light of that definitional link it seems to us dubious that the effect of those provisions, for the purposes of the 2005 Regulations, can be altered simply by amending the Schedule, and not the underlying EU Regulation (as it will exist in domestic law after exit day). Once again, we emphasise that non-compliance with the provisions of the Schedule constitutes an offence; the second example given in the previous paragraph is an example of a situation where this could be directly relevant.

2.7.4 We recognise that the issue we have identified may be being avoided or rectified by other Brexit-related legislation. However, as we said in our recent report on The Common Agricultural Policy (Miscellaneous Amendments)(Wales)(EU Exit) Regulations 2019, we consider that it is incumbent on the Welsh Government to seek to explain, better and more fully, to the Assembly and to citizens how each piece of Welsh EU exit legislation fits into the whole picture of UK and EU legislation – current and intended - on the particular subject-



matter. The appropriate place for this would appear to be the EM accompanying statutory instruments.

2.7.5 Moreover, as we have repeatedly said in previous Reports, clarity in the criminal law is of particular importance. For all these reasons, therefore, we call on the Welsh Government to provide a further explanation of these provisions.

3. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

3.1 Regulation 3(6)(c)

As set out above, this provision changes the document which sets out the format for applications for deliberate release authorisations. It is, therefore, an important provision for applicants. It provides that the correct format is that set out in “the Annex to Commission Decision 2002/812 EC”. However, there appears to be no Commission Decision with that number. There is, however, a Council Decision with that number, the Annex to which appears to be the relevant document.

3.2 Regulation 3(10)(b)(ii)

This provision amends regulation 25(5) of the 2002 Deliberate Release Wales regulations. It refers to “regulation (3) of the Seeds (National Lists of Varieties) Regulations 2001”. This is clearly an incorrect reference, as regulations are not identified by numbers in brackets. Having considered the 2001 Regulations referred to, it appears to us that the intention was to refer to “regulation 3”. We consider that this is simply a typographical error and that there is no real risk of confusion with another provision of the 2001 statutory instrument. However, it should be corrected so as to remove any doubt for users of the legislation.

Merits Scrutiny

One point is identified for reporting under Standing Order 21.3 in respect of this instrument.

4. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly

4.1 Regulation 3(2)(a) and (f), amending regulation 2(1) of the 2002 Deliberate Release Wales Regulations

4.1.1 This point relates to the amendments made by regulation 3(2)(a) and (f) to the definition of an “approved product” in the 2002 Deliberate Release Wales regulations, for the purposes of permission to be marketed in Wales. Detail of these two provisions is set out above, under paragraph 2.1, relating to Standing Order 21.1(v).

4.1.2 These provisions also raise a merits point. The Food and Feed Regulation gives the function of authorising products for marketing to the European Commission, assisted by an EU Committee, and on the basis of a scientific opinion from the European Food Safety Authority (“EFSA”). If the Food and Feed Regulation, once imported into domestic law on exit day, is not amended in that regard, the Commission will be able to continue giving authorisations that



are recognised in the UK, including in Wales. This would be consistent with the overall intention of the EUWA, to maintain continuity, as far as practicable and for the time being, between pre- and post-Brexit law derived from the EU.

- 4.1.3 However, it is of political importance that marketing certificates for food and feed products made of, or including, genetically-modified ingredients, issued by an EU body, will continue to be recognised in Wales after Brexit. This is particularly so given the controversy within the UK and in Wales over the safety or otherwise of genetically-modified food.
- 4.1.4 We recognise that the Food and Feed Regulation may have been, or may be about to be, amended in some relevant way, as retained EU law, by UK Government subordinate legislation under the EUWA. We also recognise the difficulties facing the Welsh Ministers in seeking to legislate under extreme time pressure and in a context in which a great deal of other related legislation is also being made, both by them and by the UK Government.
- 4.1.5 However, we consider that, where such independencies exist between different pieces of legislation, made or to be made, in such an important area of law, they should be explained, or at least pointed to, in the Explanatory Memorandum accompanying the subordinate legislation for scrutiny.

Implications arising from exiting the European Union

One point is identified for reporting under Standing Order 21.3 in respect of this instrument.

The last sentence of paragraph 4.5 of the Explanatory Memorandum states:

Wales intends to follow England, Northern Ireland and Scotland's approach on the release of GMO's.

This may be simply a question of infelicitous language, but we do not consider that the Welsh Government should simply "follow" the approach of other nations of the UK; particularly on such an important and controversial matter. "Following" is a very different matter from agreeing a common approach with the governments of those other nations. We note that the Intergovernmental Agreement between the Welsh and UK Governments of 24 April 2018 identified "Agriculture - GMO marketing and cultivation", as well as various matters concerning food, as areas where both governments would agree that common UK frameworks – legislative or otherwise - were likely to be required, and we assume that the sentence highlighted above is attempting to reflect this agreement.

Government Response

A government response is required.

Legal Advisers

Constitutional and Legislative Affairs Committee

13 March 2019



OFFERYNNAU STATUDOL
CYMRU

2019 Rhif 379 (Cy. 94)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

**DIOGELU'R AMGYLCHEDD,
CYMRU**

Rheoliadau Organeddau a
Addaswyd yn Enetig (Eu Gollwng
yn Fwriadol a'u Symud ar draws
Ffin) (Diwygiadau Amrywiol)
(Cymru) (Ymadael â'r UE) 2019

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn wedi eu gwneud drwy arfer y pwerau a roddir gan adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972 (p. 68) a pharagraff 1(1) o Atodlen 2 a pharagraff 21 o Atodlen 7 i, Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 (p. 16) er mwyn ymdrin ag unrhyw fethiant yng nghyfraith yr UE a ddargedwir i weithredu'n effeithiol a diffygion eraill yng nghyfraith yr UE a ddargedwir sy'n deillio o ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd.

Mae'r Rheoliadau hyn yn gwneud diwygiadau i is-ddeddfwriaeth, sy'n gymwys o ran Cymru, sy'n ymwneud â rheoli a rheoleiddio gollwng organebau a addaswyd yn enetig yn fwriadol, eu gosod ar y farchnad a'u symud ar draws ffin.

Mae Rhan 2 o'r Rheoliadau hyn, sy'n cael effaith cyn y diwrnod ymadael, yn cywiro cyfeiriadau penodol mewn is-ddeddfwriaeth Gymreig nad ydynt yn gyfredol bellach, gan ddibynnu ar bwerau Gweinidogion Cymru o dan adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972.

Mae Rhan 3 o'r Rheoliadau hyn yn gwneud diwygiadau amrywiol i is-ddeddfwriaeth Gymreig er mwyn cywiro unrhyw fethiant yng nghyfraith yr UE a ddargedwir i weithredu'n effeithiol a diffygion eraill

sy'n deillio o ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, ystyriwyd nad oedd yn angenrheidiol cynnal Asesiad Effaith Rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn.

OFFERYNNAU STATUDOL
CYMRU

2019 Rhif 379 (Cy. 94)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

**DIOGELU'R AMGYLCHEDD,
CYMRU**

Rheoliadau Organeddau a
Addaswyd yn Enetig (Eu Gollwng
yn Fwriadol a'u Symud ar draws
Ffin) (Diwygiadau Amrywiol)
(Cymru) (Ymadael â'r UE) 2019

*Gofynion sifftio wedi eu bodloni 18 Chwefror
2019*

Gwnaed 26 Chwefror 2019

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru 27 Chwefror 2019*

Yn dod i rym yn unol â rheoliad 1(2) a (3)

Mae Gweinidogion Cymru wedi eu dynodi(1) at ddiibenion adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972(2) mewn perthynas â mesurau sy'n ymwneud â rheoli a rheoleiddio gollwng organebau a addaswyd yn enetig yn fwriadol, eu gosod ar y farchnad a'u symud ar draws ffin.

Mae Gweinidogion Cymru yn gwneud y Rheoliadau a ganlyn drwy arfer y pwerau a roddir gan—

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- (1) O.S. 2003/2901. Yn rhinwedd paragraffau 28(1) a 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p. 32), mae O.S. 2003/2901 yn cael effaith fel pe bai wedi ei wneud o dan adran 59(1) o'r Ddeddf honno.
- (2) 1972 p. 68. Diwygiwyd adran 2(2) gan adran 27(1)(a) o Ddeddf Diwygio Deddfwriaethol a Rheoleiddiol 2006 (p. 51) a chan adran 3 o Ddeddf yr Undeb Ewropeaidd (Diwygio) 2008 (p. 7) a Rhan 1 o'r Atodlen iddi.

- (a) mewn perthynas â Rhan 1, y darpariaethau y cyfeirir atynt ym mharagraffau (b) ac (c);
- (b) mewn perthynas â Rhan 2, adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972;
- (c) mewn perthynas â Rhan 3, paragraff 1(1) o Atodlen 2 a pharagraff 21(a) o Atodlen 7 i, Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018(1).

Mae gofynion paragraff 4(2) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 sy'n ymwneud â gweithdrefn graffu briodol Cynulliad Cenedlaethol Cymru ar gyfer y Rheoliadau hyn wedi eu bodloni.

RHAN 1

Rhagarweiniad

Enwi, cychwyn a chymhwyso

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Organeddau a Addaswyd yn Enetig (Eu Gollwng yn Fwriadol a'u Symud ar draws Ffin) (Diwygiadau Amrywiol) (Cymru) (Ymadael â'r UE) 2019.

(2) Daw Rhannau 1 a 2 o'r Rheoliadau hyn i rym 21 o ddiwrnodau ar ôl y diwrnod y gosodir y Rheoliadau hyn.

(3) Daw Rhan 3 o'r Rheoliadau hyn i rym ar y diwrnod ymadael.

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

RHAN 2

Diwygio cyfeiriadau sydd wedi dyddio

Diwygiadau i Reoliadau Organeddau a Addaswyd yn Enetig (Eu Gollwng yn Fwriadol) (Cymru) 2002

2.—(1) Mae Rheoliadau Organeddau a Addaswyd yn Enetig (Eu Gollwng yn Fwriadol) (Cymru) 2002(2) wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 16, hepgorer paragraff (dd).

(3) Hepgorer rheoliadau 18 a 18A.

(4) Yn Atodlen 3, paragraff 1, yn lle'r geiriau "ac unrhyw ddull adnabod, enw neu god penodol" rhodder "y marc adnabod unigryw a bennir yn unol â Rheoliad 65/2004, ac unrhyw enw neu god arall".

(1) 2018 p. 16.

(2) O.S. 2002/3188 (Cy. 304), a ddiwygiwyd gan O.S. 2005/1913 (Cy. 156), 2011/1043, 2013/755 (Cy. 90), 2018/1216 (Cy. 249).

RHAN 3

Diwygiadau i is-ddeddfwriaeth mewn perthynas
ag ymadael â'r Undeb Ewropeaidd

Diwygiadau i Reoliadau Organeddau a Addaswyd yn Enetig (Eu Gollwng yn Fwriadol) (Cymru) 2002

3.—(1) Mae Rheoliadau Organeddau a Addaswyd
yn Enetig (Eu Gollwng yn Fwriadol) (Cymru) 2002
wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 2(1)—

(a) yn lle'r diffiniad o “cynnyrch wedi'i
gymeradwyo” (“*approved product*”)
rhodder—

“ystyr “cynnyrch wedi'i gymeradwyo”
 (“*approved product*”) yw cynnyrch y
caniatawyd iddo gael ei farchnata yng
Nghymru drwy—

(a) caniatâd a roddwyd gan Weinidogion
Cymru o dan adran 111(1) o'r Ddeddf,
neu

(b) awdurdodiad o dan y Rheoliad Bwyd a
Bwyd Anifeiliaid;”;

(b) hepgorer y diffiniad “y Comisiwn” (“*the
Commission*”);

(c) hepgorer y diffiniad o “y Gyfarwyddeb
Defnydd Amgaeëdig” (“*the Contained Use
Directive*”);

(d) yn lle'r diffiniad o “y Gyfarwyddeb
Gollyngiadau Bwriadol” (“*the Deliberate
Release Directive*”) rhodder—

“ystyr “y Gyfarwyddeb Gollyngiadau
Bwriadol” (“*the Deliberate Release
Directive*”) yw Cyfarwyddeb y Cyngor
2001/18/EC ar ollwng yn fwriadol i'r
amgylchedd organeddau a addaswyd yn
enetig(1) fel yr oedd yn gymwys yn union
cyn y diwrnod ymadael;”;

(e) yn y diffiniad o “Penderfyniad Cyntaf y
Weithdrefn wedi'i Symleiddio (planhigion
cnwd)” (“*the First Simplified Procedure
(crop plants) Decision*”), mewnosoder ar y
diwedd “fel y mae'n gymwys yn union cyn y
diwrnod ymadael”;

(f) yn y man priodol mewnosoder—

“ystyr “cynnyrch wedi'i gymeradwyo cyn y
diwrnod ymadael” (“*pre-exit approved
product*”) yw cynnyrch y caniatawyd, yn

(1) OJ Rhif L 106, 17.4.2001, t. 1 fel y'i diwygiwyd ddiwethaf
gan Gyfarwyddeb y Comisiwn (EU) 2018/350 (OJ Rhif L
67, 9.3.2018, t. 30).

union cyn y diwrnod ymadael, iddo gael ei farchnata drwy ganiatâd a roddwyd yn unol ag Erthygl 15(3), 17(6) neu 18(2) o'r Gyfarwyddeb Gollyngiadau Bwriadol neu Erthygl 13(2) neu (4) o Gyfarwyddeb 1990;”.

(3) Yn rheoliad 10, hepgorer y geiriau o “gollwng yn unol” hyd at “neu lle mae”.

(4) Yn rheoliad 12(1)(ch)—

- (a) hepgorer y geiriau o “ar y ffurf” hyd at “Bwriadol”;
- (b) ar y diwedd, mewnosoder “, ar y ffurf berthnasol a nodir yn yr Atodiad i Benderfyniad y Cyngor 2002/813/EC”.

(5) Yn rheoliad 16—

- (a) mae'r testun presennol yn dod yn baragraff (1);
- (b) yn y paragraff (1) newydd, ar ôl is-baragraff (a) mewnosoder—

“(aa) lle mae cynnyrch wedi'i gymeradwyo cyn y diwrnod ymadael yn cael ei farchnata yn ystod y cyfnod perthnasol at ddefnydd y mae wedi'i gymeradwyo ar ei gyfer cyn y diwrnod ymadael ac yn unol â'r cyfyngiadau a'r amodau yr oedd defnydd o'r cynnyrch hwnnw yn ddarostyngedig iddynt cyn y diwrnod ymadael;”;

(c) yn lle is-baragraffau (b) a (c), rhodder—

“(b) lle mae organeddau a addaswyd yn enetig wedi'u rhoi ar gael ar gyfer gweithgareddau a reoleiddir o dan Reoliadau Organeddau a Addaswyd yn Enetig (Defnydd Amgaeëdig) 2014(1);”;

(d) yn is-baragraff (ch) ar y diwedd mewnosoder “neu”;

(e) yn lle is-baragraff (d), rhodder—

“(d) lle mae organedd a addaswyd yn enetig a gynhwysir mewn cynnyrch meddygol a awdurdodir o dan Reoliadau Meddyginiaethau Dynol 2012(2) neu Reoliadau Meddyginiaethau Milfeddygol 2013(3) yn cael ei farchnata.”;

(1) O.S. 2014/1663

(2) O.S. 201/1916, a ddiwygiwyd gan O.S. 2013/235, 2013/1855, 2013/2593, 2014/323, 2014/324, 2014/490, 2014/1878, 2015/178, 2015/259, 2015/354, 2015/903, 2015/1503, 2015/1862, 2015/1879, 2016/186, 2016/190, 2016/696, 2017/715, 2017/1322, 2018/199, 2018/378.

(3) O.S. 2013/2033, a ddiwygiwyd gan O.S. 2014/599, 2018/761.

- (f) hepgorer is-baragraff (e);
- (g) ar ôl y paragraff (1) newydd mewnosoder—
 “(2) At ddibenion paragraff (1)(aa), ystyr “y cyfnod perthnasol” mewn perthynas â chynnyrch wedi'i gymeradwyo cyn y diwrnod ymadael, yw'r cyfnod sy'n dechrau â'r diwrnod ymadael, ac sy'n dod i ben ar y diwrnod y mae'r caniatâd o dan sylw yn peidio â bod yn ddilys.”
- (6) Yn rheoliad 17(2)—
- (a) yn is-baragraff (b)—
- (i) yn lle “Undeb Ewropeaidd” rhodder “Deyrnas Unedig”;
- (ii) hepgorer y geiriau o “neu i awdurdod cymwys arall” hyd at y diwedd;
- (b) yn is-baragraff (e), ar ôl “Bwriadol” mewnosoder “, fel y'i darllenir gyda'r nodiadau cyfarwyddyd a nodir ym Mhenderfyniad y Comisiwn 2002/811/EC,”;
- (c) yn is-baragraff (g) yn lle'r geiriau o “a sefydlwyd gan y Comisiwn” hyd at y diwedd, rhodder “a nodir yn yr Atodiad i Benderfyniad y Comisiwn 2002/812/EC”.
- (7) Yn rheoliad 21—
- (a) hepgorer is-baragraff (c);
- (b) yn is-baragraff (dd) hepgorer y geiriau o “ac unrhyw sylwadau a wnaed” hyd at y diwedd.
- (8) Yn rheoliad 22—
- (a) ym mharagraff (3) hepgorer “a sicrhau bod ei benderfyniad yn cael ei gyfathrebu i'r Comisiwn”;
- (b) yn lle paragraff (6) rhodder—
 “(6) Rhaid i'r wybodaeth a gyflwynir yn unol â pharagraff (5) gael ei darparu ar y ffurf a nodir yn yr Atodiad i Benderfyniad y Comisiwn 2003/701/EC.”.
- (9) Yn rheoliad 24—
- (a) ym mharagraff (1)—
- (i) yn lle is-baragraff (b) rhodder—
 “(b) gwahodd unrhyw berson, drwy gyfrwng cais a osodir ar y gofrestr, i gyflwyno sylwadau i Weinidogion Cymru mewn perthynas ag unrhyw risgiau o beri niwed i'r amgylchedd drwy'r marchnata, cyn diwedd cyfnod sydd i'w bennu nad yw'n llai na 60 diwrnod o'r dyddiad y daeth y cais i law Gweinidogion Cymru;”;
- (ii) yn lle is-baragraff (d), rhodder—
 “(d) ystyried unrhyw sylwadau sy'n ymwneud â'r risgiau o beri niwed i'r

amgylchedd drwy'r marchnata, a wnaed i Weinidogion Cymru cyn diwedd y cyfnod a bennir yn unol â pharagraff (b);”;

- (b) hepgorer paragraff (2);
 - (c) ym mharagraff (3), yn lle “mharagraffau (1) a (2)” rhodder “mharagraff (1)”;
 - (d) hepgorer paragraff (4).
- (10) Yn rheoliad 25—
- (a) yn lle paragraffau (1) i (4) rhodder—

“(1) Ni chaiff Gweinidogion Cymru gytuno ar gais am ganiatâd i farchnata organeddau a addaswyd yn enetig o dan adran 111(1) o'r Ddeddf fel y mae'n ymwneud â diogelu iechyd dynol heb gytundeb yr Awdurdod Gweithredol Iechyd a Diogelwch.

(2) Ni chaiff Gweinidogion Cymru gytuno ar gais am ganiatâd i farchnata organeddau a addaswyd yn enetig, neu ei wrthod, cyn diwedd y cyfnod a bennir ar gyfer sylwadau yn unol â rheoliad 24(1)(b) a (d) uchod ac, os ceir unrhyw sylwadau y cyfeirir atynt yn rheoliad 24(1)(d) o fewn y cyfnod hwnnw, cyn bod Gweinidogion Cymru wedi ystyried y sylwadau hynny.

(3) Rhaid i Weinidogion Cymru roi gwybod i'r ceisydd am benderfyniad ar gais am ganiatâd i farchnata organeddau a addaswyd yn enetig cyn diwedd cyfnod o 90 o ddiwrnodau sy'n dechrau â'r diwrnod y daeth y cais i law a rhaid iddynt gynnwys, pan roddir gwybod am unrhyw wrthodiad i roi caniatâd, y rheswm dros y gwrthodiad hwnnw.

(4) Nid yw'r cyfnod y cyfeirir ato ym mharagraff (3) yn cynnwys—

- (a) unrhyw gyfnod sy'n dechrau â'r diwrnod y mae Gweinidogion Cymru yn rhoi hysbysiad ysgrifenedig o dan adran 111(6) o'r Ddeddf bod rhagor o wybodaeth yn ofynnol mewn cysylltiad â'r cais, ac sy'n dod i ben ar y diwrnod y mae'r wybodaeth honno yn dod i law Gweinidogion Cymru, neu
- (b) unrhyw gyfnod pan fo Gweinidogion Cymru yn ystyried sylwadau a gyflwynwyd gan unrhyw bersonau yn unol â rheoliad 24(1)(b), ar yr amod nad yw ystyriaeth o'r fath yn estyn y cyfnod o 90 o ddiwrnodau y cyfeirir ato ym mharagraff (3) am fwy na 30 o ddiwrnodau.”;

- (b) ym mharagraff (5)—

- (i) hepgorer “o dan ddarpariaethau perthnasol yr UE”;
- (ii) yn lle'r geiriau o “gatalog cenedlaethol swyddogol” hyd at y diwedd, rhodder “Restr Genedlaethol yn unol â rheoliad (3) o Reoliadau Hadau (Rhestrau Cenedlaethol o Amrywogaethau) 2001(1)”;

(c) ym mharagraff (6), yn lle'r geiriau o “gofrestr genedlaethol swyddogol” hyd at y diwedd rhodder “y Gofrestr Genedlaethol yn unol â rheoliadau 6 a 7 o Reoliadau Deunyddiau Atgenhedlol y Goedwig (Prydain Fawr) 2002(2)”.

(11) Yn rheoliad 26 hepgorer paragraffau (1)(ch) a (2).

(12) Yn rheoliad 27—

(a) yn lle paragraff (1) rhodder—

“(1) Ni chaiff Gweinidogion Cymru gytuno ar gais i adnewyddu caniatâd o dan adran 111(1) o'r Ddeddf i farchnata organeddau a addaswyd yn enetig fel y mae'n ymwneud â diogelu iechyd dynol heb gytundeb yr Awdurdod Gweithredol Iechyd a Diogelwch.”;

(b) yn lle paragraff (2) rhodder—

“(2) Rhaid i Weinidogion Cymru roi gwybod i'r ceisydd am benderfyniad ar gais i adnewyddu caniatâd i farchnata organeddau a addaswyd yn enetig cyn gynted â phosibl a rhaid iddynt gynnwys, mewn unrhyw wrthodiad i roi caniatâd, y rheswm dros y penderfyniad hwnnw.”.

(13) Yn rheoliad 29(dd) yn lle'r geiriau o “i'r Comisiwn” hyd at “Aelod-wladwriaethau” rhodder “ar y ffurf berthnasol a nodir yn yr Atodiadau i Benderfyniad y Comisiwn 2009/770/EC”.

(14) Yn lle rheoliad 32 rhodder—

“32 Amrywio neu ddirymu caniatâd i farchnata

(1) Ni chaiff Gweinidogion Cymru ond amrywio neu ddirymu caniatâd i farchnata organeddau a addaswyd yn enetig o dan adran 111(10) o'r Ddeddf onid ydynt wedi cael cytundeb deiliad y caniatâd pan fo gwybodaeth newydd wedi dod ar gael y mae Gweinidogion

(1) O.S. 2001/3510, a ddiwygiwyd gan O.S. 2004/2949, 2011/464, 2018/942: mae diwygiadau eraill ond nid yw'r un ohonynt yn berthnasol.

(2) O.S. 2002/3026, y gwnaed diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.

Cymru yn ystyried y byddai'n effeithio ar yr asesiad o'r risg o beri niwed i'r amgylchedd drwy ollwng yr organeddau.

(2) Ni chaiff Gweinidogion Cymru ddirymu neu amrywio caniatâd i farchnata organeddau a addaswyd yn enetig o dan adran 111(10) o'r Ddeddf fel y mae'n ymwneud â diogelu iechyd dynol heb gytundeb yr Awdurdod Gweithredol Iechyd a Diogelwch."

(15) Yn rheoliad 33—

- (a) ym mharagraff (1), yn lle "cynnyrch a gymeradwywyd" rhodder "marchnata cynnyrch wedi'i gymeradwyo cyn y diwrnod ymadael";
- (b) hepgorer paragraffau (3) i (5).

(16) Yn rheoliad 35—

- (a) ym mharagraff (3)—
 - (i) yn is-baragraff (f), ar ôl "ollwng" mewnosoder ", neu farchnata,";
 - (ii) ar ôl is-baragraff (f) mewnosoder—
 - “(ff)y crynodeb o'r wybodaeth a gynhwyswyd yn y cais sy'n ofynnol gan reoliad 12(1)(ch) neu, yn ôl y digwydd, o'r cais sy'n ofynnol gan reoliad 17(2)(g).”;

(b) ar ôl paragraff (3) mewnosoder—

“(3A) Yn ddarostyngedig i baragraff (4) ac i'r ffaith nad yw'r wybodaeth o dan sylw yn gyfrinachol, mewn perthynas â chais am ganiatâd o dan adran 111(1) o'r Ddeddf i farchnata organeddau a addaswyd yn enetig—

- (a) enw a chyfeiriad y person sy'n gyfrifol am y marchnata, boed y gweithgynhyrhydd, y mewnoforiwr neu'r dosbarthwr;
- (b) enw masnachol arfaethedig y cynnyrch;
- (c) enwau'r organeddau a addaswyd yn enetig sydd yn y cynnyrch, gan gynnwys enwau gwyddonol a chyffredin, pan fo hynny'n briodol, yr organeddau rhieniol, yr organeddau derbyn a'r organeddau rhoi;
- (ch) marciau adnabod unigryw yr organeddau a addaswyd yn enetig sydd yn y cynnyrch;
- (d) cod cyfeirnod ar gyfer y cais a neilltuwyd gan Weinidogion Cymru;

(dd) yr wybodaeth a gynhwysir yn y cais fel a bennir ym mharagraffau 3 a 7 o Atodlen 3;

(e) gwybodaeth am samplau o'r organeddau a addaswyd yn enetig sydd wedi eu storio, gan gynnwys y math o ddeunydd, ei nodweddion genetig a'i sefydlogrwydd, swm y deunydd mewn storfa a'r amodau storio priodol a'r oed silff.”;

(c) ym mharagraff (7), ar ôl “roddwyd” mewnosoder “cyn y diwrnod ymadael”;

(d) ym mharagraff (9) yn lle “gan y Comisiwn” rhodder “cyn y diwrnod ymadael gan y Comisiwn Ewropeaidd”.

(17) Yn rheoliad 36 hepgorer paragraffau (8) a (10).

(18) Yn Atodlen 3—

(a) ym mharagraff (2) hepgorer “yn yr Undeb Ewropeaidd”;

(b) ym mharagraff 5, hepgorer “o fewn yr Undeb Ewropeaidd”;

(c) ym mharagraff 7, yn y frawddeg gyntaf hepgorer y geiriau o “at ddibenion” hyd at “addasiadau mewn organeddau.”;

(d) ym mharagraff 8, hepgorer “sydd wedi'i sefydlu yn yr Undeb Ewropeaidd”;

(e) ym mharagraff 14, yn lle “yn yr Undeb Ewropeaidd” rhodder “yng Nghymru”.

(19) Yn Atodlen 4 ym mharagraff 6, hepgorer y geiriau o “, ac a fwriedir gofyn” hyd at y diwedd.

Rheoliadau Organeddau a Addaswyd yn Enetig (Eu Symud ar draws Ffin) (Cymru) 2005

4.—(1) Mae Rheoliadau Organeddau a Addaswyd yn Enetig (Eu Symud ar draws Ffin) (Cymru) 2005(1) wedi eu diwygio fel a ganlyn.

(2) Yn yr Atodlen—

(a) yn Rhan 1, yn nhestun yr ail golofn yn rhes “Erthygl 10(3)”, yn lle'r geiriau o “heb fod cytundeb” hyd at y diwedd rhodder “na chaniateir eu marchnata yn y Deyrnas Unedig, neu heb i awdurdod cymwys y wlad sy'n mewnforio gytuno'n benodol i awdurdodi'r mewnforio.”;

(b) yn Rhan 2, yn nhestun yr ail golofn yn rhes “Erthygl 6”, yn yr ail is-baragraff, hepgorer “ac i'r Comisiwn”.

(1) O.S. 2005/1912 (Cy. 155)

Lesley Griffiths

Gweinidog dros yr Amgylchedd, Ynni a Materion

Gwledig, un o Weinidogion Cymru

26 Chwefror 2019

**Explanatory Memorandum to the Genetically Modified Organisms
(Deliberate Release and Transboundary Movement) (Miscellaneous
Amendments) (Wales) (EU Exit) Regulations 2019**

This Explanatory Memorandum has been prepared by the Plant Health and Environment Protection Branch within the Economy, Skills and Natural Resources Department and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister/Deputy Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Genetically Modified Organisms (Deliberate Release and Transboundary Movement) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019.

I have made the statements required by the European Union (Withdrawal) Act 2018. These statements can be found in Part 2 of the annex to this memorandum.

Lesley Griffiths
Minister for Environment, Energy and Rural Affairs
27 February 2019

PART 1

1. Description

- 1.1 This instrument makes minor and technical changes to ensure the above legislation is operable in a UK-only context.
- 1.2 This instrument comes into force on “exit day”, which section 20(1) of the European Union (Withdrawal) Act 2018 defines as 29 March 2019 at 11.00pm.
- 1.3 The instrument makes no policy changes to the way the existing legislation operates. All changes make only the technical drafting fixes required to maintain continuity of approach after EU-exit.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

- 2.1 This instrument is being made using the powers conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018 (c.16) (the “2018 Act”) in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.
- 2.2 It also (in exercise of the powers conferred by the European Communities Act 1972 (c.68)) makes amendments to the Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002 to include references to EEA states and Switzerland where appropriate.
- 2.3 As set out in the Ministerial statement in Annex 2 of this Explanatory Memorandum it is proposed that the instrument be subject to the negative procedure. The instrument makes minor and technical changes and as such should be subject to annulment.
- 2.4 The CLA Committee considered a draft of these regulations on 18 February 2019, and agreed that the negative procedure is appropriate for these regulations. A copy of the published CLA report can be accessed via the following link:
<http://www.assembly.wales/laid%20documents/cr-ld12192/cr-ld12192-e.pdf>

3. Legislative background

- 3.1 This instrument is being made using the power in Part 1 of Schedule 2 to European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the European Union. In accordance with the requirements of that Act the Minister for Environment, Energy and Rural Affairs, Lesley Griffiths has made the

relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.

4. Purpose and intended effect of the legislation

What did any relevant EU law do before exit day?

4.1 This instrument amends our existing implementation of Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of GMOs and repealing Council Directive 90/220/EEC (“the Deliberate Release Directive”) which specifies a framework of controls on the release of GMOs. Proposed releases require prior authorisation and this is subject to the GMO in question passing a science-based assessment of its potential impact on human health and the environment. Decisions on whether to approve GMO trial releases are delegated to Member States and regions within Member States. In the UK GMO trial decisions are devolved. Decisions on the release of GMOs for commercial marketing are taken collectively at EU level. In the specific case of GMO seeds for cultivation, the Directive provides discretionary provisions which allow Member States, or devolved Governments with Member States, to block the cultivation of EU-approved seeds in their territory.

4.2 The Directive is implemented in Wales by:

- The Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002

This instrument also amends our domestic implementation of Regulation (EC) No. 1946/2003 of the European Parliament and of the Council of 15 July 2003 on transboundary movements of genetically modified organisms, as implemented in Wales by the Genetically Modified Organisms (Transboundary Movements) (Wales) Regulations 2005, which regulates the export of GMOs from the EU to third (non-EU) countries. The key requirement is for the planned first export of a GMO intended for environmental release to be notified to the receiving country to obtain its approval before shipment. The regulation implements requirements of the Cartagena Biosafety Protocol to the United Nations Convention on Biological Diversity (to which the EU and UK are each a Party).

Why is it being changed?

4.3 This instrument applies to policy areas which are a transferred matter for Welsh Ministers under the Government of Wales Act 1998. No change is being made to policy. This instrument provides the continued ability to ensure environmental protection in the UK when it leaves the EU.

4.4 The amendments can be broadly categorised as:

- Removing references to provisions being ‘in accordance with EU legislation’ and other references to EU law or obligations, and instead referring to retained EU law or obligations;
- Copying out definitions within the regulations themselves, instead of referring to definitions that sit within EU Directives, or specifying that references should be to specific ‘versions’ of pieces of EU legislation;
- Updating references to other sets of legislation that will be changed following EU exit or where an update was required anyway due to the reference being to an out of date piece of legislation;
- Changing references from ‘Member State level’ to ‘any law of any part of the UK’; and
- Modifying the provision which requires Welsh Ministers to notify ‘other EU Member States’ about transboundary environmental impacts to reflect Wales’ new status outside of the EU.

What will it now do?

4.5 The instrument will ensure that the legislation described above will operate effectively in the UK after we leave the EU. Existing processes for reaching decisions will be maintained. The release or marketing of genetically modified organisms will continue to need prior authorisation: approval to release, or market, a genetically modified organism will only be granted if a science-based assessment indicates that the safety of human health or the environment will not be compromised. Wales intends to follow England, Northern Ireland and Scotland’s approach on the release of GMO’s.

5. Consultation

5.1 No formal consultations were carried out in respect of the instrument as its purpose is to resolve operability issues in order to preserve and protect the existing policy regime- it will not introduce any new policy.

6. Regulatory Impact Assessment (RIA)

6.1 There is no, or no significant, impact on business, charities or voluntary bodies.

6.2 There is no, or no significant, impact on the public sector.

6.3 The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations. The instrument simply maintains existing laws in a way that works for Wales once the UK leaves the EU. No substantive policy changes will be brought in through this legislation.

Annex 1

Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required of the Welsh Ministers under the 2018 Act. The table also sets out those statements that may be required of Ministers of the Crown under the 2018 Act, which the Welsh Ministers have committed to also provide when required. The required statements can be found in Part 2 of this annex.

| Statement | Where the requirement sits | To whom it applies | What it requires |
|-----------------|---|--|---|
| Sifting | Paragraphs 3(7) and 4(3), Schedule 7 <i>Paragraph 3(7) (anticipated to be a requirement on Welsh Ministers in Standing Orders)</i> | The Welsh Ministers exercising powers in Part 1 of Schedule 2 to make a Negative SI Paragraph 3(7) applies to Ministers of the Crown, but Welsh Ministers have committed to make the same statement | A statement to explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation of the CLA Committee (as sifting committee) |
| Appropriateness | Sub-paragraph (2) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement that the SI does no more than is appropriate. |
| Good Reasons | Sub-paragraph (3) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. | A statement to explain the good reasons for making the instrument and that what is being done is a reasonable course of action. |

| | | | |
|-------------------|--|--|--|
| | | Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | |
| Equalities | Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | <p>A statement to explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them.</p> <p>A statement that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.</p> |
| Explanations | Sub-paragraph (6) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement to explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g. whether minor or technical changes only are intended to the EU retained law. |
| Criminal offences | Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement setting out the 'good reasons' for creating a criminal offence, and the penalty attached. |
| Sub-delegation | Paragraph 30, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved | A statement to explain why it is appropriate to create such a sub-delegated power. |

| | | | |
|---------|--|---|--|
| | | <p>Authority.</p> <p>Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 or paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority</p> | |
| Urgency | Sub-paragraph (2) and (8) of paragraph 7, Schedule 7 | Welsh Ministers exercising powers in Part 1 of Schedule 2 but using the urgent procedure in paragraph 7 of Schedule 7 | A statement that the Welsh Ministers are of the opinion that it is necessary to make the SI using the urgent procedure and the reasons for that opinion. |

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

1. Sifting statement(s)

The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Genetically Modified Organisms (Deliberate Release and Transboundary Movement) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 should be subject to annulment in pursuance of a resolution of the National Assembly for Wales (i.e. the negative procedure)”. This is the case because the changes being made are technical in nature and make no substantive changes to how the Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002 and the Genetically Modified Organisms (Transboundary Movements) (Wales) Regulations 2005 operate.

2. Appropriateness statement

The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Genetically Modified Organisms (Deliberate Release and Transboundary Movements) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 does no more than is appropriate”. This is the case because all changes being made are solely in order to address deficiencies arising from EU Exit”.

3. Good reasons

The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action”. This is because the provisions ensure that protections provided by The Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002 and The Genetically Modified Organisms (Transboundary Movements) (Wales) Regulations 2005 continue to be operable after the UK leaves the European Union.

4. Equalities

- 4.1 The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement(s):

“The instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts.

- 4.2 The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the instrument, I, Lesley Griffiths, have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010”.

- 4.3 Little or no impact on equalities is expected.

5. Explanations

- 5.1 The explanations statement has been made in paragraph 4 (Purpose & intended effect of the legislation) of the main body of this explanatory memorandum.

6. Criminal offences

Not applicable/required.

7. Legislative sub-delegation

Not applicable/required.

8. Urgency

Not applicable/required.

SL(5)364 – The Waste (Wales) (Miscellaneous Amendment) (EU Exit) Regulations 2019

Background and Purpose

This instrument makes amendments using powers under the European Union (Withdrawal) Act 2018 (except part 2 – see below) to the following legislation:

- The Waste (Wales) Measure 2010
- The Landfill Allowance Scheme (Wales) Regulations 2004
- The Hazardous Waste (Wales) Regulations 2005
- The Recycling Preparation for Re-use and Composting Targets (Monitoring and Penalties) (Wales) Regulations 2011

The amendments are to ensure that the statute book remains functional following the UK's exit from the EU and will address deficiencies in Welsh domestic legislation arising from EU Exit.

Part 2 of the Instrument is made under section 2(2) of the European Communities Act 1972 and corrects out of date references to European law and domestic legislation prior to, and in readiness for the UK's exit from the EU. This is required because out of date references to legislation are not necessarily interpreted as references to the correct (updated) legislation and there is therefore a risk that the statute book would not work effectively and inaccessible post-Brexit.

Procedure

Negative.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

One point is identified for reporting under Standing Order 21.3 in respect of this instrument.

1. Standing Order 21.3(ii) - that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly

A draft of these Regulations was laid before the Assembly for sifting in accordance with paragraph 4 of Schedule 7 to the European Union (Withdrawal) Act 2018. The Committee agreed that the negative procedure was the appropriate procedure for these Regulations.

Implications arising from exiting the European Union

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.



Government Response

No government response is required.

Legal Advisers

Constitutional and Legislative Affairs Committee

13 March 2019



OFFERYNNAU STATUDOL
CYMRU

2019 Rhif 414 (Cy. 96)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

**DIOGELU'R AMGYLCHEDD,
CYMRU**

GWASTRAFF, CYMRU

**Rheoliadau Gwastraff (Cymru)
(Diwygiadau Amrywiol) (Ymadael
â'r UE) 2019**

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn (ac eithrio Rhan 2) wedi eu gwneud drwy arfer y pwerau ym mharagraff 1(1) o Atodlen 2 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 (p.16) er mwyn ymdrin ag unrhyw fethiant yng nghyfraith yr UE a ddargedwir i weithredu'n effeithiol a diffygion eraill yng nghyfraith UE a ddargedwir sy'n deillio o ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd.

Mae'r Rheoliadau hyn yn gwneud diwygiadau i ddeddfwriaeth ym maes gwastraff. Mae Rhan 3 yn diwygio deddfwriaeth sylfaenol ac mae Rhan 4 yn diwygio is-ddeddfwriaeth.

Mae Rhan 2 o'r Rheoliadau hyn wedi ei gwneud drwy arfer y pwerau yn adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972 (p. 68), ac yn diweddar cyfeiriadau at Gyfarwyddeb 2008/98/EC Senedd Ewrop a'r Cyngor ar wastraff (OJ Rhif L 312, 22.11.2008, t 3) a Chyfarwyddeb 1999/31/EC ar dirlenwi gwastraff (OJ Rhif L 182, 16.07.1999, t 1).

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, ystyriwyd nad oedd yn angenrheidiol cynnal Asesiad Effaith Rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn.

OFFERYNNAU STATUDOL
CYMRU

2019 Rhif 414 (Cy. 96)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

**DIOGELU'R AMGYLCHEDD,
CYMRU**

GWASTRAFF, CYMRU

Rheoliadau Gwastraff (Cymru)
(Diwygiadau Amrywiol) (Ymadael
â'r UE) 2019

Gofynion sifftio wedi eu bodloni 18 Chwefror 2019

Gwnaed 28 Chwefror 2019

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru 1 Mawrth 2019*

Yn dod i rym yn unol â rheoliad 1(2)

Mae Gweinidogion Cymru'n gwneud y Rheoliadau a ganlyn drwy arfer y pwerau a roddir gan—

- (a) mewn perthynas â Rhan 1, y pwerau a grybwyllir ym mharagraffau (b) ac (c);
- (b) mewn perthynas â Rhan 2, adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972(1);
- (c) mewn perthynas â gweddill y Rheoliadau, paragraff 1(1) o Atodlen 2 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018(2).

(1) 1972 p. 68. Diwygiwyd adran 2(2) gan Ddeddf Diwygio Deddfwriaethol a Rheoleiddiol 2006 (p. 51), adran 27(1)(a) a Deddf yr Undeb Ewropeaidd (Diwygio) 2008 (p. 7), yr Atodlen, Rhan 1. Mae wedi ei diddymu yn rhagolygol gan Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 (p. 16), adran 1 o'r diwrnod ymadael (gweler adran 20 o'r Ddeddf honno).

(2) 2018 p.16.

Mae Gweinidogion Cymru wedi eu dynodi (1) at ddibenion adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972 o ran—

- (d) mesurau sy'n ymwneud ag atal, lleihau a dileu llygredd a achosir gan wastraff a rheoli pecynnu a gwastraff pecynnu(2);
- (e) atal, lleihau a rheoli gwastraff(3).

Mae gofynion paragraff 4(2) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 (yn ymwneud â'r weithdrefn graffu briodol yng Nghynulliad Cenedlaethol Cymru ar gyfer y Rheoliadau hyn) wedi eu bodloni.

RHAN 1

Rhagarweiniol

Enwi a chychwyn

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Gwastraff (Cymru) (Diwygiadau Amrywiol) (Ymadael â'r UE) 2019.

(2) Deuant i rym fel a ganlyn—

- (a) o ran y Rhan hon a Rhan 2, 21 diwrnod ar ôl y diwrnod y maent wedi eu gosodwyd;
- (b) o ran y gweddill, ar y diwrnod ymadael.

RHAN 2

Diwygio cyfeiriadau sydd wedi dyddio

Mesur Gwastraff (Cymru) 2010

2.—(1) Mae Mesur Gwastraff (Cymru) 2010(4) wedi ei ddiwygio fel a ganlyn.

(2) Yn adran 9(3), ar y diwedd mewnosoder “, fel y'i diwygiwyd ddiwethaf gan Gyfarwyddeb y Cyngor 2011/97/EU(5)”.

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- (1) Yn rhinwedd adran 59(2) o Ddeddf Llywodraeth Cymru 2006, caiff Gweinidogion Cymru arfer y pŵer a roddir gan adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972 o ran unrhyw fater, neu at unrhyw ddiben, os ydynt wedi eu dynodi o ran y mater hwnnw neu at y diben hwnnw.
 - (2) O.S. 2005/850, y ceir diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn. Yn rhinwedd paragraff 28(1) o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006, mae O.S. 2005/850 yn cael effaith fe pe bai wedi ei wneud o dan adran 59(1) o'r Ddeddf honno.
 - (3) O.S.2010/1552.
 - (4) 2010 mccc 8, y ceir diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.
 - (5) OJ Rhif L 328, 10.12.2011, t 49.

(3) Yn adran 17(2), ar y diwedd mewnosoder “, fel y’i diwygiwyd ddiwethaf gan Reoliad y Cyngor (EU) 2017/997(1)”.

Rheoliadau’r Cynllun Lwfansau Tirlenwi (Cymru) 2004

3.—(1) Mae Rheoliadau’r Cynllun Lwfansau Tirlenwi (Cymru) 2004(2) wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 2(1), yn y diffiniad o “cyfleuster gwastraff” (“*waste facility*”) yn lle “fel y’i diwygiwyd ddiwethaf gan Gyfarwyddeb y Comisiwn (EU) 2015/1127” rhodder “fel y’i diwygiwyd ddiwethaf gan Reoliad y Cyngor (EU) 2017/997”.

(3) Yn rheoliad 7(10), ar y diwedd mewnosoder “fel y’i diwygiwyd ddiwethaf gan Reoliad y Cyngor 2011/97/EU”.

Rheoliadau Gwastraff Peryglus (Cymru) 2005

4.—(1) Mae Rheoliadau Gwastraff Peryglus (Cymru) 2005(3) wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 47(5B), ar ôl “gwastraff,” mewnosoder “fel y’i diwygiwyd ddiwethaf gan Gyfarwyddeb y Cyngor 2011/97/EU”.

(3) Yn rheoliad 48(6B), ar ôl “gwastraff,” mewnosoder “fel y’i diwygiwyd ddiwethaf gan Gyfarwyddeb y Cyngor 2011/97/EU”.

Rheoliadau Targedau Ailgylchu, Paratoi i Ailddefnyddio a Chompostio (Monitro a Chosbau) (Cymru) 2011

5. Yn rheoliad 2(1) o Reoliadau Targedau Ailgylchu, Paratoi i Ailddefnyddio a Chompostio (Monitro a Chosbau) (Cymru) 2011(4) yn y diffiniad o “y Gyfarwyddeb Fframwaith Gwastraff” (“*the Waste Framework Directive*”) yn lle “fel y’i diwygiwyd ddiwethaf gan Gyfarwyddeb y Cyngor (EU) 2015/1127” rhodder “fel y’i diwygiwyd ddiwethaf gan Reoliad y Cyngor (EU) 2017/997”.

(1) OJ Rhif L 150, 14.6.2017, t 1.
 (2) O.S. 2004/1490 (Cy. 155), fel y’i diwygiwyd gan O.S. 2011/971 (Cy. 141); ceir offerynnau diwygio eraill ond nid yw’r un yn berthnasol i’r Rheoliadau hyn.
 (3) O.S. 2005/1806 (Cy. 138), fel y’i diwygiwyd gan O.S. 2011/971 (Cy. 141) ac O.S. 2018/721 (Cy. 140); ceir offerynnau diwygio eraill ond nid yw’r un yn berthnasol i’r Rheoliadau hyn.
 (4) O.S. 2011/1014 (Cy. 152), a ddiwygiwyd gan O.S. 2016/691 (Cy. 189); ceir offerynnau diwygio eraill ond nid yw’r un yn berthnasol i’r Rheoliadau hyn.

RHAN 3

Diwygio deddfwriaeth sylfaenol

Mesur Gwastraff (Cymru) 2010

6.—(1) Mae Mesur Gwastraff (Cymru) 2010(1) wedi ei ddiwygio fel a ganlyn.

(2) Yn adran 9(3) (fel y'i diwygir gan reoliad 3(2)), ar y diwedd mewnosoder—

“, a'i darllen fel pe bai—

(a) yn Erthygl 2—

(i) y canlynol wedi ei roi yn lle pwynt (a)—

“(a) ‘waste’ has the meaning given by Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive;”;

(ii) y canlynol wedi ei roi yn lle pwynt (c)—

“(c) ‘hazardous waste’ has the meaning given in Article 3(2) of the Waste Framework Directive.”;

(b) yn Erthygl 3(2), “Without prejudice to existing Community legislation,” wedi ei hepgor.”.

(3) Yn adran 9A(3)—

(a) yn y diffiniad o “peiriant llosgi gwastraff” (“*waste incineration plant*”), yn lle “o'r Gyfarwyddeb honno” rhodder “o'r Gyfarwyddeb Allyriadau Diwydiannol”;

(b) yn y diffiniad o “peiriant cydlosgi gwastraff” (“*waste co-incineration plant*”) yn lle “o Gyfarwyddeb 2010/75/EU Senedd Ewrop a'r Cyngor ar allyriadau diwydiannol (atal a rheoli llygredd integredig) (Ail-lunio)” rhodder “o'r Gyfarwyddeb Allyriadau Diwydiannol”;

(c) ar ôl is-adran (3) mewnosoder—

“(4) Yn yr adran hon, ystyr “Cyfarwyddeb Allyriadau Diwydiannol” yw Cyfarwyddeb 2010/75/EU Senedd Ewrop a'r Cyngor ar allyriadau diwydiannol(2), gan ei darllen fel pe bai yn Erthygl 3—

(1) 2010 mccc 8. Mewnosodwyd adran 9A gan Ddeddf yr Amgylchedd (Cymru) 2016, adran 67.

(2) OJ Rhif L 334, 17.12.2010, t 17, fel y'i cywirwyd gan gorigendwm (OJ Rhif L 158, 19.6.2012, t 25).

(a) ym mhwynt (37), “the Waste Framework Directive, as read with Articles 5 and 6 of that Directive” wedi ei roi yn lle “Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste”;

(b) ym mhwynt (38), “the Waste Framework Directive” wedi ei roi yn lle “Directive 2008/98/EC”.

(5) Wrth ddarllen y Gyfarwyddeb Allyriadau Diwydiannol yn unol ag is-adran (4), mae i gyfeiriadau yn y Gyfarwyddeb honno at y “Gyfarwyddeb Fframwaith Gwastraff” (fel y’u mewnosodir gan is-adran (4)) yr ystyr a roddir gan adran 17(2) o’r mesur hwn.”.

(4) Yn adran 17—

(a) yn is-adran (2) (fel y’i diwygir gan reoliad 3(3)), ar y diwedd mewnosoder “, a chan ei ddarllen yn unol ag is-adrannau (3) i (8)”;

(b) ar ôl is-adran (2) mewnosoder—

“(3) Mae cyfeiriad at un neu fwy o Aelod-wladwriaethau mewn darpariaeth sy’n gosod rhwymedigaeth ar Aelod-wladwriaeth neu Aelod-wladwriaethau neu sy’n rhoi disgrisiwn i Aelod-wladwriaeth neu Aelod-wladwriaethau i’w ddarllen fel cyfeiriad at Weinidogion Cymru, Corff Adnoddau Naturiol Cymru neu awdurdod lleol a oedd, yn union cyn y diwrnod ymadael, yn gyfrifol am gydymffurfiaeth y Deyrnas Unedig â’r rhwymedigaeth honno neu’n cael arfer y disgrisiwn hwnnw o ran Cymru.

(4) Mae Erthygl 2 i’w darllen fe pe bai—

(a) ym mharagraff 2—

(i) yn y geiriau o flaen pwynt (a), “retained EU law” wedi ei roi yn lle “other Community legislation”;

(ii) ym mhwyntiau (b) a (c), “Regulation (EC) No 1069/2009” wedi ei roi yn lle “Regulation (EC) No 1774/2002”;

(iii) ym mhwynt (d), “the Mining Waste Directive (gweler adran 17A)” wedi ei roi yn lle’r geiriau o “Directive 2006/21/EC” hyd at y diwedd;

(b) ym mharagraff 3, y geiriau o “Without prejudice” hyd at “Community legislation,” wedi eu hepgor;

(c) paragraff 4 wedi ei hepgor.

(5) Mae Erthygl 5 i’w darllen fel pe bai paragraff 2 wedi ei hepgor.

(6) Mae Erthygl 6 i'w darllen fel pe bai—

- (a) paragraffau 1 i 3 wedi eu hepgor;
- (b) ym mharagraff 4—
 - (i) yn y frawddeg gyntaf, “Except where waste ceases to be waste in accordance with Council Regulation (EU) No 333/2011, Commission Regulation (EU) No 1179/2012 or Commission Regulation (EU) No 715/2013” wedi ei roi yn lle'r geiriau o “Where criteria” hyd at “paragraphs 1 and 2”;
 - (ii) yr ail frawddeg wedi ei hepgor.

(7) Mae Erthygl 7 i'w darllen fel pe bai—

- (a) ym mharagraff 1—
 - (i) y frawddeg gyntaf a'r ail frawddeg wedi eu hepgor;
 - (ii) yn y drydedd frawddeg, “shall, subject to paragraph 1A, be binding” wedi ei roi yn lle “shall be binding”;
- (b) ar ôl paragraff 1, mewnosoder—

“1A. Paragraph 1 is subject to—

- (a) a determination by the Welsh Ministers under regulation 8(1) of the Hazardous Waste (Wales) Regulations 2005(1) that a specific batch of waste is to be treated as hazardous waste;
- (b) a decision made by the Welsh Ministers under regulation 9(1) of the Hazardous Waste (Wales) Regulations 2005(2) that a specific batch of waste is to be treated as non-hazardous waste;
- (c) the treating of a specific batch of waste as hazardous or, as the case may be, non-hazardous, in accordance with regulations 8(2) or 9(2) of the Hazardous Waste (Wales) Regulations 2005(3);
- (d) regulations (if any) made by the Welsh Ministers under section 62A(2) of the Environmental Protection Act 1990 (lists of

(1) Diwygiwyd rheoliad 8(1) gan O.S. 2011/971 (Cy.141) ac O.S. 2015/1417 (Cy.141).

(2) Diwygiwyd rheoliad 9(1) gan O.S. 2011/971 (Cy.141) ac O.S. 2015/1417 (Cy.141).

(3) Diwygiwyd rheoliadau 8(2) a 9(2) gan O.S. 2015/1417 (Cy.141)

waste displaying hazardous properties)(1).”;

- (c) paragraffau 2, 3 a 5 wedi eu hepgor;
- (d) ar ôl paragraff 6 mewnosoder—

“6A. In this Article, the “list of waste” means the list established by Commission Decision 2000/532/EC.”;

- (e) paragraff 7 wedi ei hepgor.

(8) Mae Atodiad 3 i’w ddarllen fel pe bai, yng nghofnod HP 9, yn yr ail frawddeg, “in the Member States” wedi ei hepgor.”

- (5) Ar ôl adran 17 mewnosoder—

“Ystyr “y Gyfarwyddeb Gwastraff Mwyngloddio”

17A.—(1) Wrth ddarllen Erthygl 2 o’r Gyfarwyddeb Fframwaith Gwastraff yn unol ag adran 17(4), ystyr “y Gyfarwyddeb Gwastraff Mwyngloddio” (“*the Mining Waste Directive*”) (fel y’i mewnosodwyd gan baragraff (a)(iii) o adran 17(4)) yw Cyfarwyddeb 2006/21/EC Senedd Ewrop a’r Cyngor ar reoli gwastraff o ddiwydiannau echdynnu(2), gan ei darllen yn unol ag is-adrannau (2) i (5).

(2) Mae Erthygl 2 i’w darllen fe pe bai—

- (a) ym mharagraff 2(c), y cyfeiriad at Erthygl 11(3)(j) o Gyfarwyddeb 2000/60/EC(3) yn gyfeiriad at yr Erthygl honno o’i darllen yn unol ag is-adran (4);
- (b) paragraffau 3 a 4 wedi eu hepgor.

(3) Mae Erthygl 3(1) i’w darllen fel pe bai “Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive” wedi ei roi yn lle “Article 1(a) of Directive 75/442/EEC”.

(4) At ddibenion is-adran (2)(a), mae Erthygl 11(3)(j) o Gyfarwyddeb 2000/60/EC i’w darllen fel pe bai—

- (a) y cyfeiriad cyntaf at “Member States” yn gyfeiriad at Weinidogion Cymru neu Gorff Adnoddau Naturiol Cymru;

(1) 1990 p.43. Mewnosodwyd adran 62A gan O.S. 2005/894, a’i diwygio gan O.S. 2011/988, 2015/1360, 2018/721 (Cy.140) a 2018/942.

(2) OJ Rhif L 102, 11.4.2006, t 15, fel y’i diwygiwyd gan Reoliad (EC) Rhif 596/2009 Senedd Ewrop a’r Cyngor (OJ Rhif L 118, 18.7.2009, t 14).

(3) OJ Rhif L 327, 22.12.2000, t 1, fel y’i diwygiwyd ddiwethaf gan Gyfarwyddeb y Comisiwn 2014/101/EU (OJ Rhif L 311, 31.10.2014, t 32).

- (b) y canlynol wedi ei fewnosod ar y diwedd—

“and “environmental objectives”, in relation to a river basin district within the meaning of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017(1) has the same meaning as in those Regulations.

(5) Wrth ddarllen y Gyfarwyddeb Gwastraff Mwyngloddio yn unol ag is-adran (3), mae i'r cyfeiriad yn y Gyfarwyddeb honno at y “Waste Framework Directive” (fel y'i mewnosodwyd gan is-adran (3)) yr ystyr a roddir gan adran 17(2) o'r mesur hwn.”

RHAN 4

Diwygio is-ddeddfwriaeth

Rheoliadau'r Cynllun Lwfansau Tirlenwi (Cymru) 2004

7.—(1) Mae Rheoliadau'r Cynllun Lwfansau Tirlenwi (Cymru) 2004(2) wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 2(1)(3), yn y diffiniad o “cyfleuster gwastraff” (“*waste facility*”) (fel y'i hamnewidir gan reoliad 4(2)), yn lle “Gyfarwyddeb 2008/98/EC Senedd Ewrop a'r Cyngor ar wastraff fel y'i diwygiwyd ddiwethaf gan Reoliad y Cyngor (EU) 2017/997”, rhodder “Gyfarwyddeb Fframwaith Gwastraff”.

(3) Ar ôl y diffiniad o “gwastraff trefol a gasglwyd” (“*collected municipal waste*”) mewnosoder—

ystyr “y Gyfarwyddeb Fframwaith Gwastraff” (“*the Waste Framework Directive*”) yw Cyfarwyddeb 2008/98/EC Senedd Ewrop a'r Cyngor ar wastraff(4) fel y'i diwygiwyd ddiwethaf gan Reoliad y Cyngor (EU) 2017/997(5), gan ei darllen yn unol â pharagraffau (3) i (9).

(4) Ar ôl paragraff (2) mewnosoder—

“(3) Mae cyfeiriad at un neu fwy o Aelod-wladwriaethau mewn darpariaeth sy'n gosod rhwymedigaeth ar Aelod-wladwriaeth neu

(1) O.S. 2017/407, y ceir diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.
 (2) O.S. 2004/1490 (Cy.155).
 (3) Diwygiwyd y diffiniad o “cyfleuster gwastraff” gan O.S. 2011/971 (Cy.141) ac O.S. 2016/691 (Cy.189). Ceir diwygiadau eraill ond nid yw'r un yn berthnasol.
 (4) OJ Rhif L 312, 22.11.08, t 3.
 (5) OJ Rhif L 150, 14.6.2017, t 1.

Aelod-wladwriaethau neu sy'n rhoi disgrisiwn i Aelod-wladwriaeth neu Aelod-wladwriaethau i'w ddarllen fel cyfeiriad at Weinidogion Cymru, Corff Adnoddau Naturiol Cymru neu'r awdurdod lleol a oedd, yn union cyn y diwrnod ymadael, yn gyfrifol am gydymffurfiaeth y Deyrnas Unedig â'r rhwymedigaeth honno neu'n cael arfer y disgrisiwn hwnnw o ran Cymru.

(4) Mae Erthygl 2 i'w darllen fel pe bai—

(a) ym mharagraff 2—

- (i) yn y geiriau o flaen pwynt (a), “retained EU law” wedi ei roi yn lle “other Community legislation”;
- (ii) ym mhwyntiau (b) a (c), “Regulation (EC) No 1069/2009” wedi ei roi yn lle “Regulation (EC) No 1774/2002”;
- (iii) ym mhwynt (d), “the Mining Waste Directive (gweler rheoliad 2A)” wedi ei roi yn lle'r geiriau o “Directive 2006/21/EC” hyd at y diwedd;

(b) ym mharagraff 3, y geiriau o “Without prejudice” hyd at “Community legislation,” wedi eu hepgor;

(c) paragraff 4 wedi ei hepgor.

(5) Mae Erthygl 5 i'w darllen fel pe bai paragraff 2 wedi ei hepgor.

(6) Mae Erthygl 6 i'w darllen fel pe bai—

(a) paragraffau 1 i 3 wedi eu hepgor;

(b) ym mharagraff 4—

- (i) yn y frawddeg gyntaf, “Except where waste ceases to be waste in accordance with Council Regulation (EU) No 333/2011, Commission Regulation (EU) No 1179/2012 or Commission Regulation (EU) No 715/2013” wedi ei roi yn lle'r geiriau o “Where criteria” hyd at “paragraphs 1 and 2”;
- (ii) yr ail frawddeg wedi ei hepgor.

(7) Mae Erthygl 7 i'w darllen fel pe bai—

(a) ym mharagraff 1—

- (i) y frawddeg gyntaf a'r ail frawddeg wedi eu hepgor;
- (ii) yn y drydedd frawddeg, “shall, subject to paragraph 1A, be binding wedi ei roi yn lle “shall be binding”;

- (b) ar ôl paragraff 1, y canlynol wedi ei fewnosod—

“1A. Paragraph 1 is subject to—

- (a) a determination by the Welsh Ministers under regulation 8(1) of the Hazardous Waste (Wales) Regulations 2005 that a specific batch of waste is to be treated as hazardous waste;
 - (b) a decision made by the Welsh Ministers under regulation 9(1) of the Hazardous Waste (Wales) Regulations 2005 that a specific batch of waste is to be treated as non-hazardous waste;
 - (c) the treating of a specific batch of waste as hazardous or, as the case may be, non-hazardous, in accordance with regulations 8(2) or 9(2) of the Hazardous Waste (Wales) Regulations 2005;
 - (d) regulations (if any) made by the Welsh Ministers under section 62A(2) of the Environmental Protection Act 1990 (lists of waste displaying hazardous properties).”;
- (c) paragraffau 2, 3 a 5 wedi eu hepgor;
- (d) ar ôl paragraff 6 y canlynol wedi ei fewnosod—

“6A. In this Article, the “list of waste” means the list established by Commission Decision 2000/532/EC.”;

- (e) paragraff 7 wedi ei hepgor.

(8) Mae Atodiad 3 i’w ddarllen fel pe bai, yng nghofnod HP 9, yn yr ail frawddeg, “in the Member States” wedi ei hepgor.

(9) Ym mharagraff (3) ystyr “awdurdod lleol” yw cyngor sir neu gyngor bwrdeistref sirol.”

- (5) Ar ôl rheoliad 2, mewnosoder—

“Ystyr “y Gyfarwyddeb Gwastraff Mwyngloddio” yn rheoliad 2

2A.—(1) Yn rheoliad 2(4)(a)(iii), ystyr “y Gyfarwyddeb Gwastraff Mwyngloddio” (“*the Mining Waste Directive*”) yw Cyfarwyddeb 2006/21/EC Senedd Ewrop a’r Cyngor ar reoli gwastraff o ddiwydiannau echdynnu, gan ei darllen yn unol â pharagraffau (2) i (4).

- (2) Mae Erthygl 2 i’w darllen fe pe bai—

- (a) ym mharagraff 2(c), y cyfeiriad at Erthygl 11(3)(j) o Gyfarwyddeb 2000/60/EC yn gyfeiriad at yr Erthygl honno o'i darllen yn unol â pharagraff (4) o'r rheoliad hwn;

(b) paragraffau 3 a 4 wedi eu hepgor.

(3) Mae Erthygl 3(1) i'w darllen fel pe bai "Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive" wedi ei roi yn lle "Article 1(a) of Directive 75/442/EC".

(4) At ddibenion paragraff (2)(a), mae Erthygl 11(3)(j) o Gyfarwyddeb 2000/60/EC i'w darllen fel pe bai—

- (a) y cyfeiriad cyntaf at "Member States" yn gyfeiriad at yr Weinidogion Cymru neu Corff Adnoddau Naturiol Cymru;

- (b) ar y diwedd, y canlynol wedi ei fewnosod—

"and "environmental objectives", in relation to a river basin district within the meaning of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 has the same meaning as in those Regulations."

(6) Yn rheoliad 7(10) (fel y'i diwygir gan reoliad 4(3)), ar y diwedd, mewnosoder "o'i ddarllen yn unol â pharagraff (11).

(7) Ar ôl paragraff (10) mewnosoder—

"(11) At ddibenion rheoliad 7(10), mae'r Gyfarwyddeb i'w darllen fel pe bai—

- (a) yn Erthygl 2—

- (i) y canlynol wedi ei roi yn lle pwynt (a)—

"(a) 'waste' has the meaning given by Article 3(1) of the Waste Framework Directive, as read with Article 5 and 6 of that Directive;"

- (ii) y canlynol wedi ei roi yn lle pwynt (c)—

"(c) 'hazardous waste' has the meaning given by Article 3(2) of the Waste Framework Directive."

- (b) yn Erthygl 3(2), "Without prejudice to existing Community legislation," wedi ei hepgor."

Rheoliadau Gwastraff Peryglus (Cymru) 2005

8.—(1) Mae Rheoliadau Gwastraff Peryglus (Cymru) 2005(1) wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 2(1)—

- (a) yn is-baragraff (a), ar y diwedd mewnosoder “, ac fel y’i darllenir yn unol â rheoliad 2A”;
- (b) yn is-baragraff (b)(i), ar y diwedd mewnosoder “, fel y’i darllenir gydag Erthyglau 5 a 6 o’r Gyfarwyddeb honno”.

(3) Ar ôl rheoliad 2 mewnosoder—

“Ystyr y Gyfarwyddeb Wastraff

2A.—(1) At ddibenion y Rheoliadau hyn, mae’r Gyfarwyddeb Wastraff i’w darllen yn unol â’r rheoliad hwn.

(2) Mae cyfeiriad at un neu fwy o Aelod-wladwriaethau mewn darpariaeth sy’n gosod rhwymedigaeth ar Aelod-wladwriaeth neu Aelod-wladwriaethau neu sy’n rhoi disgrisiwn i Aelod-wladwriaeth neu Aelod-wladwriaethau i’w ddarllen fel cyfeiriad at yr awdurdod priodol neu’r awdurdod lleol a oedd, yn union cyn y diwrnod ymadael, yn gyfrifol am gydymffurfiaeth y Deyrnas Unedig â’r rhwymedigaeth honno neu’n cael arfer y disgrisiwn hwnnw o ran Cymru.

(3) Mae Erthygl 2 i’w darllen fel pe bai—

(a) ym mharagraff 2—

- (i) yn y geiriau o flaen pwynt (a), “retained EU law” wedi ei roi yn lle “other Community legislation”;
- (ii) ym mhwyntiau (b) a (c), “Regulation (EC) No 1069/2009” wedi ei roi yn lle “Regulation (EC) No 1774/2002” ;
- (iii) ym mhwynt (d), “the Mining Waste Directive” wedi ei roi yn lle’r geiriau o “Directive 2006/21/EC” hyd at y diwedd;

(b) ym mharagraff 3, y geiriau o “Without prejudice” hyd at “Community legislation,” wedi eu hepgor;

(c) paragraff 4 wedi ei hepgor.

(4) Mae Erthygl 3(20) i’w darllen fel pe bai “Article 3(10) of the Industrial Emissions Directive” wedi ei roi yn lle “Article 2(11) of Directive 96/61/EC”.

(1) O.S. 2005/1806 (Cy.138).

(5) Mae Erthygl 5 i'w darllen fel pe bai paragraff 2 wedi ei hepgor.

(6) Mae Erthygl 6 i'w darllen fe pe bai—

(a) paragraffau 1 i 3 wedi eu hepgor;

(b) ym mharagraff 4—

(i) yn y frawddeg gyntaf, “Except where waste ceases to be waste in accordance with Council Regulation (EU) No 333/2011, Commission Regulation (EU) No 1179/2012 or Commission Regulation (EU) No 715/2013” wedi ei roi yn lle'r geiriau o “Where criteria” hyd at “paragraphs 1 and 2”;

(ii) yr ail frawddeg wedi ei hepgor.

(7) Mae Erthygl 7 i'w darllen fel pe bai—

(a) ym mharagraff 1—

(i) y frawddeg gyntaf a'r ail frawddeg wedi eu hepgor;

(ii) yn y drydedd frawddeg, “shall, subject to paragraph 1A, be binding” wedi ei roi yn lle “shall be binding”;

(b) y canlynol wedi ei fewnosod ar ôl paragraff 1—

“1A. Paragraph 1 is subject to—

(a) a determination by the Welsh Ministers under regulation 8(1) of the Hazardous Waste (Wales) Regulations 2005 that a specific batch of waste is to be treated as hazardous waste;

(b) a decision made by the Welsh Ministers under regulation 9(1) of the Hazardous Waste (Wales) Regulations 2005 that a specific batch of waste is to be treated as non-hazardous waste;

(c) the treating of a specific batch of waste as hazardous or, as the case may be, non-hazardous, in accordance with regulations 8(2) or 9(2) of the Hazardous Waste (Wales) Regulations 2005;

(d) regulations (if any) made by the Welsh Ministers under section 62A(2) of the Environmental Protection Act 1990 (lists of waste displaying hazardous properties).”;

(c) paragraffau 2, 3 a 5 wedi eu hepgor;

(d) y canlynol wedi ei fewnosod ar ôl paragraff 6—

“6A. In this Article, the “list of waste” means the list established by Commission Decision 2000/532/EC.”;

(e) paragraff 7 wedi ei hepgor.

(8) Mae Erthygl 19 i’w darllen fel pe bai—

(a) ym mharagraff 1, “national” wedi ei roi yn lle “Community”;

(b) ym mharagraff 2, “Wales” wedi ei roi yn lle “a Member State”.

(9) Mae Atodiad 3 i’w ddarllen fel pe bai, yng nghofnod HP 9, yn yr ail frawddeg, “in the Member States” wedi ei hepgor.

(10) Ym mharagraff (2) ystyr “awdurdod lleol” yw cyngor sir neu gyngor bwrdeistref sirol.

Ystyr y “Gyfarwyddeb Gwastraff Mwyngloddio” a “Chyfarwyddeb Allyriadau Diwydiannol”

2B.—(1) Yn rheoliad 2A(3)(a)(iii), ystyr “y Gyfarwyddeb Gwastraff Mwyngloddio” (“*the Mining Waste Directive*”) yw Cyfarwyddeb 2006/21/EC Senedd Ewrop a’r Cyngor ar reoli gwastraff o ddiwydiannau echdynnu, o’i darllen yn unol â pharagraffau (2) a (3).

(2) Mae Erthygl 2 i’w darllen fel pe bai—

(a) ym mharagraff 2(c), y cyfeiriad at Erthygl 11(3)(j) o Gyfarwyddeb 2000/60/EC yn gyfeiriad at y Gyfarwyddeb honno o’i darllen yn unol â pharagraff (7) o’r rheoliad hwn;

(b) paragraffau 3 a 4 wedi eu hepgor.

(3) Mae Erthygl 3(1) i’w darllen fel pe bai “Article 3(1) of the Waste Directive, as read with Articles 5 and 6 of that Directive” wedi ei roi yn lle “Article 1(a) of Directive 75/442/EEC”.

(4) Yn rheoliad 2A(4), ystyr “y Gyfarwyddeb Allyriadau Diwydiannol” (“*the Industrial Emissions Directive*”) yw Cyfarwyddeb 2010/75/EU Senedd Ewrop a’r Cyngor ar allyriadau diwydiannol (atal a rheoli llygredd integredig)(1), o’i darllen yn unol â pharagraffau (5) a (6).

(5) Mae Erthygl 3 i’w darllen fel pe bai—

(1) OJ Rhif L 334 , 17.12.2010, t 17, fel y’i cywirwyd gan gorigendwm (OJ Rhif L 158, 19.6.2012, t 25).

- (a) ym mhwynt (1)(a), “Article 4(78) of Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation⁽¹⁾” wedi ei roi yn lle’r geiriau o “Article 1” hyd at y diwedd;
 - (b) ym mhwynt (10)(b), “United Kingdom” wedi ei roi yn lle “Member State in question”;
 - (c) ym mhwynt (23), “point 1 of the second subparagraph of Article 2 of Council Directive 2009/158/EC on animal health conditions governing intra-Community trade in, and imports from third countries of, poultry and hatching eggs⁽²⁾” wedi ei roi yn lle’r geiriau o “point 1” hyd at y diwedd;
 - (d) ym mhwynt (37), “the Waste Directive, as read with Articles 5 and 6 of that Directive” wedi ei roi yn lle “Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste”.
- (6) Mae Atodiad 1 i’w ddarllen fel pe bai—
- (a) yr ail baragraff wedi ei hepgor yn y geiriau o flaen pwynt 1;
 - (b) ym mhwynt 5.3—
 - (i) ym mhwynt (a), yn y geiriau o flaen pwynt (i), “the Urban Waste Water Treatment (England and Wales) Regulations 1994⁽³⁾” wedi ei roi yn lle “Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment”;
 - (ii) ym mhwynt (b), yn y geiriau o flaen pwynt (i), “the Urban Waste Water Treatment (England and Wales) Regulations 1994 wedi ei roi yn lle “Directive 91/271/EEC”;
 - (c) ym mhwynt 5.4, y cyfeiriad at Gyfarwyddeb y Cyngor 1999/31/EC ddyddiedig 26 Ebrill 1999 ar dirlenwi gwastraff yn gyfeiriad at y Gyfarwyddeb Dirlenwi;

(1) OJ Rhif L 13, 17.1.2014, t 1, fel y’i cywirwyd gan gorigendwm (OJ Rhif L 072, 17.3.2016, t 69).

(2) OJ Rhif L 343, 22.12.2009, t 74, fel y’i diwygiwyd ddiwethaf gan Benderfyniad Gweithredu’r Comisiwn 2011/879/EU (OJ Rhif L 343, 23.12.2011, t 105).

(3) O.S. 1994/2841.

(d) ym mhwynt 6.9, “the EU-derived domestic legislation which transposed Directive 2009/31/EC in respect of Wales” wedi ei roi yn lle “Directive 2009/31/EC”;

(e) ym mhwynt 6.11, “the Urban Waste Water Treatment (England and Wales) Regulations 1994” wedi ei roi yn lle “Directive 91/271/EEC”.

(7) At ddibenion paragraff (2)(a), mae Erthygl 11(3)(j) o Gyfarwyddeb 2000/60/EC i’w darllen fel pe bai—

(a) y cyfeiriad cyntaf at “Member States” yn gyfeiriad at yr awdurdod priodol;

(b) y canlynol wedi ei fewnosod ar y diwedd—

“and “environmental objectives”, in relation to a river basin district within the meaning of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017, has the same meaning as in those Regulations.”.

(4) Yn rheoliad 5(1)—

(a) yn y lle priodol mewnosoder—

ystyr “awdurdod priodol” (“*appropriate authority*”) yw Gweinidogion Cymru, CANC neu’r Asiantaeth;”;

(b) ar ôl y diffiniad o “gwastraff peryglus” (“hazardous waste”) mewnosoder—

ystyr “y Gyfarwyddeb Dirlenwi” (“*the Landfill Directive*”) yw Cyfarwyddeb y Cyngor 1999/31/EC ar dirlenwi gwastraff (1), fel y’i diwygiwyd ddiwethaf gan Gyfarwyddeb y Cyngor 2011/97/EU(2), gan ei darllen fel pe bai—

(a) yn Erthygl 2—

(i) yn lle pwynt (a) rhodder—

“(a) ‘waste’ has the meaning given by regulation 2(1)(b) of the Hazardous Waste (Wales) Regulations 2005;”;

(ii) yn lle pwynt (c) rhodder—

“(c) ‘hazardous waste’ has the meaning given in regulation 6 of the Hazardous Waste (Wales) Regulations 2005.”;

(1) OJ Rhif L 182, 16.7.1999, t 1.

(2) OJ Rhif L 328, 10.12.2011, t 49.

- (b) yn Erthygl 3(2), “Without prejudice to existing Community legislation,” wedi ei hepgor.”.

(5) Yn rheoliad 8—

(a) ym mharagraff (2)—

- (i) hepgorer y geiriau o “gan yr Ysgrifennydd Gwladol” hyd at “yn ôl y digwydd,”;
- (ii) yn lle “ag Erthygl 7(2) o’r Gyfarwyddeb Wastraff” rhodder “â pharagraff (3)”;

(b) ar ôl paragraff (2) mewnosoder—

“(3) At ddibenion paragraff (2), penderfynir bod swp penodol o wastraff yn beryglus—

(a) o ran Lloegr—

- (i) os yw o fath a restrir mewn rheoliadau a wneir o dan adran 62A(2) o Ddeddf 1990;
- (ii) os yw’n destun penderfyniad gan yr Ysgrifennydd Gwladol o dan reoliad 8 o Reoliadau Gwastraff Peryglus (Cymru a Lloegr) 2005(1);

(b) o ran Gogledd Iwerddon, os yw’n destun penderfyniad gan yr Adran Amaethyddiaeth, Amgylchedd a Materion Gwledig o dan reoliad 9 o Reoliadau Gwastraff Peryglus (Gogledd Iwerddon) 2005(2);

(c) o ran yr Alban, os yw’n destun penderfyniad gan Weinidogion yr Alban, am fod Gweinidogion yr Alban o’r farn bod y gwastraff yn amlygu un neu ragor o’r nodweddion peryglus a restrir yn Atodiad III.”.

(6) Yn rheoliad 9—

(a) ym mharagraff (2)—

- (i) hepgorer y geiriau o “gan yr Ysgrifennydd Gwladol” hyd at “yn ôl y digwydd,”;
- (ii) yn lle “ag Erthygl 7(2) o’r Gyfarwyddeb Wastraff” rhodder “â pharagraff (3)”;

(b) ar ôl paragraff (2) mewnosoder—

“(3) At ddibenion paragraff (2), penderfynir bod swp penodol o wastraff yn wastraff nad yw’n beryglus os nad yw’n destun penderfyniad—

(1) O.S. 2005/894, a ddiwygiwyd gan O.S. 2011/988, 2015/1360, 2016/738, 2018/575.

(2) S.R. 2005 Rhif 300; offerynnau diwygio perthnasol yw S.R. 2011 Rhif 127 ac S.R. 2015 Rhif 288.

- (a) o ran Lloegr, gan yr Ysgrifennydd Gwladol o dan reoliad 9 o Reoliadau Gwastraff Peryglus (Cymru a Lloegr) 2005;
- (b) o ran Gogledd Iwerddon, gan yr Adran Amaethyddiaeth, Amgylchedd a Materion Gwledig o dan reoliad 10 o Reoliadau Gwastraff Peryglus (Gogledd Iwerddon) 2005;
- (c) o ran yr Alban, gan Weinidogion yr Alban, am fod Gweinidogion yr Alban o'r farn nad yw'r gwastraff yn amlygu unrhyw nodweddion peryglus a restrir yn Atodiad III.”.

(7) Yn rheoliadau 47(5B) a 48(6B) (fel y'u diwygir gan reoliad 5(2) a 5(3)), yn lle “Gyfarwyddeb y Cyngor 1999/31/EC ar dirlenwi gwastraff fel y'i diwygiwyd ddiwethaf gan Gyfarwyddeb y Cyngor 2011/97/EU” rhodder “y Gyfarwyddeb Dirlenwi”.

(8) Yn rheoliad 60(1), yn y geiriau o flaen is-baragraff (a), hepgorer o “ac” hyd at “Wastraff”.

Rheoliadau Targedau Ailgylchu, Paratoi i Ailddefnyddio a Chompostio (Monitro a Chosbau) (Cymru) 2011

9.—(1) Mae Rheoliadau Targedau Ailgylchu, Paratoi i Ailddefnyddio a Chompostio (Monitro a Chosbau) (Cymru) 2011(1) wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 2(1), yn y diffiniad o “y Gyfarwyddeb Fframwaith Gwastraff” (“*the Waste Framework Directive*”) (fel y'i hamnewidir gan reoliad 6), ar y diwedd, mewnosoder “gan ei darllen yn unol â pharagraffau (3) i (8)”.

(3) Ar ôl paragraff (2) mewnosoder—

“(3) Mae cyfeiriad at un neu fwy o Aelod-wladwriaethau mewn darpariaeth sy'n gosod rhwymedigaeth ar Aelod-wladwriaeth neu Aelod-wladwriaethau neu sy'n rhoi disgresiwn i Aelod-wladwriaeth neu Aelod-wladwriaethau i'w ddarllen fel cyfeiriad at Weinidogion Cymru, Corff Adnoddau Naturiol Cymru neu awdurdod lleol a oedd, yn union cyn y diwrnod ymadael, yn gyfrifol am gydymffurfiaeth y Deyrnas Unedig â'r rhwymedigaeth honno neu'n cael arfer y disgresiwn hwnnw o ran Cymru.

(4) Mae Erthygl 2 i'w darllen fel pe bai—

(a) ym mharagraff 2—

(1) O.S. 2011/1014 (Cy.152), a ddiwygiwyd gan O.S.2016/691 (Cy.189); ceir offerynnau diwygio eraill ond nid yw'r un yn berthnasol.

- (i) yn y geiriau o flaen pwynt (a), “retained EU law” wedi ei roi yn lle “other Community legislation”;
 - (ii) ym mhwyntiau (b) a (c), “Regulation (EC) No 1069/2009” wedi ei roi yn lle “Regulation (EC) No 1774/2002”;
 - (iii) ym mhwynt (d), “the Mining Waste Directive (see regulation 2A)” wedi ei roi yn lle’r geiriau o “Directive 2006/21/EC” hyd at y diwedd;
- (b) ym mharagraff 3, y geiriau o “Without prejudice” hyd at “Community legislation,” wedi eu hepgor;
- (c) paragraff 4 wedi ei hepgor.(5) Mae Erthygl 5 i’w darllen fel pe bai paragraff 2 wedi ei hepgor.

(6) Mae Erthygl 6 i’w darllen fel pe bai—

- (a) paragraffau 1 i 3 wedi eu hepgor;
- (b) ym mharagraff 4—
 - (i) yn y frawddeg gyntaf, “Except where waste ceases to be waste in accordance with Council Regulation (EU) No 333/2011, Commission Regulation (EU) No 1179/2012 or Commission Regulation (EU) No 715/2013” wedi ei roi yn lle’r geiriau o “Where criteria” hyd at “paragraphs 1 and 2”;
 - (ii) yr ail frawddeg wedi ei hepgor.

(7) Mae Erthygl 7 i’w darllen fe pe bai—

- (a) ym mharagraff 1—
 - (i) y frawddeg gyntaf a’r ail frawddeg wedi eu hepgor;
 - (ii) yn y drydedd frawddeg, “shall, subject to paragraph 1A, be binding” wedi ei roi yn lle “shall be binding”;
- (b) y canlynol wedi ei fewnosod ar ôl paragraff 1—

“1A. Paragraph 1 is subject to—

- (a) a determination by the Welsh Ministers under regulation 8(1) of the Hazardous Waste (Wales) Regulations 2005 that a specific batch of waste is to be treated as hazardous waste;
- (b) a decision made by the Welsh Ministers under regulation 9(1)

of the Hazardous Waste (Wales) Regulations 2005 that a specific batch of waste is to be treated as non-hazardous waste;

(c) the treating of a specific batch of waste as hazardous or, as the case may be, non-hazardous, in accordance with regulations 8(2) or 9(2) of the Hazardous Waste (Wales) Regulations 2005;

(d) regulations (if any) made by the Welsh Ministers under section 62A(2) of the Environmental Protection Act 1990 (lists of waste displaying hazardous properties).”;

(c) paragraffau 2, 3 a 5 wedi eu hepgor;

(d) y canlynol wedi ei fewnosod ar ôl paragraff 6—

“6A. In this Article, the “list of waste” means the list established by Commission Decision 2000/532/EC.”;

(e) paragraff 7 wedi ei hepgor.

(8) Mae Atodiad 3 i’w ddarllen fel pe bai, yng nghofnod HP 9, yn yr ail frawddeg, “in the Member States” wedi ei hepgor.”

(4) Ar ôl rheoliad 2, mewnosoder—

“Ystyr “y Gyfarwyddeb Gwastraff Mwyngloddio” yn rheoliad 2

2A.—(1) Yn rheoliad 2(4)(a)(iii), ystyr “y Gyfarwyddeb Gwastraff Mwyngloddio” (“*the Mining Waste Directive*”) yw Cyfarwyddeb 2006/21/EC Senedd Ewrop a’r Cyngor ar reoli gwastraff o ddiwydiannau echdynnu, gan ei darllen yn unol â pharagraffau (2) i (4).

(2) Mae Erthygl 2 i’w darllen fe pe bai—

(a) ym mharagraff 2(c), y cyfeiriad at Erthygl 11(3)(j) o Gyfarwyddeb 2000/60/EC yn gyfeiriad at yr Erthygl honno o’i darllen yn unol â pharagraff (4) o’r rheoliad hwn;

(b) paragraffau 3 a 4 wedi eu hepgor.

(3) Mae Erthygl 3(1) i’w darllen fel pe bai “Article 3(1) of the Waste Framework Directive, as read with Articles 5 and 6 of that Directive” wedi ei roi yn lle “Article 1(a) of Directive 75/442/EC”.

(4) At ddibenion paragraff (2)(a), mae Erthygl 11(3)(j) o Gyfarwyddeb 2000/60/EC i’w darllen fel pe bai—

- (a) y cyfeiriad cyntaf at “Member States” yn gyfeiriad at Weinidogion Cymru neu Gorff Adnoddau Naturiol Cymru;
- (b) ar y diwedd, y canlynol wedi ei fewnosod—

“and “environmental objectives”, in relation to a river basin district within the meaning of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 has the same meaning as in those Regulations.”.

Hannah Blythyn

Y Dirprwy Weinidog Tai a Llywodraeth leol, o dan awdurdod y Y Gweinidog Tai a Llywodraeth Leol, un o Weinidogion Cymru
28 Chwefror 2019

Explanatory Memorandum to The Waste (Wales) (Miscellaneous Amendments) (EU Exit) Regulations 2019

This Explanatory Memorandum has been prepared by the Department for Environment and Rural Affairs and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister/Deputy Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Waste (Wales) (Miscellaneous Amendments) (EU Exit) Regulations 2019.

I have made the statements required by the European Union (Withdrawal) Act 2018. These statements can be found in Part 2 of the annex to this memorandum.

Hannah Blythyn

Deputy Minister for Housing and Local Government

1 March 2019

PART 1

1. Description

This instrument makes amendments using powers under the European Union (Withdrawal) Act 2018 (except part 2 – see below) to the following legislation:

- The Waste (Wales) Measure 2010
- The Landfill Allowance Scheme (Wales) Regulations 2004
- The Hazardous Waste (Wales) Regulations 2005
- The Recycling Preparation for Re-use and Composting Targets (Monitoring and Penalties) (Wales) Regulations 2011

The amendments are to ensure that the statute book remains functional following the UK's exit from the EU and will address deficiencies in Welsh domestic legislation arising from EU Exit.

Part 2 of the Instrument is made under section 2(2) of the European Communities Act 1972 and corrects out of date references to European law and domestic legislation prior to, and in readiness for the UK's exit from the EU. This is required because out of date references to legislation are not necessarily interpreted as references to the correct (updated) legislation and there is therefore a risk that the statute book would not work effectively and inaccessible post-Brexit.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

This instrument (with the exception of Part 2) is being made using the power conferred by paragraph 1(1) of Schedule 2 to the European Union (Withdrawal) Act 2018 (hereafter “the Withdrawal Act”).

As set out in the Ministerial statement in Annex 2 of this Explanatory Memorandum it is proposed that the instrument be subject to the negative procedure. Such instruments must first be laid for sifting by the Constitutional and Legislative Affairs Committee. The instrument makes minor and technical changes and as such should be subject to annulment.

The CLA Committee considered a draft of these regulations on 18 February 2019, and agreed that the negative procedure is appropriate for these regulations. A copy of the published CLA report can be accessed via the following link: <http://www.assembly.wales/laid%20documents/cr-ld12192/cr-ld12192-e.pdf>

3. Legislative background

This instrument is being made using the power conferred by paragraph 1(1) of Schedule 2 to the Withdrawal Act in order to address failures of retained EU

law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

These Regulations are proposed to be made subject to annulment and laid for the purpose of being sifted by the Constitutional and Legislative Affairs Committee (proposed negative).

4. Purpose and intended effect of the legislation

What did any relevant retained EU law do before exit day?

The instrument amends four pieces of Welsh legislation relating to waste which implement various European Directives related to waste management to ensure that the waste regime can continue to operate effectively after the UK leaves the EU. No environmental standards are being removed or amended. Modifications are necessary to the text of the domestic legislation, removing or amending references to EU Directives and associated EU terms to ensure that waste legislation continues to operate as intended after EU exit.

EU law lays down rules and frameworks for the management of waste. These are implemented in Wales primarily via domestic legislation. The instrument amends that domestic legislation under powers in the Withdrawal Act (except Part 2 see section on 'out of date references below) to make the necessary technical changes to ensure that it will continue to operate effectively after the UK has left the EU, as set out below.

The Waste (Wales) Measure 2010 (“the 2010 Measure”)

The 2010 Measure makes provision, amongst other things:

- about targets to be met by local authorities in relation to waste;
- about prohibiting or otherwise regulating the deposit of waste in a landfill;
- to provide for site waste management plans for works involving construction or demolition.

The 2010 Measure borrows various definitions by reference to the Waste Framework Directive (Directive 2008/98/EC), the Industrial Emissions Directive (Directive 2010/75/EU) and the Landfill Directive (Directive 1999/31/EC). These references need to be modified to ensure the 2010 Measure remains operable post EU Exit.

The Landfill Allowances Scheme (Wales) Regulations 2004 (“the 2004 Regulations”)

The Waste and Emissions Trading Act 2003 aims to significantly reduce the quantity of biodegradable municipal waste sent to landfills, as required by Article 5 of the Landfill Directive. The Act sets the framework for the creation of a landfill allowance scheme and obliges the Assembly to allocate allowances to waste disposal authorities in Wales, not exceeding the maximum specified in relation to Wales.

The 2004 Regulations supplement the Waste and Emissions Trading Act 2003, by making detailed provision for the monitoring and enforcement of the land-fill allowances allocated to waste disposal authorities in Wales under the Act. The 2004 Regulations refer to various defined terms by reference to various waste related directives. Therefore these references need to be modified, similar to that in the 2010 Measure, to ensure the Regulations remain operable post EU Exit.

The Hazardous Waste (Wales) Regulations 2005 (“the 2005 Regulations”)

The 2005 Regulations set out the regime for the control and tracking of hazardous waste in Wales, identical regulations are in force in England. The 2005 Regulations introduced a process for registration of hazardous waste producers and a system for recording the movement of waste from the point of production to the final point of disposal or recovery. The 2005 Regulations likewise refer to, and borrow defined terms such as waste, hazardous waste properties, recovery and disposal of waste by reference to the Waste Framework Directive and the Landfill Directive. Therefore, the 2005 Regulations need to be amended to ensure they remain operable post EU exit.

The Recycling, Preparation for Reuse and Composting Targets (Monitoring and Penalties (Wales) Regulations 2011 (the “2011 Regulations”)

Section 3 of the 2010 Measure establishes statutory targets for the percentage of a local authority's municipal waste which must be recycled, prepared for re-use and composted and impose a financial liability on a local authority if it fails to meet a target. The 2011 Regulations supplement the 2010 Measure, by making detailed provision for the monitoring and enforcement of the targets. The 2011 Regulations refer to various provisions of the Waste Framework Directive which need to be amended to ensure they remain operable after EU exit.

Out of date references

In addition to the modifications described above, the 2019 Regulations correct out of date references to European Directives and Regulations in domestic legislation, using powers under section 2(2) of the European Communities Act 1972. The 2019 Regulations update references in the four pieces of domestic legislation set out above so that they refer to the correct version of the Waste related directives. This is consistent with other updates that have been made and to ensure the statute book works effectively post EU Exit.

Why is it being changed?

Directives are not being incorporated into domestic law under the Withdrawal Act and will not form part of retained EU law. Therefore, the 2019 Regulations make provision so that the domestic legislation that cross-refer to the various directives are amended (e.g. the directives are modified, where necessary, for the purpose of that legislation) to ensure that it continues to operate as

intended after EU Exit. The minor and technical changes made by the instrument are necessary to ensure that the legislation it amends continues to operate effectively following the UK's withdrawal from the European Union.

What will it now do?

The instrument will ensure that the legislation being amended continues to operate effectively after the UK leaves the EU. There is no change in environmental standards.

5. Consultation

As there is no policy change, no public consultation was undertaken. The purpose of the instrument is solely to enable the current legislative and policy framework to remain operable after the withdrawal of the United Kingdom from the European Union.

6. Regulatory Impact Assessment (RIA)

An RIA has not been conducted as these are minor technical changes necessary as a result of the UK's withdrawal from the EU. A public consultation was not required because no policy changes are being made via this statutory instrument. As this instrument relates to maintaining existing legislation after EU Exit there is no, or no significant, impact on business, charities or voluntary bodies. There is no, or no significant, impact on the public sector.

Annex

Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required of the Welsh Ministers under the 2018 Act. The table also sets out those statements that may be required of Ministers of the Crown under the 2018 Act, which the Welsh Ministers have committed to also provide when required. The required statements can be found in Part 2 of this annex.

| Statement | Where the requirement sits | To whom it applies | What it requires |
|-----------------|---|--|---|
| Sifting | Paragraphs 3(7) and 4(3), Schedule 7 <i>Paragraph 3(7) (anticipated to be a requirement on Welsh Ministers in Standing Orders)</i> | The Welsh Ministers exercising powers in Part 1 of Schedule 2 to make a Negative SI Paragraph 3(7) applies to Ministers of the Crown, but Welsh Ministers have committed to make the same statement | A statement to explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation of the CLA Committee (as sifting committee) |
| Appropriateness | Sub-paragraph (2) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement that the SI does no more than is appropriate. |
| Good Reasons | Sub-paragraph (3) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. | A statement to explain the good reasons for making the instrument and that what is being done is a reasonable course of action. |

| | | | |
|-------------------|--|--|--|
| | | Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | |
| Equalities | Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | <p>A statement to explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them.</p> <p>A statement that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.</p> |
| Explanations | Sub-paragraph (6) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement to explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g. whether minor or technical changes only are intended to the EU retained law. |
| Criminal offences | Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement setting out the 'good reasons' for creating a criminal offence, and the penalty attached. |
| Sub-delegation | Paragraph 30, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved | A statement to explain why it is appropriate to create such a sub-delegated power. |

| | | | |
|---------|--|---|--|
| | | <p>Authority.</p> <p>Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 or paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority</p> | |
| Urgency | Sub-paragraph (2) and (8) of paragraph 7, Schedule 7 | Welsh Ministers exercising powers in Part 1 of Schedule 2 but using the urgent procedure in paragraph 7 of Schedule 7 | A statement that the Welsh Ministers are of the opinion that it is necessary to make the SI using the urgent procedure and the reasons for that opinion. |

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

1. Sifting statement(s)

The Deputy Minister for Housing and Local Government, Hannah Blythyn has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view The Waste (Wales) (Miscellaneous Amendments) (EU Exit) Regulations 2019 should be subject to annulment in pursuance of a resolution of the National Assembly for Wales (i.e. the negative procedure). This is the case because the changes being made are technical in nature and make no substantive changes to waste law in Wales.”

2. Appropriateness statement

The Deputy Minister for Housing and Local Government, Hannah Blythyn has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view The Waste (Wales) (Miscellaneous Amendments) (EU Exit) Regulations 2019 does no more than is appropriate”. This is the case because the instrument makes technical amendments only which are designed to address failures of retained EU law to operate effectively after exit day.”

3. Good reasons

The Deputy Minister for Housing and Local Government, Hannah Blythyn has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action. This is because the provisions ensure that protections provided by the Welsh legislation being amended continue to be operable after the UK leaves the European Union.”

4. Equalities

4.1 The Deputy Minister for Housing and Local Government, Hannah Blythyn has made the following statement(s)

“The draft instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts.”

- 4.2 The Deputy Minister for Housing and Local Government, Hannah Blythyn has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the instrument, I, Hannah Blythyn have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.”

5. Explanations

The explanations statement has been made in paragraph 4 (Purpose & intended effect of the legislation) of the main body of this explanatory memorandum.

6. Criminal offences

Not applicable/required.

7. Legislative sub-delegation

Not applicable/required.

8. Urgency

Not applicable/required.

SL(5)372 - Rheoliadau'r Gwasanaeth Iechyd Gwladol (Cynllun Esgeuluster Clinigol) (Cymru) 2019

Cefndir a Diben

Mae'r Rheoliadau yn sefydlu'r Cynllun Esgeuluster Clinigol ar gyfer Ymddiriedolaethau'r GIG a Byrddau Iechyd Lleol i ddarparu ar gyfer yr holl atebolrwyddau cymhwysol, o 1 Ebrill 2019, sef atebolrwyddau contractiol ac atebolrwyddau mewn camwedd.

Mae'r indemniad a ddarperir fel rhan o'r Cynllun yn cwmpasu atebolrwyddau esgeuluster clinigol aelodau (Byrddau Iechyd Lleol ac Ymddiriedolaethau GIG) yn ogystal ag atebolrwyddau contractwyr nad ydynt yn aelodau sy'n darparu gwasanaethau meddygol sylfaenol yn rhinwedd trefniant gydag aelod o'r Cynllun (e.e. contract gwasanaethau meddygol cyffredinol).

Mae'r Cynllun yn gymwys o 1 Ebrill 2019 mewn perthynas â'r holl atebolrwyddau o fewn ei gwmpas. Golyga hyn, o'r dyddiad hwnnw, y cwmpesir aelodau a chontractwyr o dan y Cynllun yn awtomatig mewn perthynas ag atebolrwyddau o'r fath.

Gweithdrefn

Negyddol.

Materion technegol: craffu

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.2 mewn perthynas â'r offeryn hwn.

Rhinweddau: craffu

Nodir un pwynt i gyflwyno adroddiad arno o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.

1. Rheol Sefydlog 21.3(ii) – ei fod o bwysigrwydd gwleidyddol neu gyfreithiol neu ei fod yn codi materion polisi cyhoeddus sy'n debyg o fod o ddiddordeb i'r Cynulliad.

Mae'r Rheoliadau hyn yn cyflwyno cynllun a gefnogir gan y wladwriaeth i ddarparu indemniad esgeuluster clinigol i ddarparwyr gwasanaethau meddygol cyffredinol. Bydd y cynllun yn cwmpasu pob ymarferydd cyffredinol contractiol a gweithwyr iechyd proffesiynol eraill sy'n gweithio ym maes meddygol cyffredinol y GIG.

Mae'r Memorandwm Esboniadol i'r Rheoliadau hyn yn nodi, ym mharagraff 6:

"A Regulatory Impact Assessment has not been prepared for this instrument as it imposes no costs or no savings, or negligible costs or savings on the public, private or charities and voluntary sectors."

O ystyried arwyddocâd y Rheoliadau hyn, byddem yn croesawu eglurhad gan Lywodraeth Cymru ynghylch pam na chynhaliwyd Asesiad Effaith Rheoleiddiol (ac ar ba eithriad yng "Nghod Asesiad Effaith



Rheoleiddiol Gweinidogion Cymru ar gyfer Is-ddeddfwriaeth" y mae Llywodraeth Cymru yn dibynnu i beidio â chynnal Asesiad Effaith Rheoleiddiol).

Y goblygiadau yn sgil gadael yr Undeb Ewropeaidd

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.

Ymateb y Llywodraeth

Mae angen ymateb y llywodraeth i'r pwynt craffu ar rinweddau sy'n codi yn yr adroddiad hwn.

Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

12 Mawrth 2019



OFFERYNNAU STATUDOL
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2019 Rhif 422 (Cy. 97)

**Y GWASANAETH IECHYD
GWLADOL, CYMRU**

**Rheoliadau'r Gwasanaeth Iechyd
Gwladol (Cynllun Esgeuluster
Clinigol) (Cymru) 2019**

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn, sy'n gymwys o ran Cymru, yn gwneud darpariaeth mewn cysylltiad â'r Cynllun Esgeuluster Clinigol ar gyfer Ymddiriedolaethau'r GIG a'r Byrddau Iechyd Lleol yng Nghymru ("y Cynllun"). Mae'r Cynllun yn galluogi aelodau sy'n arfer swyddogaethau mewn cysylltiad â'r Gwasanaeth Iechyd Gwladol yng Nghymru i wneud darpariaeth ar gyfer bodloni atebolrwyddau y mae'r Cynllun yn gymwys iddynt. Mae'r Rheoliadau hyn yn dirymu ac yn disodli Rheoliadau'r Gwasanaeth Iechyd Gwladol (Cynllun Esgeuluster Clinigol) 1996 (O.S. 1996/251).

Mae rheoliad 3 yn nodi diben y Cynllun ac yn darparu y caiff ei weinyddu gan Weinidogion Cymru. Mae rheoliad 4 yn rhestru'r cyrff sy'n gymwys i ddod yn aelodau ac mae rheoliad 5 yn nodi'r weithdrefn i gyrff cymwys ddod yn aelod. Caiff unrhyw gorff sydd wedi bod yn aelod am o leiaf 3 blynedd ganslo ei aelodaeth o dan rheoliad 6. Hefyd, caiff Gweinidogion Cymru ganslo aelodaeth corff yn unol â rheoliad 7 ar seiliau sy'n cynnwys peidio â thalu cyfraniad aelod at y Cynllun.

Mae rheoliadau 8 a 9 yn nodi'r atebolrwyddau y mae'r Cynllun yn gymwys iddynt. Mae rheoliad 8 yn darparu bod y Cynllun yn gymwys i atebolrwyddau contractiol ac atebolrwyddau mewn camwedd sydd ar aelod i drydydd parti mewn cysylltiad ag anaf personol neu golled sy'n deillio o weithredoedd neu anweithredoedd esgeulus wrth arfer swyddogaethau gwasanaeth iechyd penodedig yr aelod. O dan yr amgylchiadau a nodir yn rheoliad 9, mae'r Cynllun hefyd yn gymwys i atebolrwyddau mewn esgeuluster sydd ar gorff nad yw'n aelod i drydydd partiön ac y trinnir aelodau'r Cynllun fel pe baent yn atebol

amdanynt. Mae rheoliad 9 yn darparu bod yr aelod o'r Cynllun i'w drin fel pe bai'n atebol mewn cysylltiad ag atebolrwyddau esgeuluster a gododd tra oedd cyrff nad ydynt yn aelodau yn darparu gwasanaethau iechyd perthnasol o dan drefniant ag aelod o Gynllun.

Mae rheoliadau 10 i 12 yn cynnwys darpariaeth ar gyfer cyfrifo (ac o dan amgylchiadau penodol diwygio) symiau y mae'n ofynnol i aelodau eu cyfrannu at ddibenion y Cynllun, ac maent yn nodi pa bryd y mae rhaid i'r cyfraniadau hynny gael eu gwneud.

Mae rheoliadau 13 i 18 yn nodi o dan ba amgylchiadau y mae Gweinidogion Cymru i wneud taliadau o dan y Cynllun i aelodau neu ar ran aelodau. Mae rheoliad 13 yn ymdrin â thaliadau mewn cysylltiad ag atebolrwyddau aelodau, mae rheoliad 14 yn ymdrin â thaliadau mewn cysylltiad ag atebolrwyddau cyn-aelodau mewn cysylltiad â digwyddiadau sy'n digwydd yn ystod aelodaeth ac mae rheoliad 15 yn pennu'r amgylchiadau y mae unrhyw atebolrwyddau o'r fath wedi eu heithrio odanynt. Mae rheoliad 16 yn cymhwyso rheoliadau 13 i 15 gydag addasiadau i'r achosion pan fo aelodau penodedig o'r Cynllun yn cael eu trin fel pe baent yn atebol mewn cysylltiad ag atebolrwyddau esgeuluster sydd gan eraill (fel y'u nodir yn rheoliad 9). Penderfynir ar y symiau sydd i'w talu yn unol â rheoliad 17 a cheir darpariaeth ar gyfer gwneud taliadau ar gyfrif yn rheoliad 18.

Mae rheoliad 19 yn nodi'r gofynion i aelodau ddarparu gwybodaeth i Weinidogion Cymru at ddibenion y Cynllun. Mae rheoliad 20 yn ei gwneud yn ofynnol i Weinidogion Cymru roi ar gael i gyrff cymwys unrhyw gyfarwyddydau neu ganllawiau y mae Gweinidogion Cymru yn eu rhoi i unrhyw gorff a gyfarwyddir i weinyddu'r Cynllun ar ran Gweinidogion Cymru. Mae rheoliad 21 yn gwneud diwygiadau canlyniadol i Rheoliadau'r Gwasanaeth Iechyd Gwladol (Contractau Gwasanaethau Meddygol Cyffredinol) (Cymru) 2004 (O.S. 2004/478 (Cy. 48)). Mae rheoliad 22 yn dirymu Rheoliadau'r Gwasanaeth Iechyd Gwladol (Cynllun Esgeuluster Clinigol) 1996.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, ystyriwyd nad oedd yn angenrheidiol cynnal Asesiad Effaith Rheoleiddiol ar gyfer yr offeryn hwn gan na ragwelir y bydd yn effeithio o gwbl ar y sector preifat na'r sector gwirfoddol.

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2019 Rhif 422 (Cy. 97)

**Y GWASANAETH IECHYD
GWLADOL, CYMRU**

Rheoliadau'r Gwasanaeth Iechyd
Gwladol (Cynllun Esgeuluster
Clinigol) (Cymru) 2019

Gwnaed 4 Mawrth 2019

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru* 5 Mawrth 2019

Yn dod i rym 1 Ebrill 2019

Mae Gweinidogion Cymru yn gwneud y Rheoliadau a ganlyn drwy arfer y pwerau a roddir gan adrannau 30, 47(1) and (2), a 203(9) a (10) o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006(1).

Enwi, cychwyn a chymhwysu

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau'r Gwasanaeth Iechyd Gwladol (Cynllun Esgeuluster Clinigol) (Cymru) 2019.

(2) Daw'r Rheoliadau hyn i rym ar 1 Ebrill 2019.

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

Dehongli

2. Yn y Rheoliadau hyn—

ystyr “aelod” (“*member*”) yw corff cymwys sy'n aelod o'r Cynllun;

ystyr “blwyddyn aelodaeth” (“*membership year*”), mewn cysylltiad ag unrhyw gorff cymwys, yw unrhyw gyfnod o 12 mis sy'n dechrau ar 1 Ebrill y mae'r corff yn aelod o'r Cynllun ynddo;

(1) 2006 p. 42. Diwygiwyd adran 30 gan adran 166 o Ddeddf Iechyd a Gofal Cymdeithasol 2008 (p. 14) a pharagraff 1 o Atodlen 15(1) iddi; a chan adran 306(4) o Ddeddf Iechyd a Gofal Cymdeithasol 2012 (p. 7) a pharagraff 22 o Atodlen 7 iddi.

ystyr “Bwrdd Iechyd Lleol” (“*Local Health Board*”) yw Bwrdd Iechyd Lleol sydd wedi ei sefydlu yn unol ag adran 11(2) o’r Ddeddf;

ystyr “corff cymwys” (“*eligible body*”) yw corff a bennir yn rheoliad 4;

ystyr “y Cynllun” (“*the Scheme*”) yw’r Cynllun Esgeuluster Clinigol ar gyfer Ymddiriedolaethau’r GIG a’r Byrddau Iechyd Lleol sydd wedi ei sefydlu gan reoliad 3;

ystyr “darparwr gwasanaethau meddygol sylfaenol” (“*primary medical services provider*”) yw’r person sydd wedi ymrwymo i gontract i ddarparu gwasanaethau meddygol sylfaenol yn unol ag adran 41(2)(b), 42 neu 50 o’r Ddeddf;

ystyr “y Ddeddf” (“*the Act*”) yw Deddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006;

ystyr “gwasanaethau iechyd perthnasol” (“*relevant health services*”) yw gwasanaethau iechyd sylfaenol a ddarperir yng Nghymru at ddibenion y gwasanaeth iechyd;

ystyr “gwasanaethau meddygol sylfaenol” (“*primary medical services*”) yw gwasanaethau iechyd a ddarperir o dan gontract, trefniant neu gytundeb a wneir o dan neu yn rhinwedd yr adrannau a ganlyn o’r Ddeddf—

- (a) adran 41(2) (gwasanaethau meddygol sylfaenol);
- (b) adran 42(1) (contractau gwasanaethau meddygol cyffredinol);
- (c) adran 50 (trefniadau gan Fyrddau Iechyd Lleol ar gyfer darparu gwasanaethau meddygol sylfaenol);

ystyr “swyddogaeth berthnasol” (“*relevant function*”) yw—

- (a) trefnu ar gyfer darparu gwasanaethau at ddibenion y gwasanaeth iechyd(1);
- (b) darparu gwasanaethau at ddibenion y gwasanaeth iechyd;
- (c) arfer swyddogaethau mewn perthynas â’r gwasanaeth iechyd;
- (d) darparu gwasanaethau meddygol sylfaenol;
- (e) arfer pwerau o dan neu yn rhinwedd adran 7 o Ddeddf Iechyd a Meddyginiaethau 1988(2);

(1) Diffinnir “the health service” yn adran 206(1) o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006.

(2) Trosglwyddwyd swyddogaethau’r Ysgrifennydd Gwladol i Gynulliad Cenedlaethol Cymru yn rhinwedd Gorchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672). Mae’r swyddogaethau hynny yn arferadwy, o ran Cymru, gan Weinidogion Cymru yn rhinwedd adran 162 o Ddeddf Llywodraeth Cymru 2006 (p. 32) a pharagraff 30 o Atodlen 11 iddi.

- (f) arfer pwerau o dan adran 169 o'r Ddeddf neu baragraffau 19 ac 20 o Atodlen 3 iddi;

ystyr "Ymddiriedolaeth GIG" ("*NHS Trust*") yw Ymddiriedolaeth Gwasanaeth Iechyd Gwladol sydd wedi ei sefydlu yn unol ag adran 18(2) o'r Ddeddf.

Cynllun Esgeuluster Clinigol ar gyfer Ymddiriedolaethau'r GIG a'r Byrddau Iechyd Lleol

3.—(1) Mae cynllun wedi ei sefydlu drwy hyn, sydd i'w alw'n Gynllun Esgeuluster Clinigol ar gyfer Ymddiriedolaethau'r GIG a'r Byrddau Iechyd Lleol.

(2) Diben y Cynllun yw galluogi corff cymwys i wneud darpariaeth i fodloni atebolrwyddau y mae'r Cynllun yn gymwys iddynt.

(3) Dim ond os yw corff cymwys yn aelod o'r Cynllun y caiff gymryd rhan yn y Cynllun.

(4) Mae'r Cynllun i'w weinyddu gan Weinidogion Cymru.

Cyrff cymwys

4. Y cyrff sy'n gymwys i fod yn aelod o'r Cynllun yw—

- (a) Ymddiriedolaeth GIG, neu
- (b) Bwrdd Iechyd Lleol.

Aelodaeth o'r Cynllun

5.—(1) Caiff corff cymwys wneud cais i Weinidogion Cymru i ddod yn aelod o'r Cynllun.

(2) Rhaid i gais a wneir yn unol â pharagraff (1)—

- (a) cael ei wneud yn ysgrifenedig,
- (b) cael ei wneud ar unrhyw ffurf a chael ei gyflwyno mewn unrhyw fodd sy'n ofynnol gan Weinidogion Cymru,
- (c) pennu dyddiad y mae'r corff cymwys yn cynnig y dylai ei aelodaeth ddechrau, a
- (d) cynnwys unrhyw wybodaeth sy'n ofynnol gan Weinidogion Cymru neu gael ei gyflwyno gyda'r wybodaeth honno.

(3) Ar unrhyw adeg ar ôl cael cais a chyn penderfynu arno, caiff Gweinidogion Cymru ysgrifennu er mwyn ei gwneud yn ofynnol i'r ceisydd ddarparu unrhyw wybodaeth bellach y mae Gweinidogion Cymru yn ystyried ei bod yn angenrheidiol at ddibenion penderfynu ar y cais.

(4) Mae'r wybodaeth a all fod yn ofynnol yn unol â pharagraffau (2) a (3) yn cynnwys—

- (a) natur swyddogaethau'r ceisydd;

- (b) nifer y cyflogeion a'r contractwyr;
- (c) cymwysterau a phrofiad y cyflogeion hynny a'r contractwyr hynny;
- (d) manylion unrhyw hawliadau blaenorol y mae'r ceisydd wedi bod yn ddiffynnydd ynddynt mewn cysylltiad â hawliadau anaf personol a wnaed o ganlyniad i arfer unrhyw swyddogaeth berthnasol;
- (e) unrhyw wybodaeth arall y mae Gweinidogion Cymru yn gofyn amdani at ddibenion penderfynu ar y cais.

(5) Rhaid i Weinidogion Cymru—

- (a) o fewn 6 wythnos i gael cais a wnaed yn unol â'r gofynion ym mharagraffau (2) a (3), benderfynu ai i'w ganiatáu ai peidio, a
- (b) cyn gynted ag y bo'n rhesymol ymarferol, roi gwybod i'r ceisydd am y penderfyniad drwy hysbysiad ysgrifenedig y mae rhaid iddo, os caniateir y cais, bennu'r dyddiad y mae aelodaeth y ceisydd i ddechrau arno.

(6) Wrth benderfynu ai i ganiatáu cais, rhaid i Weinidogion Cymru roi sylw i—

- (a) yr wybodaeth a ddarperir gan y ceisydd, a
- (b) unrhyw ffactorau eraill y mae Gweinidogion Cymru yn ystyried eu bod yn berthnasol.

(7) Pan fo cais corff cymwys wedi ei ganiatáu, mae aelodaeth y corff hwnnw o'r Cynllun yn dechrau ar y dyddiad a bennir yn yr hysbysiad a roddir yn unol â pharagraff (5)(b).

(8) At ddibenion paragraff (4)(b) ac (c), mae'r cyfeiriad at "contractwyr" i'w ddehongli yn unol â rheoliad 9(2).

Canslo aelodaeth gan aelod

6.—(1) Nid yw'r rheoliad hwn yn gymwys ond mewn perthynas ag unrhyw aelod sydd wedi bod yn aelod o'r Cynllun am o leiaf 3 blynedd aelodaeth yn olynol.

(2) Caiff aelod o'r Cynllun ganslo ei aelodaeth o'r Cynllun drwy roi hysbysiad ysgrifenedig i Weinidogion Cymru ei fod yn canslo ei aelodaeth.

(3) Pan fo hysbysiad o dan baragraff (2)—

- (a) wedi ei roi cyn 1 Medi mewn blwyddyn aelodaeth, mae'r hysbysiad yn cymryd effaith ar ddiwedd y flwyddyn aelodaeth honno;
- (b) wedi ei roi ar neu ar ôl 1 Medi mewn blwyddyn aelodaeth, mae'r hysbysiad yn cymryd effaith ar ddiwedd y flwyddyn aelodaeth ganlynol.

Canslo aelodaeth gan Weinidogion Cymru

7.—(1) Caiff Gweinidogion Cymru ganslo aelodaeth aelod o'r Cynllun o dan unrhyw rai o'r amgylchiadau a bennir ym mharagraffau (2) i (4).

(2) Yr amgylchiadau a bennir yn y paragraff hwn yw pan fo'r aelod yn atebol i wneud taliad i Weinidogion Cymru o dan reoliad 11 (dyletswydd aelodau i wneud cyfraniadau at y Cynllun) a bo'r taliad hwnnw yn parhau i fod heb ei dalu am gyfnod o 28 o ddiwrnodau neu ragor sy'n dechrau â'r dyddiad y daeth y taliad yn ddyledus.

(3) Yr amgylchiadau a bennir yn y paragraff hwn yw pan fo'r aelod wedi methu â darparu unrhyw wybodaeth sy'n ofynnol o dan reoliad 19 (dyletswydd aelodau i ddarparu gwybodaeth)—

- (a) cyn diwedd y cyfnod o 28 o ddiwrnodau sy'n dechrau â'r dyddiad y mae Gweinidogion Cymru yn gofyn am yr wybodaeth, neu
- (b) os yw Gweinidogion Cymru yn caniatáu yn ysgrifenedig gyfnod pellach ar gyfer darparu'r wybodaeth honno, cyn diwedd y cyfnod pellach hwnnw.

(4) Yr amgylchiadau a bennir yn y paragraff hwn yw pan fo Gweinidogion Cymru yn ystyried y byddai'n cael effaith niweidiol ar weinyddu'r Cynllun yn effeithlon neu fuddiannau aelodau eraill i'r aelod barhau'n aelod o'r Cynllun.

(5) Rhaid i Weinidogion Cymru roi gwybod i'r aelod drwy hysbysiad ysgrifenedig fod ei aelodaeth o'r Cynllun i beidio gydag effaith o ddyddiad a bennir yn yr hysbysiad ac—

- (a) pan fo'r canslo o dan amgylchiadau a bennir ym mharagraff (2), (3) neu (4)—
 - (i) ni chaiff y dyddiad sydd i'w bennu fod yn llai nag 28 o ddiwrnodau ar ôl y dyddiad y rhoddir yr hysbysiad, ond
 - (ii) caiff Gweinidogion Cymru benderfynu peidio â chanslo'r aelodaeth drwy roi i'r aelod hysbysiad ysgrifenedig pellach i'r perwyl hwnnw.

Atebolrwyddau aelodau

8.—(1) Mae'r Cynllun yn gymwys i—

- (a) unrhyw atebolrwydd mewn camwedd o dan gyfraith Cymru a Lloegr sydd ar aelod o'r Cynllun i drydydd parti mewn cysylltiad ag anaf personol neu golled, neu o ganlyniad i anaf personol neu golled, a bennir ym mharagraff (2), a
- (b) unrhyw atebolrwydd contractiol gan aelod o'r Cynllun—

- (i) sy'n codi o ganlyniad i drefniant i ddarparu gwasanaethau iechyd perthnasol y cyfeirir atynt yn rheoliad 9(2), a
- (ii) sydd wedi ei bennu'n atebolrwydd cymhwysol contractwr yn rheoliad 9(4).

(2) Yr anaf personol neu'r golled y cyfeirir ato neu ati ym mharagraff (1) yw anaf personol neu golled sy'n codi o unrhyw dor dyletswydd gofal neu mewn cysylltiad â thor dyletswydd gofal—

- (a) sydd ar yr aelod i unrhyw berson mewn cysylltiad â gwneud diagnosis o unrhyw salwch neu ofal neu driniaeth unrhyw glaf, a
- (b) sydd o ganlyniad i unrhyw weithred neu anweithred a bennir ym mharagraff (3).

(3) Y weithred neu'r anweithred y cyfeirir ati ym mharagraff (2) yw gweithred neu anweithred i weithredu ar ran—

- (a) person y mae'r aelod wedi ei gyflogi neu ei gymryd ymlaen mewn cysylltiad ag unrhyw swyddogaeth berthnasol a ddarperir gan yr aelod, neu
- (b) cyflogai neu asiant i berson y mae'r aelod wedi ei gymryd ymlaen mewn cysylltiad â darparu unrhyw swyddogaeth berthnasol.

Atebolrwyddau eraill y trinnir aelodau fel pe baent yn atebol amdanynt

9.—(1) Yn y rheoliad hwn, ystyr “darparwr gwasanaethau iechyd” yw Ymddiriedolaeth GIG, Bwrdd Iechyd Lleol neu ddarparwr gwasanaethau meddygol sylfaenol.

(2) Mae'r Cynllun yn gymwys i atebolrwyddau cymhwysol darparwr gwasanaethau iechyd nad yw'n aelod o'r Cynllun (“y contractwr”) pan fo'r gwasanaethau iechyd perthnasol a ddarperir ganddo yn destun trefniant rhyngddo ef a darparwr gwasanaethau iechyd arall sy'n aelod o'r Cynllun.

(3) Mae'r atebolrwyddau cymhwysol y mae'r Cynllun yn gymwys iddynt o dan baragraff (2) i'w trin at ddibenion y Cynllun a'r Rheoliadau hyn fel pe baent yn atebolrwyddau gan y darparwr gwasanaethau iechyd sy'n aelod o'r Cynllun ac a ymrwymodd i'r trefniant.

(4) Atebolrwyddau cymhwysol contractwr yw unrhyw atebolrwydd mewn camwedd o dan gyfraith Cymru a Lloegr—

- (a) sydd ar y contractwr i drydydd parti mewn cysylltiad ag anaf personol neu golled, neu o ganlyniad i anaf personol neu golled, fel y'i pennir ym mharagraff (5), a

- (b) sydd o ganlyniad i'r trefniant y cyfeirir ato ym mharagraff (2).

(5) Yr anaf personol neu'r golled y cyfeirir ato neu ati ym mharagraff (4)(a) yw anaf personol neu golled sy'n codi o unrhyw dor dyletswydd gofal neu mewn cysylltiad ag unrhyw dor dyletswydd gofal—

- (a) sydd ar y contractwr i unrhyw berson mewn cysylltiad â gwneud diagnosis o unrhyw salwch neu ofal neu driniaeth unrhyw glaf, a
- (b) sydd o ganlyniad i unrhyw weithred neu anweithred a bennir ym mharagraff (6).

(6) Yr weithred neu'r anweithred y cyfeirir ati ym mharagraff (5)(b) yw gweithred neu anweithred i weithredu mewn cysylltiad â darparu gwasanaethau iechyd perthnasol ar ran—

- (a) y contractwr,
- (b) person sydd wedi ei gyflogi neu ei gymryd ymlaen gan y contractwr, neu
- (c) cyflogai neu asiant i berson sydd wedi ei gymryd ymlaen gan y contractwr.

Penderfynu ar symiau sy'n daladwy gan aelodau

10.—(1) Rhaid i Weinidogion Cymru benderfynu ar y swm y mae rhaid i bob aelod o'r Cynllun ei dalu i Weinidogion Cymru mewn cysylltiad â phob blwyddyn aelodaeth.

(2) Wrth benderfynu ar y swm ym mharagraff (1) mewn cysylltiad ag unrhyw aelod ("A"), caiff Gweinidogion Cymru roi sylw i—

- (a) amcangyfrif Gweinidogion Cymru o'r cyfanswm sydd, yn rhinwedd rheoliad 13 (taliadau allan o'r Cynllun), yn debygol o fod yn daladwy yn ystod y flwyddyn aelodaeth honno mewn cysylltiad â'r holl atebolrwyddau y mae'r Cynllun yn gymwys iddynt;
- (b) natur swyddogaethau perthnasol A;
- (c) nifer cyflogeion a chontractwyr A sydd wedi eu cymryd ymlaen er mwyn i A gyflawni swyddogaeth berthnasol neu unrhyw ran o swyddogaeth berthnasol;
- (d) cymwysterau a phrofiad y cyflogeion hynny a'r contractwyr hynny;
- (e) unrhyw gytundeb mewn cysylltiad ag A sy'n dod o fewn rheoliad 13(3)(c) (cytundeb bod y Cynllun i gwmpasu hawliad yn y dyfodol mewn cysylltiad ag atebolrwydd a dynnir cyn i aelodaeth ddechrau);
- (f) unrhyw gytundeb mewn cysylltiad ag A sy'n dod o fewn rheoliad 13(5)(c) (cytundeb bod y Cynllun i gwmpasu hawliad presennol nad yw wedi ei fodloni cyn i aelodaeth beidio);

- (g) unrhyw gytundeb mewn cysylltiad ag A sy'n dod o fewn rheoliad 14(2)(a) (cytundeb wrth dalu cyfraniad ychwanegol fod y Cynllun i gwmpasu hawliad mewn cysylltiad ag atebolrwydd a dynnir cyn i aelodaeth beidio);
- (h) asesiad Gweinidogion Cymru o—
 - (i) effeithiolrwydd tebygol unrhyw gamau sy'n cael eu cymryd, neu sydd i'w cymryd, gan A o ran y modd y mae A yn arfer unrhyw swyddogaeth berthnasol at ddiben lleihau'r achosion o atebolrwydd mewn cysylltiad â'r swyddogaethau hynny y mae'r Cynllun yn gymwys iddynt, a
 - (ii) effeithiolrwydd unrhyw gamau sydd eisoes wedi eu cymryd at y diben hwnnw;
- (i) unrhyw ffactor arall sy'n ymwneud ag A neu unrhyw aelod arall o'r Cynllun y mae Gweinidogion Cymru yn ystyried ei fod yn berthnasol i'r penderfyniad o dan baragraff (1).

(3) Mewn cysylltiad â phob blwyddyn aelodaeth, rhaid i Weinidogion Cymru roi i bob aelod hysbysiad ysgrifenedig sy'n pennu'r swm y penderfynir arno mewn cysylltiad â'r aelod hwnnw yn unol â pharagraff (1).

(4) Ac eithrio fel y'i datgenir ym mharagraff (5), rhaid i hysbysiad a roddir yn unol â pharagraff (3) gael ei roi heb fod yn hwyrach na 31 Rhagfyr yn y flwyddyn aelodaeth cyn y flwyddyn aelodaeth y mae'r hysbysiad yn ymwneud â hi.

(5) Yn achos unrhyw aelod a dderbynnir i'r Cynllun—

- (a) rhaid i'r hysbysiad mewn cysylltiad â'r flwyddyn aelodaeth gyntaf gael ei roi heb fod yn hwyrach na 6 mis ar ôl y dyddiad y mae Gweinidogion Cymru yn cael cais yr aelod yn unol â rheoliad 5 (aelodaeth o'r Cynllun), a
- (b) rhaid i'r hysbysiad mewn cysylltiad â'r ail flwyddyn aelodaeth gael ei roi heb fod yn hwyrach na 1 Gorffennaf yn y flwyddyn aelodaeth honno.

(6) At ddibenion paragraff (2)(c) a (d), mae cyfeiriad at "contractwyr" i'w ddehongli yn unol â rheoliad 9(2).

(7) At ddibenion paragraff (5), mae'r cyfeiriad at "blwyddyn aelodaeth gyntaf" corff sy'n aelod o'r Cynllun yn gyfeiriad at y cyfan neu ran o unrhyw flwyddyn aelodaeth yn union ar ôl unrhyw gyfnod nad oedd y corff yn aelod ynddo.

Dyletswydd aelodau i wneud cyfraniadau at y Cynllun

11.—(1) Rhaid i bob aelod o'r Cynllun, mewn cysylltiad â phob blwyddyn aelodaeth, dalu i Weinidogion Cymru y swm y penderfynir arno mewn cysylltiad â'r aelod o dan reoliad 10(1) (penderfynu ar symiau sy'n daladwy gan aelodau).

(2) Ac eithrio fel y'i datgenir ym mharagraff (3), rhaid i aelod sy'n cael hysbysiad o dan reoliad 10(3) o'r swm sy'n daladwy mewn cysylltiad â blwyddyn aelodaeth dalu'r swm sy'n ddyledus—

- (a) yn unol ag unrhyw drefniant y mae Gweinidogion Cymru a'r aelod yn cytuno arno (a gaiff gynnwys taliad mewn rhandaliadau sydd i'w gwneud ar adegau y cytunir arnynt);
- (b) os na ddeuir i gytundeb erbyn 1 Mawrth yn union cyn dechrau'r flwyddyn aelodaeth, erbyn unrhyw amser ac mewn unrhyw fodd y mae Gweinidogion Cymru yn penderfynu arnynt.

(3) Pan fo aelod sydd wedi ei dderbyn i'r Cynllun yn cael hysbysiad o dan reoliad 10(3) mewn cysylltiad â blwyddyn aelodaeth, rhaid i'r aelod dalu—

- (a) y swm sy'n ddyledus mewn cysylltiad â'r flwyddyn aelodaeth gyntaf heb fod yn hwyrach nag 8 mis ar ôl y dyddiad y mae Gweinidogion Cymru yn cael cais yr aelod o dan reoliad 5 (aelodaeth o'r Cynllun), a
- (b) y swm sy'n ddyledus mewn cysylltiad â'r ail flwyddyn aelodaeth heb fod yn hwyrach na 1 Awst yn y flwyddyn aelodaeth honno.

(4) At ddibenion paragraff (3), mae'r cyfeiriad at "blwyddyn aelodaeth gyntaf" corff sy'n aelod o'r Cynllun i'w ddehongli yn unol â rheoliad 10(7).

Diwygio penderfyniad ar swm taladwy

12.—(1) Mae paragraff (2) yn gymwys pan fo Gweinidogion Cymru yn nodi, cyn diwedd blwyddyn aelodaeth, o ran y swm y penderfynwyd ganddynt yn unol â rheoliad 10(1) ei fod yn daladwy gan yr aelod mewn cysylltiad â'r flwyddyn honno—

- (a) ei fod wedi ei gyfrifo'n anghywir,
- (b) y penderfynwyd arno drwy gyfeirio at wybodaeth a oedd yn anghywir, neu
- (c) y dylid ei ailystyried yng ngoleuni gwybodaeth bellach sydd wedi dod ar gael i Weinidogion Cymru.

(2) O ran Gweinidogion Cymru—

- (a) rhaid iddynt ailystyried y swm y penderfynwyd arno, a

- (b) ar unrhyw adeg cyn diwedd y flwyddyn aelodaeth o dan sylw, cânt ddiwygio'r swm sy'n daladwy gan yr aelod mewn cysylltiad â'r flwyddyn honno.

(3) Rhaid i Weinidogion Cymru roi i'r aelod hysbysiad ysgrifenedig o unrhyw swm diwygiedig y penderfynir arno yn unol â pharagraff (2)(b) a rhaid i'r aelod dalu unrhyw swm sy'n parhau i fod yn ddyledus mewn cysylltiad â'r flwyddyn aelodaeth—

- (a) yn unol ag unrhyw drefniadau y mae Gweinidogion Cymru a'r aelod yn cytuno arnynt (a gaiff gynnwys taliad mewn rhandaliadau sydd i'w gwneud ar adegau y cytunir arnynt), a
- (b) os na ddeuir i gytundeb erbyn diwedd y flwyddyn aelodaeth, erbyn unrhyw amser ac mewn unrhyw fodd y mae Gweinidogion Cymru yn penderfynu arnynt.

(4) Mae'r cyfeiriad ym mharagraff (1) at swm y penderfynir arno gan Weinidogion Cymru yn unol â rheoliad 10(1) yn cynnwys unrhyw swm diwygiedig y penderfynir arno yn unol â pharagraff (2)(b).

Taliadau allan o'r Cynllun: atebolrwyddau aelodau

13.—(1) Pan fo taliad yn dod i'w wneud gan aelod o'r Cynllun o ran hawliad mewn cysylltiad ag atebolrwydd y mae'r Cynllun yn gymwys iddo, caiff Gweinidogion Cymru dalu i'r aelod, neu ar ran yr aelod, swm y penderfynir arno yn unol â rheoliad 17.

(2) Ni chaniateir i unrhyw daliad gael ei wneud o dan baragraff (1)—

- (a) mewn cysylltiad ag unrhyw atebolrwydd gan yr aelod sydd wedi ei eithrio o'r Cynllun gan unrhyw un neu ragor o baragraffau (3) i (5), neu
- (b) mewn cysylltiad ag unrhyw atebolrwydd neu daliad gan yr aelod sydd wedi ei eithrio o'r Cynllun gan reoliad 15 (eithriadau).

(3) Mae unrhyw atebolrwydd a dynnwyd gan gorff cymwys cyn iddo ddod yn aelod o'r Cynllun wedi ei eithrio o'r Cynllun oni bai—

- (a) bod yr hawliad yn erbyn y corff cymwys mewn cysylltiad â'r atebolrwydd wedi ei wneud ar ôl dechrau ei aelodaeth o'r Cynllun,
- (b) bod Gweinidogion Cymru wedi eu bodloni bod y corff cymwys wedi rhoi gwybod i Weinidogion Cymru cyn diwedd y cyfnod cymhwysol fod yr hawliad wedi ei wneud,
- (c) bod Gweinidogion Cymru wedi cytuno cyn dechrau aelodaeth y corff cymwys na ddylid eithrio o'r Cynllun unrhyw atebolrwydd gan y corff sydd o ganlyniad i hawliad y mae is-baragraffau (a) a (b) yn gymwys iddo, a

- (d) bod y cytundeb hwnnw wedi parhau mewn grym ar y dyddiad y mae'r hawliad yn erbyn y corff cymwys yn dod i'w fodloni.

(4) Mae unrhyw atebolrwydd gan aelod sy'n dod i'w fodloni ar ôl i'r aelod roi hysbysiad o ganslo o dan reoliad 6(2) (canslo aelodaeth gan aelod) ond cyn i'r aelodaeth beidio wedi ei eithrio o'r Cynllun oni bai bod Gweinidogion Cymru wedi eu bodloni y byddai'r atebolrwydd wedi dod i'w fodloni ar yr adeg honno er gwaethaf penderfyniad yr aelod i roi hysbysiad o'r fath.

(5) Mae unrhyw atebolrwydd gan gorff cymwys sy'n dod i'w fodloni ar ôl i'w aelodaeth o'r Cynllun beidio wedi ei eithrio o'r Cynllun oni bai—

- (a) bod yr hawliad yn erbyn y corff cymwys mewn cysylltiad â'r atebolrwydd wedi ei wneud cyn i aelodaeth y corff beidio,
- (b) bod Gweinidogion Cymru wedi eu bodloni bod y corff cymwys wedi rhoi gwybod i Weinidogion Cymru cyn diwedd y cyfnod cymhwysol fod yr hawliad wedi ei wneud,
- (c) bod Gweinidogion Cymru wedi cytuno cyn i aelodaeth y corff cymwys beidio na ddylid eithrio o'r Cynllun unrhyw atebolrwydd gan y corff sydd o ganlyniad i hawliad y mae is-baragraffau (a) a (b) yn gymwys iddo, a
- (d) bod y cytundeb hwnnw wedi parhau mewn grym ar y dyddiad y peidiodd aelodaeth y corff cymwys.

(6) Ym mharagraffau (3)(b) a (5)(b), y "cyfnod cymhwysol" yw'r cyfnod o 14 o ddiwrnodau sy'n dechrau â'r dyddiad y daeth yr aelod yn ymwybodol bod hawliad wedi ei wneud neu, os yw'n gynharach, y dyddiad y mae Gweinidogion Cymru yn ystyried y dylai'r aelod fod wedi dod yn ymwybodol bod hawliad wedi ei wneud.

Taliadau allan o'r Cynllun: atebolrwyddau cyn-aelodau

14.—(1) Pan—

- (a) bo taliad yn dod i'w wneud gan gorff cymwys ("C") sydd, ar unrhyw adeg, wedi bod yn aelod o'r Cynllun mewn cysylltiad â hawliad o ran atebolrwydd y mae'r Cynllun yn gymwys iddo, a
- (b) bo'r hawliad yn ymwneud â thor dyletswydd gofal gan C tra oedd yn aelod o'r Cynllun,

caiff Gweinidogion Cymru, os yw'r amodau a bennir ym mharagraff (2) wedi eu bodloni, dalu i C neu ar ran C swm y penderfynir arno gan Weinidogion Cymru yn unol â rheoliad 17.

(2) Yr amodau yw—

- (a) cyn i aelodaeth C o'r Cynllun beidio, fod Gweinidogion Cymru yn cytuno ag C, mewn cysylltiad â'r flwyddyn aelodaeth yn union cyn i aelodaeth C beidio, fod y swm sydd i'w dalu gan C o dan reoliad 11 (dyletswydd aelodau i wneud cyfraniadau at y Cynllun) hefyd i gynnwys swm ychwanegol y penderfynir arno at ddibenion y rheoliad hwn,
- (b) bod Gweinidogion Cymru yn penderfynu bod y swm hwnnw yn ddigonol i fodloni unrhyw atebolrwyddau gan C sy'n dod o fewn paragraff (1) a dynnwyd tra oedd C yn aelod ond sy'n dod i'w bodloni ar ôl y dyddiad y mae aelodaeth C yn peidio, ac
- (c) cyn y dyddiad hwnnw, fod C naill ai'n talu'r swm ychwanegol yn llawn neu'n ymrwymo i gytundeb â Gweinidogion Cymru i'w dalu mewn rhandaliadau.

(3) Ni chaniateir i unrhyw daliad gael ei wneud o dan baragraff (1) mewn cysylltiad ag unrhyw atebolrwydd neu daliad gan C sydd wedi ei eithrio o'r Cynllun gan reoliad 15 (eithriadau).

Eithriadau

15.—(1) Ac eithrio i'r graddau y mae Gweinidogion Cymru yn penderfynu arnynt, mae'r canlynol wedi eu heithrio o'r Cynllun—

- (a) unrhyw atebolrwydd a gyfaddefir gan aelod heb gael cydsyniad ysgrifenedig Gweinidogion Cymru yn gyntaf;
- (b) unrhyw atebolrwydd y penderfynir arno gan Lys mewn achos a gynhelir gan aelod ac eithrio gan ymgynghori â Gweinidogion Cymru;
- (c) unrhyw daliad sy'n dod i'w wneud gan aelod pan na fo'r aelod wedi cydymffurfio ag unrhyw amod a osodir gan Weinidogion Cymru ac sy'n ymwneud â hawliad;
- (d) unrhyw daliad sy'n dod i'w wneud gan aelod, pan fo'r aelod, heb gael cydsyniad ysgrifenedig Gweinidogion Cymru yn gyntaf, yn cytuno—
 - (i) i gael ei rwymo gan benderfyniad gan unrhyw berson neu gorff o ran gwneud taliad gan yr aelod hwnnw mewn cysylltiad ag atebolrwydd, neu
 - (ii) i wneud unrhyw daliad arall mewn cysylltiad â'r atebolrwydd ac eithrio yng nghwrs achos cyfreithiol neu o ganlyniad i setliad mewn achos cyfreithiol y mae'r aelod yn cytuno arno;
- (e) unrhyw atebolrwydd sydd o swm sy'n llai na'r swm y mae aelod a Gweinidogion Cymru

yn cytuno, am y tro, mai hwnnw yw isafswm unrhyw atebolrwydd y mae taliad i'w wneud mewn cysylltiad ag ef o dan y Cynllun;

- (f) unrhyw atebolrwydd gan ddarparwr gwasanaethau meddygol sylfaenol a dynnwyd, neu sy'n dod i'w fodloni, mewn blwyddyn aelodaeth y cynhwyswyd y darparwr gwasanaethau meddygol sylfaenol hwnnw mewn perthynas â hi mewn hysbysiad i Weinidogion Cymru gan y Bwrdd Iechyd Lleol.

(2) Ym mharagraff (1)—

- (a) mae cyfeiriadau at “aelod” yn cynnwys cyn-aelod o'r Cynllun—
 - (i) y mae gofynion rheoliad 13(5)(c) a (d) wedi eu bodloni mewn cysylltiad ag ef (cytundeb bod y Cynllun i gwmpasu hawliad presennol nad yw wedi ei fodloni cyn i aelodaeth beidio), neu
 - (ii) y mae rheoliad 14 yn gymwys iddo (atebolrwyddau cyn-aelodau);
- (b) yn is-baragraff (f), ystyr “hysbysiad” yw rhestr o ddarparwyr gwasanaethau meddygol sylfaenol nad yw eu hatebolrwyddau cymhwysol i'w cwmpasu gan y Cynllun am y flwyddyn aelodaeth.

Taliadau allan o'r Cynllun: atebolrwyddau y trinnir aelodau fel pe baent yn atebol amdanynt

16.—(1) Mae paragraff (2) yn gymwys i unrhyw daliad o ran hawliad mewn cysylltiad ag atebolrwydd cymhwysol sy'n dod o fewn rheoliad 9 (atebolrwyddau eraill y trinnir aelodau fel pe baent yn atebol amdanynt) pan fo'r taliad yn dod i'w wneud gan aelod o'r Cynllun a drinnir o dan reoliad 9(3) fel pe bai'n atebol mewn cysylltiad â'r hawliad.

(2) Mae rheoliadau 13 i 15 (amgylchiadau y mae taliadau i'w gwneud allan o'r Cynllun odanynt mewn cysylltiad ag atebolrwyddau aelodau a chyn-aelodau) i fod yn gymwys er mwyn galluogi i daliadau gael eu gwneud i unrhyw aelod o'r Cynllun, neu ar ei ran, mewn cysylltiad ag atebolrwyddau cymhwysol fel y mae'r rheoliadau hynny yn gymwys mewn cysylltiad ag atebolrwyddau'r aelod ei hun.

(3) Wrth gymhwyso rheoliad 13, 14 neu 15 at ddibenion paragraff (2), mae cyfeiriadau at unrhyw beth sy'n cael ei wneud gan aelod, i aelod neu yn erbyn aelod mewn cysylltiad ag atebolrwydd y mae'r Cynllun yn gymwys iddo yn cynnwys cyfeiriadau ato'n cael ei wneud mewn cysylltiad ag atebolrwydd cymhwysol y trinnir yr aelod fel pe bai'n atebol amdano.

Penderfynu ar swm unrhyw daliad sydd i'w wneud allan o'r Cynllun

17.—(1) Mewn cysylltiad â phob atebolrwydd y mae'r Cynllun yn gymwys iddo, rhaid i Weinidogion Cymru benderfynu ar swm unrhyw daliad sydd i'w wneud o dan reoliad 13 neu 14 (taliadau allan o'r Cynllun mewn cysylltiad ag atebolrwyddau aelodau a chyn-aelodau).

(2) Wrth benderfynu ar swm y taliad sydd i'w wneud o dan yr amgylchiadau a bennir ym mhob un o baragraffau (3) i (8), rhaid i Weinidogion Cymru roi sylw i'r materion perthnasol a bennir yn y paragraff hwnnw.

(3) Pan fo iawndal wedi ei ddyfarndalu gan Lys yn erbyn aelod, y materion perthnasol yw swm—

- (a) y dyfarndal,
- (b) y costau cyfreithiol a'r costau cysylltiedig a ddyfarndelir i'r hawlydd, ac
- (c) unrhyw gostau cyfreithiol a chostau cysylltiedig yr eir iddynt gan neu ar ran yr aelod.

(4) Pan fo achos cyfreithiol yn destun setliad y mae'r aelod yn cytuno arno, y materion perthnasol yw swm—

- (a) unrhyw swm a delir neu sy'n daladwy gan yr aelod mewn perthynas â hawliad yr hawlydd am iawndal,
- (b) cyfraniad yr aelod tuag at unrhyw gostau cyfreithiol a chostau cysylltiedig yr eir iddynt gan yr hawlydd, ac
- (c) unrhyw gostau cyfreithiol a chostau cysylltiedig yr eir iddynt gan neu ar ran yr aelod.

(5) Pan fo Llys, mewn unrhyw achosion cyfreithiol, wedi gwrthod dyfarndalu iawndal yn erbyn yr aelod, y materion perthnasol yw—

- (a) swm unrhyw gostau cyfreithiol a chostau cysylltiedig yr eir iddynt gan neu ar ran yr aelod, a
- (b) y graddau nad yw'r costau hynny yn adferadwy naill ai gan yr hawlydd neu gan yr Asiantaeth Cymorth Cyfreithiol o dan reoliadau sydd wedi eu gwneud yn rhinwedd adran 26(5) o Ddeddf Cymorth Cyfreithiol, Dedfrydu a Chosbi Troseddwyr 2012(1) (costau mewn achosion sifil).

(6) Pan fo aelod, ac eithrio yng nghwrs achos cyfreithiol, wedi cytuno i wneud taliad er mwyn setlo hawliad, y materion perthnasol yw swm—

(1) 2012 p. 10.

- (a) y taliad y cytunir arno, a
- (b) unrhyw gostau cyfreithiol neu gostau cysylltiedig yr eir iddynt gan neu ar ran yr aelod mewn cysylltiad â'r hawliad.

(7) Pan fo aelod, ac eithrio yng nghwrs achos cyfreithiol, wedi cytuno i wneud unrhyw gyfraniad tuag at y costau cyfreithiol neu'r costau cysylltiedig yr eir iddynt gan berson mewn cysylltiad â hawliad y person hwnnw yn erbyn yr aelod mewn cysylltiad ag atebolrwydd y mae'r Cynllun yn gymwys iddo, y materion perthnasol yw swm—

- (a) y cyfraniad hwnnw, a
- (b) unrhyw gostau cyfreithiol neu gostau cysylltiedig yr eir iddynt gan neu ar ran yr aelod mewn cysylltiad â'r hawliad.

(8) Pan fo aelod wedi cytuno i gael ei rwymo gan benderfyniad gan unrhyw berson neu gorff o ran gwneud taliad gan yr aelod hwnnw mewn cysylltiad ag atebolrwydd y mae'r Cynllun yn gymwys iddo, y materion perthnasol yw swm—

- (a) y taliad,
- (b) unrhyw gostau cyfreithiol neu gostau cysylltiedig yr eir iddynt gan yr hawlydd mewn cysylltiad â'r hawliad, ac
- (c) unrhyw gostau cyfreithiol neu gostau cysylltiedig yr eir iddynt gan neu ar ran yr aelod mewn cysylltiad â'r hawliad.

(9) Yn y rheoliad hwn, mae cyfeiriadau at “aelod” i'w dehongli yn unol â rheoliad 15(2).

Pŵer i wneud taliadau ar gyfrif

18.—(1) Pan fo taliad, mewn unrhyw flwyddyn aelodaeth, yn dod i'w wneud gan aelod mewn cysylltiad â hawliad y gall swm ddod yn daladwy gan Weinidogion Cymru mewn cysylltiad ag ef o dan reoliad 17 (penderfynu ar swm unrhyw daliad sydd i'w wneud allan o'r Cynllun), caiff Gweinidogion Cymru wneud taliad ar gyfrif o unrhyw swm a all ddod yn daladwy.

(2) Caniateir i daliad ar gyfrif gael ei wneud i'r aelod neu ar ei ran.

(3) Pan fo swm unrhyw daliad ar gyfrif yn fwy na'r swm y penderfynir wedi hynny o dan reoliad 17 mai hwnnw yw swm y taliad sydd i'w wneud mewn cysylltiad â'r hawliad, mae'r taliad dros ben yn adferadwy gan yr aelod.

Dyletswydd aelodau i ddarparu gwybodaeth

19.—(1) Yn y rheoliad hwn, ystyr “penodedig” yw wedi ei bennu gan Weinidogion Cymru mewn hysbysiad o dan baragraff (2).

(2) Caiff Gweinidogion Cymru drwy hysbysiad ysgrifenedig ei gwneud yn ofynnol i aelod ddarparu gwybodaeth benodedig i Weinidogion Cymru.

(3) Mae gwybodaeth benodedig yn cynnwys—

- (a) natur unrhyw swyddogaeth berthnasol a gynhelir, neu sydd i'w chynnal, gan yr aelod mewn blwyddyn aelodaeth benodedig,
- (b) nifer cyflogeion a chontractwyr yr aelod sydd wedi eu cymryd ymlaen er mwyn i'r aelod gyflawni swyddogaeth berthnasol benodedig neu mewn rhan benodedig o unrhyw swyddogaeth o'r fath,
- (c) cymwysterau a phrofiad y cyflogeion hynny a'r contractwyr hynny, a
- (d) unrhyw ddiwyddiad y mae'r aelod yn ymwybodol ohono y mae'n ystyried y gallai arwain at atebolrwydd y mae'r Cynllun yn gymwys iddo.

(4) Rhaid i'r aelod gydymffurfio â hysbysiad o dan baragraff (2) a rhaid iddo—

- (a) darparu'r wybodaeth o fewn 28 o ddiwrnodau i gael yr hysbysiad neu o fewn unrhyw gyfnod pellach y mae Gweinidogion Cymru wedi ei ganiatáu yn ysgrifenedig,
- (b) darparu'r wybodaeth ar unrhyw ffurf benodedig, ac
- (c) cyflwyno'r wybodaeth mewn unrhyw fodd penodedig.

(5) At ddibenion paragraff (3)(b) ac (c), mae'r cyfeiriad at "contractwyr" i'w ddehongli yn unol â rheoliad 9(2).

Cyfarwyddydau a chanllawiau

20.—(1) Rhaid i Weinidogion Cymru roi ar gael i gyrrff cymwys yr wybodaeth a ganlyn ar unrhyw ffurf ac ar unrhyw adegau y mae Gweinidogion Cymru yn ystyried eu bod yn briodol⁽¹⁾—

- (a) unrhyw gyfarwyddydau y mae Gweinidogion Cymru yn eu rhoi i gorff perthnasol mewn cysylltiad ag arfer swyddogaethau'r corff hwnnw ganddo mewn cysylltiad â gweinyddu'r Cynllun, a
- (b) unrhyw ganllawiau y mae Gweinidogion Cymru yn eu rhoi i gorff perthnasol o ran y modd y mae'r Cynllun i'w weinyddu.

(1) Mae'r cyfarwyddiadau a'r canllawiau a roddir gan Weinidogion Cymru ar gael ar <http://www.nwssp.wales.nhs.uk> neu drwy wneud cais ysgrifenedig i: Y Gyfarwyddiaeth Polisi Iechyd, Y Tîm Gofal Sylfaenol, Llywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ.

(2) Ystyr “corff perthnasol” yw corff a gyfarwyddir gan Weinidogion Cymru o dan adran 30(5) o’r Ddeddf i gyflawni swyddogaethau mewn cysylltiad â gweinyddu’r Cynllun.

Diwygio Rheoliadau’r Gwasanaeth Iechyd Gwladol (Contractau Gwasanaethau Meddygol Cyffredinol) (Cymru) 2004

21.—(1) Mae Rheoliadau’r Gwasanaeth Iechyd Gwladol (Contractau Gwasanaethau Meddygol Cyffredinol) (Cymru) 2004(1) wedi eu diwygio fel a ganlyn.

(2) Yn Atodlen 6, ym mharagraff 120—

(a) ar ôl is-baragraff (2) mewnosoder—

“(2A) The Local Health Board, to the extent it considers reasonable and to the extent it may be reimbursed in accordance with the Clinical Negligence Scheme for NHS Trusts and Local Health Boards established by regulation 3 of the 2019 Regulations, shall indemnify the contractor in respect of that contractor’s qualifying liabilities as specified in regulation 9(4) of the 2019 Regulations, provided the contractor—

(a) complies with the Local Health Board’s claims management protocol for contractors (as amended from time to time); and

(b) does not have any other indemnity arrangement in force in connection with clinical services which the contractor provides under the contract at the time the qualifying liability arose.”;

(b) yn is-baragraff (3)—

(i) ar ddiwedd paragraff (aa) hepgorer “and”;

(ii) yn lle paragraff (b) rhodder—

“(b) a contractor shall be regarded as having in force in relation to it an indemnity arrangement—

(i) if there is an indemnity arrangement in force in relation to a person employed or engaged by it in connection with clinical services which that person

(1) O.S. 2004/478 (Cy. 48). Diwygiwyd paragraff 120 o Atodlen 6 gan reoliad 11(33) o Reoliadau’r Gwasanaeth Iechyd Gwladol (Gwasanaethau Meddygol Sylfaenol) (Diwygiadau Amrywiol) (Cymru) 2006 (O.S. 2006/358 (Cy. 46)) a pharagraff 5(a) i (e) o Atodlen 2 i Orchymyn Proffesiynau Gofal Iechyd a Phroffesiynau Cysylltiedig (Trefniadau Indemniad) 2014 (O.S. 2014/1887). Mae diwygiadau eraill ond nid oes yr un ohonynt yn berthnasol.

provides under the contract or, as the case may be, sub-contract; or

(ii) for its qualifying liabilities specified in regulation 9(4) of the 2019 Regulations, to the extent provided for under paragraph 120(2A);”;

(iii) ar ôl paragraff (b) mewnosoder—

“(c) “the 2019 Regulations” means the National Health Service (Clinical Negligence Scheme) (Wales) Regulations 2019.”

Dirymu

22. Mae Rheoliadau'r Gwasanaeth Iechyd Gwladol (Cynllun Esgeuluster Clinigol) 1996⁽¹⁾ wedi eu dirymu.

Vaughan Gething

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol,
un o Weinidogion Cymru
4 Mawrth 2019

(1) O.S. 1996/251.

**Explanatory Memorandum to
The National Health Service (Clinical Negligence Scheme)
(Wales) Regulations 2019**

This Explanatory Memorandum has been prepared by Health and Social Services Department and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The National Health Service (Clinical Negligence Scheme) (Wales) Regulations 2019

Vaughan Gething
Minister for Health and Social Services
5 March 2019

PART 1

1. Description

These Regulations make provision in connection with the Clinical Negligence Scheme for NHS Trusts and Local Health Boards in Wales (“the Scheme”). The Scheme enables members exercising functions in connection with the National Health Service in Wales to make provision for meeting liabilities to which the Scheme applies.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

None

3. Legislative background

The powers of the Welsh Ministers that are being relied upon to introduce the regulations are sections 30, 47(1), (2) and (4), and 203(9) and (10) of the National Health Service (Wales) Act 2006.

These Regulations revoke the National Health Service (Clinical Negligence Scheme) Regulations 1996 (S.I. 1996/251). These Regulations also make consequential amendments to the National Health Service (General Medical Services Contract) (Wales) Regulations 2004 (S.I. 2004/478 (W.48)).

These Regulations are being made under the negative resolution procedure

4. Purpose and intended effect of the legislation

Clinical negligence cover is a condition of registration in the UK for all regulated healthcare professionals, and in the case of medical practitioners, a condition of licence under s.44C of the Medical Act 1983. The cover can be an insurance policy, an indemnity arrangement, or a combination of both. .

There has been concern about increasing indemnity costs, which could potentially drive GPs away from the profession, resulting in an impact on services. It is estimated that indemnity premiums have increased by 7% per year on average between 2013 and 2017. Among the factors driving the increasing cost of indemnity is an ageing population; technological innovations in medicine which keep people alive longer; an increase in people living with complex conditions and an increasing claims culture. There is no evidence to suggest that deterioration in the quality of care has acted as a driver to increase the cost of indemnity. Increases in the last two years are estimated to be over 10% in total. The rising cost of indemnity subscriptions has been cited as one of the reasons why GPs are reducing their hours, and if the trend continues, may create a further shortage of GPs.

On the 14th May 2018, the Minister for Health and Social Services announced that the Welsh Government would introduce a state backed scheme to provide clinical negligence indemnity for providers of GP services in Wales. The scheme, which is planned to come into force on 1 April 2019, will cover all contracted GPs and other health professionals working in NHS general practice.

The scheme will help to address the concerns of GPs about the affordability of professional indemnity premiums and will deliver a sustainable, long term solution to address the increasing costs of professional indemnity.

The scheme will be aligned as far as possible to the state backed scheme to be introduced for providers of GP services in England on 1 April 2019. This will ensure that GPs in Wales are not at a disadvantage relative to GPs in England, will also help to ensure that GP recruitment and cross border activity will not be adversely affected by different schemes operating in England and Wales

The Regulations establish the Clinical Negligence Scheme for NHS Trusts and Local Health Boards to provide for all qualifying liabilities, from 1 April 2019, in tort and in contract.

The indemnity provided under the Scheme covers the clinical negligence liabilities of members (Local Health Boards and NHS Trusts) as well as those of non-member contractors who provide primary medical services by virtue of an arrangement with a member of the Scheme (e.g. a general medical services contract). The Scheme applies from 1 April 2019 in respect of all liabilities within its scope. This means that, from that date, members and contractors will automatically be covered by the Scheme in relation to such liabilities.

The Scheme will provide discretionary cover in respect of liabilities in tort (under the law of England and Wales) that arise in consequence of a breach of duty of care by a member or contractor (or other person employed, engaged or employed by a person engaged by a member or contractor) which results in physical injury or loss to a person. Claims made under the Scheme are expected to consist of mainly clinical negligence claims.

The Scheme will not cover private work, complaints, involvement in coroners' cases, GMC hearings and other matters relating to professional regulation. Any provision of these services will necessitate taking out separate indemnity insurance to cover private work and the other aspects not covered by the Scheme.

In November 2018, The Minister for Health and Social Services confirmed that Shared Services Partnership – Legal and Risk Services will operate that state backed scheme for GPs in Wales (Future Liability Scheme)

This Statutory Instrument is essential to establish the Scheme and facilitate its operation.

5. Consultation

Throughout the development of the policy for the Scheme, the Welsh Government has engaged, on an ongoing basis, with key stakeholders affected by the proposed changes, arising from the implementation of a state scheme, including Medical Defence Organisations, GPs, NHS Wales Shared Services Partnership - Legal and Risk Services and NHS Wales. This engagement process included meetings and other communications with stakeholders to assist them in understanding the proposals made and to elicit their views before final decisions were made on the Scheme policy. The process has also included the establishment of a Stakeholder Reference Group.

An informal, targeted, consultation was undertaken with the draft statutory instrument shared with stakeholders between 19th and 28th February 2019. The list of stakeholders included:

- Directors of Primary Care of Local Health Boards
- Associate Medical Directors of Local Health Boards
- Medical Directors of Local Health Boards
- Finance Directors of Local Health Boards
- Directors of Nursing of Local Health Boards
- General Practitioners Committee Wales
- Royal College of General Practitioners
- GP Practice Managers
- NHS Wales Shared Services Partnership - Legal and Risk Service

Six responses were received following the informal consultation. The responses sought clarification on the following points:

(a) Whether the scheme is a “discretionary” scheme (in line with the current medical defence organisations and GP current indemnity arrangements) or whether the scheme is contractual (similar to commercial insurers) and the way in which discretion will be applied by the scheme operator (Shared Services Partnership - Legal and Risk Services)

(b) The scope of the Scheme in terms of liability in tort and contractual liability.

(c) The scope of the scheme in terms of who is covered and what activities are covered.

(d) The way in which the scheme will be funded.

(e) Clarity on the information which Local Health Boards may request from GPs.

(f) Clarity as to whether the draft Regulations would capture all of WRP activity. The Welsh Government responded to all queries, setting out the appropriate information and advising that the clarity sought will also be addressed in the Future Liability Scheme Guidance which will accompany Ministerial Directions in relation to the administration of the Scheme.

6. Regulatory Impact Assessment (RIA)

A Regulatory Impact Assessment has not been prepared for this instrument as it imposes no costs or no savings, or negligible costs or savings on the public, private or charities and voluntary sectors.

A wide range of options were initially considered to address the issues with GP indemnity. The criteria included compatibility with primary care policy; sustainability; legal and financial risks; and transitional arrangements from the current position. The costs and benefits of each option are not presented here in detail due to the limited information that can be included because of the confidential commercial basis on which the analysis is based.

As highlighted above, the benefits of the state backed scheme help to address the concerns of GPs about the affordability of professional indemnity premiums and will deliver a sustainable, long term solution to address the increasing costs of professional indemnity. GPs will contribute towards the cost of the scheme, through the General Medical Services Contract.

This legislation has no impact on the statutory duties (sections 77-79 of the Government of Wales Act 2006) or statutory partners (sections 72-75 of that Act).

Eitem 4.15

SL(5)373 – Rheoliadau Cynhyrchion Bwyd a Bwyd Anifeiliaid Rheoleiddiedig (Diwygiadau Amrywiol) (Cymru) (Ymadael â'r UE) 2019

Cefndir a Diben

Mae'r Rheoliadau hyn (ac eithrio rheoliad 3(6)) wedi eu gwneud o dan baragraff 1(1) o Atodlen 2 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 i geisio ymdrin ag unrhyw fethiant yng nghyfraith yr UE a ddargedwir i weithredu'n effeithiol a diffygion eraill sy'n deillio o ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd.

Mae rheoliad 3(6) wedi ei wneud o dan adran 16 o Ddeddf Diogelwch Bwyd 1990.

Mae'r Rheoliadau yn gwneud diwygiadau i is-ddeddfwriaeth sy'n gymwys yng Nghymru ym maes bwyd a bwyd anifeiliaid a addaswyd yn enetig, deunyddiau ac eitemau mewn cysylltiad â bwyd a phennu lefel y finyl clorid a ryddheir gan y deunyddiau a'r eitemau hynny.

Gweithdrefn

Negyddol.

Materion technegol: craffu

Nodir un pwynt i gyflwyno adroddiad arno o dan Reol Sefydlog 21.2 mewn perthynas â'r offeryn hwn.

Rheol Sefydlog 21.2(i) – ei bod yn ymddangos bod amheuaeth a yw intra vires

Mae rheoliad 3(6) wedi ei wneud o dan adran 16 o Ddeddf Diogelwch Bwyd 1990.

Mae adran 48(4A) o Ddeddf Diogelwch Bwyd 1990 yn ei gwneud yn ofynnol i Weinidogion Cymru roi sylw i unrhyw gyngor perthnasol a roddir gan yr Asiantaeth Safonau Bwyd cyn gwneud unrhyw reoliadau o dan y Ddeddf.

Nid yw'r rhagarweiniad i'r Rheoliadau yn nodi bod Gweinidogion Cymru wedi rhoi sylw i unrhyw gyngor perthnasol a roddwyd. Er bod y Memorandwm Esboniadol yn nodi ei fod wedi'i baratoi gan yr Asiantaeth Safonau Bwyd, nid yw'n nodi a gydymffurfiwyd â gofynion adran 48(4A) o Ddeddf Diogelwch Bwyd 1990.

Rhinweddau: craffu

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.

Y goblygiadau yn sgil gadael yr Undeb Ewropeaidd

Gosodwyd drafft o'r Rheoliadau hyn gerbron y Cynulliad ar gyfer sifftio yn unol â pharagraff 4 o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018. Cytunodd y Pwyllgor mai'r weithdrefn negyddol oedd y weithdrefn briodol ar gyfer y Rheoliadau hyn.



Ymateb y Llywodraeth

Mae angen ymateb gan y Llywodraeth.

Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

13 Mawrth 2019



OFFERYNNAU STATUDOL
CYMRU

2019 Rhif 425 (Cy. 99)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

AMAETHYDDIAETH, CYMRU

BWYD, CYMRU

**Rheoliadau Cynhyrchion Bwyd a
Bwyd Anifeiliaid Rheoleiddiedig
(Diwygiadau Amrywiol) (Cymru)
(Ymadael â'r UE) 2019**

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn, ac eithrio rheoliad 3(6), wedi eu gwneud drwy arfer y pwerau a roddir i Weinidogion Cymru gan baragraff 1(1) o Atodlen 2 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 (p. 16), er mwyn ymdrin ag unrhyw fethiant yng nghyfraith yr UE a ddargedwir i weithredu'n effeithiol a diffygion eraill sy'n deillio o ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd.

Mae rheoliad 3(6) wedi ei wneud o dan adran 16 o Ddeddf Diogelwch Bwyd 1990 (p. 16) i ddiwygio Rheoliadau Deunyddiau ac Eitemau mewn Cysylltiad â Bwyd (Cymru) 2012 i osod y meini prawf sy'n gymwys i'r dull o benderfynu lefel y finyl clorid mewn deunyddiau ac eitemau mewn cysylltiad â bwyd ac o benderfynu lefel y finyl clorid a ryddheir gan y deunyddiau ac eitemau hynny.

Mae'r Rheoliadau hyn yn gwneud diwygiadau i is-ddeddfwriaeth sy'n gymwys yng Nghymru ym maes bwyd a bwyd anifeiliaid a addaswyd yn enetig, deunyddiau ac eitemau mewn cysylltiad â bwyd, ac ychwanegion, cyflasynnau, ensymau a thoddyddion echdynnu bwyd.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Aseidiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, ystyriwyd

nad oedd yn angenrheidiol cynnal asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn.

OFFERYNNAU STATUDOL
CYMRU

2019 Rhif 425 (Cy. 99)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

AMAETHYDDIAETH, CYMRU

BWYD, CYMRU

Rheoliadau Cynhyrchion Bwyd a
Bwyd Anifeiliaid Rheoleiddiedig
(Diwygiadau Amrywiol) (Cymru)
(Ymadael â'r UE) 2019

Gofynion sifftio wedi eu bodloni 11 Chwefror 2019

Gwnaed 4 Mawrth 2019

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru 5 Mawrth 2019*

Yn dod i rym yn unol â rheoliad 1(3)

Mae Gweinidogion Cymru yn gwneud y Rheoliadau hyn drwy arfer y pwerau a roddir gan baragraff 1(1) o Atodlen 2 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018(1) a chan adran 16(2)(a) o Ddeddf Diogelwch Bwyd 1990(2).

Mae gofynion paragraff 4(2) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 (sy'n ymwneud â gweithdrefn graffu briodol Cynulliad Cenedlaethol Cymru ar gyfer y Rheoliadau hyn) wedi eu bodloni.

(1) 2018 p. 16.

(2) 1990 p. 16. Diwygiwyd adran 16(2) gan baragraff 8 o Atodlen 5 i Ddeddf Safonau Bwyd 1999 (p. 28) ("Deddf 1999"). Trosglwyddwyd swyddogaethau a oedd gynt yn arferadwy gan "the Ministers", i'r graddau yr oeddent yn arferadwy o ran Cymru, i Gynulliad Cenedlaethol Cymru gan O.S. 1999/672 fel y'i darllenir gydag adran 40(3) o Ddeddf 1999, a'u trosglwyddo wedi hynny i Weinidogion Cymru gan baragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p. 32).

Fel sy'n ofynnol gan Erthygl 9 o Reoliad (EC) Rhif 178/2002 Senedd Ewrop a'r Cyngor sy'n gosod egwyddorion cyffredinol a gofynion cyfraith bwyd, yn sefydlu Awdurdod Diogelwch Bwyd Ewrop ac yn gosod gweithdrefnau o ran materion diogelwch bwyd(1), ymgynghorwyd yn agored ac yn dryloyw â'r cyhoedd wrth lunio'r Rheoliadau hyn.

Enwi, cymhwyso a chychwyn

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Cynhyrchion Bwyd a Bwyd Anifeiliaid Rheoleiddiedig (Diwygiadau Amrywiol) (Cymru) (Ymadael â'r UE) 2019.

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

(3) Daw'r Rheoliadau hyn i rym ar y diwrnod ymadael.

Rheoliadau Bwyd a Addaswyd yn Enetig (Cymru) 2004

2. Yn yr Atodlen i Reoliadau Bwyd a Addaswyd yn Enetig (Cymru) 2004(2), yn Rhan 2, yn y tabl, hepgorer y cofnod ar gyfer Erthygl 8.6.

Rheoliadau Deunyddiau ac Eitemau mewn Cysylltiad â Bwyd (Cymru) 2012

3.—(1) Mae Rheoliadau Deunyddiau ac Eitemau mewn Cysylltiad â Bwyd (Cymru) 2012(3) wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 2(1), hepgorer y diffiniad o "Cyfarwyddeb 84/500/EEC".

(3) Yn rheoliad 9, hepgorer paragraff (b).

(4) Yn lle rheoliad 10 rhodder—

“10.—(1) Ni chaiff y meintiau o blwm a chadmiwm a drosglwyddir o eitem geramig fynd dros y terfynau a nodir ym mharagraff (5) fel y'i darllenir gyda pharagraffau (4) a (6).

(2) Oni ddangosir nad oedd y deunyddiau a ddefnyddiwyd i wneud yr eitem geramig yn cynnwys plwm neu gadmiwm, rhaid i'r meintiau o blwm a chadmiwm a drosglwyddir o eitem geramig gael eu penderfynu drwy brawf, y pennir ei amodau yn Atodlen 3, gan ddefnyddio'r dull dadansoddi a ddisgrifir yn Atodlen 4.

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- (1) OJ Rhif L 31, 1.2.2002, t. 1, y mae diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.
- (2) O.S. 2004/3220 (Cy. 276), y mae diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.
- (3) O.S. 2012/2705 (Cy. 291), y mae diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.

(3) Ni chaiff unrhyw berson roi ar y farchnad eitem geramig nad yw'n cydymffurfio â gofynion paragraff (1) fel y'i darllenir gyda pharagraff (2).

(4) Pan fo eitem geramig yn llestr ag iddo glawr ceramig, rhaid i'r terfynau plwm neu gadmiwm (neu'r ddau) na chaniateir mynd drostynt (mg/dm² neu mg/litr) fod yr un terfynau ag sy'n gymwys i'r llestr yn unig. Rhaid cynnal profion ar wahân ac o dan yr un amodau ar y llestr yn unig ac ar arwyneb mewnol y clawr. Rhaid i gyfanswm y ddwy lefel echdyniad a geir trwy'r modd hwn ar gyfer plwm neu gadmiwm gael ei gysylltu, fel y bo'n briodol, ag arwynebedd neu â chyfaint y llestr yn unig.

(5) Mae eitem geramig i'w chydabod fel un sy'n bodloni gofynion y Rheoliadau hyn sy'n ymwneud ag eitemau o'r fath os nad yw'r meintiau o blwm a/neu gadmiwm a echdynnir yn ystod y prawf a gynhelir o dan yr amodau a osodir yn Atodlen 3 ac Atodlen 4 yn mynd dros y terfynau a ganlyn—

| | <i>Plwm (Pb)</i> | <i>Cadmiwm (Cd)</i> |
|---|------------------------|-------------------------|
| Categori 1: Eitemau na ellir eu llenwi ac eitemau y gellir eu llenwi, nad yw eu dyfnder mewnol, wrth fesur o'r pwynt isaf i'r plân llorweddol sy'n mynd drwy'r ymyl uchaf, yn fwy na 25 mm | 0,8 mg/dm ² | 0,07 mg/dm ² |
| Categori 2: Pob eitem arall y gellir ei llenwi | 4,0 mg/l | 0,3 mg/l |
| Categori 3: Offer coginio; llestri pecynnu a storio sy'n dal mwy na thri litr | 1,5 mg/l | 0,1 mg/l |

(6) Fodd bynnag, pan na fo eitem geramig yn mynd mwy na 50% dros y meintiau uchod, mae'r eitem honno i'w chydabod er hynny fel un sy'n bodloni gofynion y Rheoliadau hyn sy'n ymwneud ag eitemau o'r fath os yw o leiaf dair eitem arall sy'n dwyn yr un siâp, dimensiynau, addurn a gwydr yn mynd drwy brawf a gynhelir o dan yr amodau a osodir yn Atodlen 3 ac Atodlen 4 ac nad yw meintiau cyfartalog y plwm a/neu'r cadmiwm a echdynnir o'r eitemau

hynny yn mynd dros y terfynau a osodwyd, ac nad oes un o'r eitemau hynny yn mynd mwy na 50% dros y terfynau hynny.”

(5) Ar ôl rheoliad 10 mewnosoder—

“**10A.**—(1) Rhaid i berson sy'n rhoi ar y farchnad eitem geramig na ddaeth hyd yn hyn i gysylltiad â bwyd ddarparu datganiad ysgrifenedig yn unol ag Erthygl 16 o Reoliad 1935/2004 i fynd gyda'r eitem yn y cyfnodau marchnata hyd at a chan gynnwys y cyfnod manwerthu.

(2) Rhaid i'r datganiad gael ei ddyroddi gan y gweithgynhyrhydd neu gan werthwr yn y Deyrnas Unedig a rhaid iddo gynnwys yr wybodaeth a osodir yn Atodlen 5.

(3) Rhaid i berson sy'n gweithgynhyrchu neu sydd, wrth gynnal busnes, yn mewnforio eitem geramig i'r Deyrnas Unedig drefnu, pan ofynnir iddo wneud hynny, fod dogfennaeth briodol ar gael i swyddog awdurdodedig er mwyn dangos bod yr eitem geramig yn cydymffurfio â'r terfynau ymfudo ar gyfer plwm a chadmiwm a nodir yn rheoliad 10, gan gynnwys—

- (a) canlyniadau'r dadansoddi a wnaed;
- (b) amodau'r prawf;
- (c) enw a chyfeiriad y labordy a gyflawnodd y gwaith profi.

(4) Nid yw paragraffau (1), (2) a (3) yn gymwys o ran eitem geramig sy'n ail law.

(5) Nid yw'r ddogfennaeth a bennwyd ym mharagraff (3)(a), (b) ac (c) yn ofynnol pan fo tystiolaeth ddogfennol yn cael ei darparu i ddangos nad oedd y deunyddiau a ddefnyddiwyd i wneud yr eitem geramig yn cynnwys plwm na chadmiwm.”

(6) Yn rheoliad 18, ar ôl paragraff (2) mewnosoder—

“(3) Rhaid i'r dull dadansoddi a ddefnyddir i wirio a gydymffurfir â pharagraff (1) gydymffurfio â'r meini prawf a nodir ym mharagraffau (4), (5) a (6).

(4) Mae lefel y finyl clorid mewn deunyddiau ac eitemau a lefel y finyl clorid a ryddheir gan ddeunyddiau ac eitemau i fwydydd yn cael eu penderfynu drwy gromatograffaeth gwedd nwy gan ddefnyddio'r dull 'lle blaen' ('headspace').

(5) At ddibenion penderfynu'r finyl clorid a ryddheir gan ddeunyddiau ac eitemau i fwydydd, y terfyn canfod yw 0.01 miligram o finyl clorid y cilogram o fwyd.

(6) Mae'r finyl clorid a ryddheir gan ddeunyddiau ac eitemau i fwydydd yn cael ei

benderfynu mewn egwyddor yn y bwydydd. Pan ddangosir bod y penderfyniad yn amhosibl mewn bwydydd penodol am resymau technegol, caiff awdurdod bwyd ganiatáu penderfyniad drwy efelychwyr ar gyfer y bwydydd penodol hyn.”

(7) Ar ôl Atodlen 2, mewnosoder yr Atodlenni 3 i 5 newydd a nodir yn yr Atodlen i'r Rheoliadau hyn.

Rheoliadau Ychwanegion, Cyflasynnau, Ensymau a Thoddyddion Echdynnu Bwyd (Cymru) 2013

4. Yn rheoliad 10(b) o Reoliadau Ychwanegion, Cyflasynnau, Ensymau a Thoddyddion Echdynnu Bwyd (Cymru) 2013(1), yn lle “Undeb Ewropeaidd” rhodder “Deyrnas Unedig”.

Vaughan Gething

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol,
un o Weinidogion Cymru
4 Mawrth 2019

(1) O.S. 2013/2591 (Cy. 255), y mae diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.

ATODLEN Rheoliad 3(7)

“Atodlen 3 Rheoliad 10

RHEOLAU SYLFAENOL AR GYFER PENDERFYNU YMFUDIAD PLWM A CHADMIWM

1. Yr hylif prawf

Asid asetig 4 % (v/v), mewn hydoddiant dyfrllyd a baratowyd yn ffres.

2. Amodau'r prawf

(a) Cynhalier y prawf ar dymheredd o 22 ± 2 °C am gyfnod o $24 \pm 0,5$ awr.

(b) Pan yw ymfudiad plwm i'w benderfynu, rhodder gorchudd ar y sampl mewn modd priodol i'w diogelu a gadawer hi yn agored i'r amodau goleuo arferol sydd mewn labordy. Pan yw ymfudiad cadmiwm neu blwm a chadmiwm i'w penderfynu, rhodder gorchudd ar y sampl i sicrhau bod yr arwyneb y mae profion i'w cynnal arno yn cael ei gadw mewn tywyllwch llwyr.

3. Llenwi

(a) Samplau y gellir eu llenwi—

Llenwer yr eitem â hydoddiant asid asetig 4 % (v/v) hyd at lefel nad yw'n uwch nag 1 mm o'r pwynt gorlifo; mesurir y pellter o ymyl uchaf y sampl. Dylid llenwi samplau gydag ymyl gwastad neu ymyl sy'n goleddfu ychydig fel nad yw'r pellter rhwng arwyneb yr hylif a'r pwynt gorlifo yn fwy na 6 mm wrth fesur ar hyd yr ymyl sy'n goleddfu.

(b) Samplau na ellir eu llenwi—

Yn gyntaf, gorchuddir arwyneb y sampl na fwriedir iddo ddod i gysylltiad â bwydydd â haenen amddiffynnol addas sy'n gallu gwrthsefyll gweithrediad yr hydoddiant asid asetig 4 % (v/v). Yna boddur y sampl mewn cynhwysydd sy'n cynnwys cyfaint gwybyddus o hydoddiant asid asetig yn y fath fodd y bydd yr arwyneb y bwriedir iddo ddod i gysylltiad â bwydydd yn cael ei orchuddio'n llwyr gan yr hylif prawf.

4. Penderfynu'r arwynebedd

Mae arwynebedd yr eitemau yng Nghategori 1 yn hafal i arwynebedd y menisgws a ffurfir gan yr arwyneb hylif rhydd a geir wrth gydymffurfio â'r gofynion llenwi a nodir ym mharagraff 3.

Atodlen 4 Rheoliad 10

DULLIAU DADANSODDI AR GYFER PENDERFYNU YMFUDIAD PLWM A CHADMIWM

1. Amcan a maes cymhwyso

Mae'r dull yn caniatáu i'r ymfudiad penodol o blwm a/neu gadmiwm gael ei benderfynu.

2. Yr egwyddor

Penderfynir yr ymfudiad penodol o blwm a/neu gadmiwm gan ddefnyddio dull dadansoddi drwy gyfrwng offeryn sy'n bodloni'r meini prawf perfformiad ym mharagraff 4.

3. Adweithyddion

Rhaid i bob adweithydd fod o ansawdd dadansoddol, oni phennir fel arall.

Pan fo cyfeiriad at ddŵr, mae'n golygu dŵr a ddistyllwyd neu ddŵr o ansawdd cyfatebol.

- (a) asid asetig 4 % (v/v), mewn hydoddiant dyfrllyd

Ychwaneger 40 ml o asid asetig grisialog at ddŵr fel bod y lefel yn cyrraedd 1 000 ml.

- (b) Hydoddiannau stoc

Paratoer hydoddiannau stoc sy'n cynnwys 1 000 mg/litr o blwm ac o leiaf 500 mg/litr o gadmiwm yn eu trefn mewn hydoddiant asid asetig 4 %, fel y cyfeirir ato yn is-baragraff (a).

4. Meini prawf perfformiad y dull dadansoddi drwy gyfrwng offeryn

- (a) Rhaid i'r terfyn canfod ar gyfer plwm a chadmiwm fod yn hafal i neu'n is na—
0,1 mg/litr ar gyfer plwm,
0,01 mg/litr ar gyfer cadmiwm.

Diffinnir y terfyn canfod fel y crynodiad o'r elfen yn yr hydoddiant asid asetig 4 %, fel y cyfeirir ato ym mharagraff 3(a), sy'n rhoi signal sy'n hafal i ddwywaith sŵn cefndir yr offeryn.

- (b) Rhaid i'r terfyn meintoliad ar gyfer plwm a chadmiwm fod yn hafal i neu'n is na—
0,2 mg/litr ar gyfer plwm,
0,02 mg/litr ar gyfer cadmiwm.
- (c) Adennill. Rhaid i'r hyn a adenillir o blwm a chadmiwm a ychwanegir at yr hydoddiant asid asetig 4 %, fel y cyfeirir ato ym mharagraff 3(a), ddod o fewn 80-120 % o'r swm a ychwanegir.
- (d) Penodoldeb. Rhaid i'r dull dadansoddi drwy gyfrwng offeryn sy'n cael ei ddefnyddio fod yn rhydd o ymyriannau matrices ac ymyriannau sbectrol.

5. Dull

- (a) Paratoi'r sampl

Rhaid i'r sampl fod yn lân ac yn rhydd o sail neu sylwedd arall sy'n debygol o effeithio ar y prawf.

Golcher y sampl mewn hydoddiant sy'n cynnwys glanedydd hylif i'r cartref ar dymheredd o tua 40 °C. Rinsier y sampl yn gyntaf mewn dŵr tap ac wedyn mewn dŵr wedi ei ddistyllu neu ddŵr o ansawdd cyfatebol. Draenier y sampl a'i sychu i osgoi unrhyw staen. Nid yw'r arwyneb sydd i'w brofi i'w drafod ar ôl iddo gael ei lanhau.

- (b) Penderfynu plwm a/neu gadmiwm

Cynhelir prawf ar y sampl a baratowyd yn y modd hwn o dan yr amodau a osodir yn Atodlen 3.

Cyn cymryd yr hydoddiant prawf ar gyfer penderfynu plwm a/neu gadmiwm, homogeneiddier cynnwys y sampl drwy ddull priodol, sy'n osgoi colli unrhyw hydoddiant neu'n osgoi sgrafellu'r arwyneb syn cael ei brofi.

Cynhalier prawf gwag ar yr adweithydd a ddefnyddir ar gyfer pob cyfres o benderfyniadau.

Cynhalier y penderfyniadau ar gyfer plwm a/neu gadmiwm o dan amodau priodol.

Atodlen 5 Rheoliad 10A

DATGANIAD O GYDYMFFURFEDD

- 1.** Rhaid i'r datganiad ysgrifenedig y cyfeirir ato yn rheoliad 10A gynnwys yr wybodaeth a ganlyn—
 - (a) enw a chyfeiriad y cwmni sy'n gweithgynhyrchu'r eitem geramig orffenedig ac enw a chyfeiriad y mewnoforiwr sy'n ei mewnoforio i'r Deyrnas Unedig;
 - (b) manylion adnabod yr eitem geramig;
 - (c) dyddiad y datganiad;
 - (d) y cadarnhad bod yr eitem geramig yn bodloni'r gofynion perthnasol yn y Rheoliadau hyn a Rheoliad 1935/2004.

- 2.** Rhaid i'r datganiad ysgrifenedig ganiatáu adnabod yn hawdd y nwyddau y'i dyroddwyd ar eu cyfer a rhaid iddo gael ei adnewyddu pan fydd newidiadau sylweddol yn y cynhyrchiant yn peri newidiadau yn ymfudiad plwm neu gadmiwm neu'r ddau."

Explanatory Memorandum to the Food and Feed Regulated Products (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019

This Explanatory Memorandum has been prepared by Food Standards Agency and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister/Deputy Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Food and Feed Regulated Products (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019.

I have made the statements required by the European Union (Withdrawal) Act 2018. These statements can be found in Part 2 of the Annex to this memorandum.

Vaughan Gething AM
Minister for Health and Social Services
5 March 2019

PART 1

1. Description

- 1.1 The Food and Feed Regulated Products (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (“this Instrument”) amend the Statutory Instruments listed below relating to EU-derived domestic regulations applying in Wales on: a) genetically modified food; b) materials and articles in contact with food; c) food additives, flavourings and enzymes. These amendments are required to address deficiencies in the relevant domestic legislation arising from EU Exit and ensure that the statute book remains operable following the UK’s exit from the EU
- The Genetically Modified Food (Wales) Regulations 2004
 - Materials and Articles in Contact with Food (Wales) Regulations 2012
 - The Food Additives, Flavourings, Enzymes and Extraction Solvents (Wales) Regulations 2013
- 1.2 The instrument comes into force on “exit day”, which section 20(1) of the European Union (Withdrawal) Act 2018 (“the 2018 Act”) defines as 29 March 2019 at 11.00 pm.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

- 2.1 This Instrument is being made using the powers conferred by paragraph 1(1) of the 2018 Act. Regulation 3(6) is being made in exercise of powers under section 16(2) of the Food Safety Act 1990.
- 2.2 As set out in the Ministerial statement in Part 2 of the Annex to this Explanatory Memorandum it is proposed that the instrument be subject to negative procedure.
- 2.3 The instrument makes minor and technical changes so it is considered appropriate to make this Instrument subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- 2.4 The Constitutional and Legislative Affairs Committee considered the Food and Feed Regulated Products (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 on 11 February 2019 and agreed that the appropriate procedure for these Regulations is the negative resolution procedure. A copy of the published report can be found at <http://www.assembly.wales/laid%20documents/cr-ld12150/cr-ld12150-e.pdf>
- 2.5 Regulation 3(6), made in exercise of powers under the Food Safety Act 1990, amends the Materials and Articles in Contact with Food (Wales) Regulations 2012 to make provision about the criteria applicable to the method for determining the level of vinyl chloride in materials and articles

in contact with food and of determining the level of vinyl chloride released by those materials and articles.

3. Legislative background

- 3.1 This Instrument is being made partly using the power in Part 1 of Schedule 2 to the European Union (Withdrawal) 2018 Act in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the European Union.
- 3.2 In accordance with the requirements of that Act the Minister has made the relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.

4. Purpose and intended effect of the legislation

What did any relevant EU law do before exit day?

The Genetically Modified Food (Wales) Regulations 2004

- 4.1 The Genetically Modified Food (Wales) Regulations 2004 make provision for the execution and enforcement of Commission Regulation 1829/2003. This Commission Regulation provides a regulatory framework for the pre-market scientific assessment and authorisation of Genetically Modified Organisms (GMOs) for use in food and feed.
- 4.2 The authorisation process involves a risk assessment based on rigorous scrutiny of scientific data by the European Food Safety Authority (EFSA) in line with international guidelines. GM for food/feed use is authorised by means of EU Decisions by the European Commission. These risk assessment and risk management functions are, respectively, being transferred to Food Standards Agency and 'appropriate authority' post-EU exit by the Genetically Modified Food and Feed (Amendment etc.) (EU Exit) Regulations 2019¹. Authorisations are granted for a period of 10 years and the EU law sets down a process and requirements for renewal of authorisations for further 10-year periods, and provides for the withdrawal of authorisations in appropriate circumstances.
- 4.3 EU law requires that all authorised GM food and feed must have a method of detection scientifically assessed and validated by the European Union Reference Laboratory (EU-RL). The EU law also sets down labelling and traceability requirements for authorised GM food and feed placed on the market. This is to ensure that consumers and food/feed businesses operators are clear that they are handling or using GM food/feed.

¹ SI 2019/XX.

Materials and Articles in Contact with Food (Wales) Regulations 2012

- 4.4 These Regulations implement the following EU Regulations in relation to Wales.
- Regulation (EU) No 10/2011 provides rules on plastic materials and articles intended to come into contact with food
 - Regulation (EC) No 1935/2004 provides rules on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC
 - Regulation (EC) No 1895/2005 provides rules on restrictions of use of certain epoxy derivatives in materials and articles intended to come into contact with food.
 - Regulation (EC) No 2023/2006 establishes good manufacturing practices for materials and articles intended to come into contact with food.
 - Regulation (EC) No 450/2009 provides rules on active and intelligent materials and articles intended to come into contact with food.
- 4.5 The EU Regulations, as implemented by these Regulations, provide for the protection of food from hazards that may arise from materials and articles into which they may come into contact throughout the food chain.

The Food Additives, Flavourings, Enzymes and Extraction Solvents (Wales) Regulations 2013

- 4.6 The Food Additives, Flavourings, Enzymes and Extraction Solvents (Wales) Regulations 2013 make provision for the execution of Commission Regulations 2065/2003 (smoke flavourings), 1332/2008 (food enzymes), 1333/2008 (food additives), 231/2012 (specifications for food additives approved under 1333/2008) and 1334/2008 (flavourings). It also partially transposes Directive 2009/32 on extraction solvents.
- 4.6 Food improvement agents are used in or on food for a technological purpose during its production or storage. They are also used to improve the taste, texture, and appearance of food. In general, the harmonised EU legislation governing these substances requires a pre-market risk assessment and authorisation before being placed on the market. The legislation provides lists of permitted substances, applicable specifications, conditions of use, as well as categories of foods in which they may be used. The legislation also provides specific labelling requirements for certain food products sold to consumers. This includes a mandatory warning on products containing aspartame as it is a source of phenylalanine, which could be detrimental to those suffering from Phenylketonuria.

Why is it being changed?

- 4.6 The minor and technical changes made by this Instrument are necessary to ensure that the domestic legislation enforcing the retained EU law continues to operate effectively.
- 4.7 The specific changes being proposed to the Regulations detailed at 1.1 above are as follows:

The Genetically Modified Food (Wales) Regulations 2004

- Instrument makes a consequential amendment caused by the revocation of an Article in the relevant EU Regulation which is enforced by the above domestic Regulations.

Materials and Articles in Contact with Food (Wales) Regulations 2012

- Removing redundant references to EU Directives where other amendments mean that there is no longer a need to refer to them
- Replacement of requirements on Lead and Cadmium
- Replacement of requirements on Vinyl Chloride

The Food Additives, Flavourings, Enzymes and Extraction Solvents (Wales) Regulations 2013

- Amends references to the “EU” and the “territory of the EU”.

What will it now do?

- 4.9 This instrument will ensure the Welsh regulations, which provide enforcement powers for the retained EU law relating to genetically modified food, materials and articles in contact with food, food additives, flavourings and enzymes will continue to be operable and enforceable in Wales after the UK leaves the EU. The instrument does not make any change to the way the Welsh regulations operate. The changes make only minor, technical amendments to ensure the Welsh regulations are operable after the UK leaves the EU.

5. Consultation

- 5.1 A four-week consultation was undertaken in Wales on the principle of the proposed amendments. No responses were received in relation to the amendments made by these Regulations and no changes have been made as a result of consultation. Parallel consultation was undertaken in England, Scotland and Northern Ireland.

6. Regulatory Impact Assessment (RIA)

- 6.1 A Regulatory Impact Assessment has not been prepared to accompany these Regulations as there are no changes to the current controls and

therefore no identified costs to consumers, businesses or enforcement authorities associated with implementation of these Regulations.

- 6.2 This legislation has no impact on the statutory duties (sections 77-79 of the Government of Wales Act 2006) or statutory partners (sections 72-75 of the Government of Wales Act 2006).

Annex 1 Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required of the Welsh Ministers under the 2018 Act. The table also sets out those statements that may be required of Ministers of the Crown under the 2018 Act, which the Welsh Ministers have committed to also provide when required. The required statements can be found in Part 2 of this annex.

| Statement | Where the requirement sits | To whom it applies | What it requires |
|-----------------|---|--|---|
| Sifting | Paragraphs 3(7) and 4(3), Schedule 7 <i>Paragraph 3(7) (anticipated to be a requirement on Welsh Ministers in Standing Orders)</i> | The Welsh Ministers exercising powers in Part 1 of Schedule 2 to make a Negative SI Paragraph 3(7) applies to Ministers of the Crown, but Welsh Ministers have committed to make the same statement | A statement to explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation of the CLA Committee (as sifting committee) |
| Appropriateness | Sub-paragraph (2) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising | A statement that the SI does no more than is appropriate. |

| | | | |
|--------------|--|--|--|
| | | powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | |
| Good Reasons | Sub-paragraph (3) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement to explain the good reasons for making the instrument and that what is being done is a reasonable course of action. |
| Equalities | Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | <p>A statement to explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them.</p> <p>A statement that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.</p> |
| Explanations | Sub-paragraph (6) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in | A statement to explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the |

| | | | |
|-------------------|--|---|--|
| | | Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | purpose of the instrument, e.g. whether minor or technical changes only are intended to the EU retained law. |
| Criminal offences | Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement setting out the 'good reasons' for creating a criminal offence, and the penalty attached. |
| Sub-delegation | Paragraph 30, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 or paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority | A statement to explain why it is appropriate to create such a sub-delegated power. |

| | | | |
|---------|--|---|--|
| Urgency | Sub-paragraph (2) and (8) of paragraph 7, Schedule 7 | Welsh Ministers exercising powers in Part 1 of Schedule 2 but using the urgent procedure in paragraph 7 of Schedule 7 | A statement that the Welsh Ministers are of the opinion that it is necessary to make the SI using the urgent procedure and the reasons for that opinion. |
|---------|--|---|--|

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

1. Sifting statement(s)

The Minister for Health and Social Services has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Food and Feed Regulated Products (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 should be subject to annulment in pursuance of a resolution of the National Assembly for Wales (i.e. the negative procedure).”

This is the case because the amendments being made are minor and technical in nature. There is no change to policy.

Appropriateness statement

The Minister for Health and Social Services has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Food and Feed Regulated Products (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 do no more than is appropriate.”

This is the case because the minor and technical changes are necessary to ensure the accuracy and operability of the statute book on exit day. There is no change in policy.

2. Good reasons

The Minister for Health and Social Services has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action.”

These are that failure to make this legislation would result in Welsh legislation relating to genetically modified food, food additives, enzymes and flavourings and novel foods failing to operate effectively after the UK leaves the EU.

3. Equalities

The Minister for Health and Social Services has made the following statement:

“The instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts.”

The Minister for Health and Social Services has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the instrument, I, Vaughan Gething, The Minister for Health and Social Services, have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.”

4. Explanations

The explanations statement has been made in paragraph 4 (Purpose and intended effect of the legislation) of the main body of this explanatory memorandum.

5. Criminal offences

Not applicable/required.

6. Legislative sub-delegation

Not applicable/required.

7. Urgency

Not applicable/required.

SL(5)376 – The Local Government Finance (Amendment) (Wales) (EU Exit) Regulations 2019

Background and Purpose

These Regulations are made by Welsh Ministers pursuant to section 11 of, and paragraph 1(1) of Schedule 2 to, the European Union (Withdrawal) Act 2018.

These Regulations make minor and consequential amendments to the following legislation in the area of local government finance:

1. The Central Rating List (Wales) Regulations 2005 (“the **2005 Regulations**”); and
2. The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (Wales) Regulations 2013.

The Regulations correct deficiencies resulting from the UK’s withdrawal from the EU.

Procedure

Negative.

Technical Scrutiny

Two points are identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

Regulation 3(2) amends the definition of “licence exempt operator” and “licence holder” in Regulation 7 of the 2005 Regulations to (in part) reflect amended terminology proposed to be inserted into the Railway (Licensing of Railway Undertakings) Regulations 2005 by the Railway (Licensing of Railway Undertakings) (Amendment etc.) (EU Exit) Regulations 2019 (“the **2019 Regulations**”). As at the date of this report, the 2019 Regulations have been laid before the UK Parliament for approval but have not yet been made.

The amendments made by the subject Regulations, and the amendments proposed to be made by the 2019 Regulations, both come into force on exit day. However, should the 2019 Regulation not be approved by the UK Parliament, the amendments made by the subject Regulations would cause ambiguity in the 2005 Regulations in that the above definitions would refer to a “railway undertaking licence”, which will not be a term appearing in the Railway (Licensing of Railway Undertakings) Regulations 2005 until the 2019 Regulations have been made.

2. Standing Order 21.2 (vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

Regulation 3(2) amends the definition of “licence exempt operator” and “licence holder” in Regulation 7 of the 2005 Regulations. However, in Regulation 7(3) of the 2005 Regulations there is a definition of “EEA



State" which is now redundant as a result of the amendment made by Regulation 3(2) of the subject Regulations, but which has not been omitted by these Regulations.

Merits Scrutiny

Two points are identified for reporting under Standing Order 21.3 in respect of this instrument.

1. Standing Order 21.3(ii) - that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly

A draft of these Regulations was laid before the Assembly for sifting in accordance with paragraph 4 of Schedule 7 to the European Union (Withdrawal) Act 2018. The Committee agreed that the negative procedure was the appropriate procedure for these Regulations.

2. Standing Order 21.3(ii) - that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly

The explanatory memorandum accompanying these Regulations, in Part 2 of the Annex, contains statements made by the Minister for Finance and Trefnydd in accordance with the European Union (Withdrawal) Act 2018 relating to the "Service Charges (Consultation Requirements) (Wales) (Amendment) (EU Exit) Regulations 2019", as opposed to the subject Regulations.

Implications arising from exiting the European Union

No further points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Government Response

A government response is required.

Legal Advisers

Constitutional and Legislative Affairs Committee

13 March 2019



OFFERYNNAU STATUDOL
CYMRU

2019 Rhif 436 (Cy. 104)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

**LLYWODRAETH LEOL,
CYMRU**

**Rheoliadau Cyllid Llywodraeth
Leol (Diwygio) (Cymru) (Ymadael
â'r UE) 2019**

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn wedi eu gwneud drwy arfer y pwerau a roddir gan adran 11 o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 a pharagraff 1(1) o Atodlen 2 iddi er mwyn ymdrin ag unrhyw fethiant yng nghyfraith yr UE a ddargedwir i weithredu'n effeithiol a diffygion eraill sy'n deillio o ymadawriad y Deyrnas Unedig â'r Undeb Ewropeaidd.

Mae'r Rheoliadau hyn yn gwneud diwygiadau i ddeddfwriaeth cyllid llywodraeth leol.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Aseidiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, ystyriwyd nad oedd yn angenrheidiol cynnal asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn.

OFFERYNNAU STATUDOL
CYMRU

2019 Rhif 436 (Cy. 104)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

**LLYWODRAETH LEOL,
CYMRU**

**Rheoliadau Cyllid Llywodraeth
Leol (Diwygio) (Cymru) (Ymadael
â'r UE) 2019**

Gofynion sifftio wedi eu bodloni
18 Chwefror 2019

Gwnaed 4 Mawrth 2019

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru* 5 Mawrth 2019

Yn dod i rym yn unol â rheoliad 1

Mae gofynion paragraff 4(2) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018(1) (sy'n ymwneud â'r weithdrefn graffu briodol ar gyfer y Rheoliadau hyn) wedi eu bodloni.

Mae Gweinidogion Cymru yn gwneud y Rheoliadau hyn drwy arfer y pwerau a roddir gan adran 11 o'r Ddeddf honno a pharagraff 1(1) o Atodlen 2 iddi.

Enwi a chychwyn

1. Enw'r Rheoliadau hyn yw Rheoliadau Cyllid Llywodraeth Leol (Diwygio) (Cymru) (Ymadael â'r UE) 2019 a deuant i rym ar y diwrnod ymadael(2).

(1) 2018 p. 16.

(2) Mae "exit day" (y diwrnod ymadael) wedi ei ddiffinio yn adran 20(1) i (5) (dehongli) o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018.

Diwygio Rheoliadau Cynlluniau Gostyngiadau'r Dreth Gyngor (Darganfod Twyll a Gorfodi) (Cymru) 2013

2.—(1) Mae Rheoliadau Cynlluniau Gostyngiadau'r Dreth Gyngor (Darganfod Twyll a Gorfodi) (Cymru) 2013(1) wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 4 (pŵer i wneud darparu gwybodaeth yn ofynnol), ym mharagraff (11)—

(a) yn lle'r diffiniad o “banc” rhodder—

“ystyr “banc” (“*bank*”) yw—

(a) person sydd â chaniatâd o dan Ran 4A o Ddeddf Gwasanaethau a Marchnadoedd Ariannol 2000(2) i dderbyn adneuon; neu

(b) person nad oes arno angen caniatâd o dan y Ddeddf honno i dderbyn adneuon, yng nghwrs busnes y person hwnnw yn y Deyrnas Unedig;”;

(b) yn lle'r diffiniad o “yswiriwr” rhodder—

“ystyr “yswiriwr” (“*insurer*”) yw person sydd â chaniatâd o dan Ran 4A o Ddeddf Gwasanaethau a Marchnadoedd Ariannol 2000 i effeithio neu gyflawni contractau yswiriant.”

Diwygio Rheoliadau Rhestr Ardrethu Canolog (Cymru) 2005

3.—(1) Mae Rheoliadau Rhestr Ardrethu Canolog (Cymru) 2005(3) wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 7 (hereditamentau rheilffyrdd), ym mharagraff (3), yn lle'r diffiniad o “licence exempt operator” a “licence holder” rhodder—

““licence exempt operator” and “licence holder” have the meanings given by sections 10(6) and 83(1) respectively of the Railways Act 1993(4) except that licence holder also includes a holder of a railway undertaking licence granted pursuant to the Railway (Licensing of Railway Undertakings) Regulations 2005(5); and”.

Rebecca Evans

Y Gweinidog Cyllid a'r Trefnydd, un o Weinidogion Cymru
4 Mawrth 2019

(1) O.S. 2013/588 (Cy. 67), y mae diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.
(2) 2000 p. 8.
(3) O.S. 2005/422 (Cy. 40). Gwnaed diwygiadau perthnasol gan O.S. 2005/3050 ac O.S. 2016/645.
(4) 1993 p. 43.
(5) O.S. 2005/3050.

Explanatory Memorandum to: The Local Government Finance (Amendment) (EU Exit) (Wales) Regulations 2019

This Explanatory Memorandum has been prepared by the Welsh Government's Education and Public Services Group and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

These Regulations were laid for the purposes of sifting under the EU (Withdrawal) Act 2018 in accordance with Standing Order 27.9A. The Constitutional and Legislative Affairs Committee agreed on 18 February 2019, that these Regulations met the sifting requirements and the appropriate procedure for these Regulations is the negative resolution procedure.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Local Government Finance (Amendment) (EU Exit) (Wales) Regulations 2019.

I have made the statements required by the European Union (Withdrawal) Act 2018.

Rebecca Evans AM
Minister for Finance and Trefnydd
5 March 2019

PART 1

1. Description

1.1 This instrument makes an amendment to:

- The Central Rating List (Wales) Regulations 2005;
- Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (Wales) Regulations 2013.

1.2 Regulation 7 of the Central Rating List (Wales) Regulations 2005 makes provision about railway hereditaments. Amendments are required to be made in consequence of the Railway (Licensing of Railway Undertakings) (Amendment etc) (EU Exit) Regulations 2019. This SI will enable the legal framework for train operator licensing in Great Britain to continue after exit day. The amendments made to the Wales Regulations by this SI will remove the definition of “EEA State” and further amend the definition of “licence exempt operator” and “licence holder” to remove references to a “European licence and replace it with “railway undertaking licence”

1.3 The amendment to the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (Wales) Regulations 2013 amends the definitions of “bank” and “insurer” to remove reference to EEA firms authorised under the Financial Services and Markets Act 2000.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

2.1 This instrument is being made under section 11 of and paragraph 1(1) of Schedule 2 to, the European Union (Withdrawal) Act 2018. As set out in the Ministerial Statement in Part 2 of this Explanatory Memorandum it is proposed that the instrument be subject to annulment procedure. Instruments under the 2018 Act must first be laid for sifting by the Constitutional and Legislative Affairs Committee. The instrument makes minor and technical changes and has no substantive effect on the law in Wales and as such should be subject to annulment in pursuance of a resolution of the National Assembly for Wales.

2.1.1 Further Ministerial Statements can be found in Part 2 of this Explanatory Memorandum. These Regulations were laid for the purposes of sifting under the EU (Withdrawal) Act 2018 in accordance with Standing Order 27.9A. The Constitutional and Legislative Affairs Committee agreed at its meeting on 18 February 2019 that these Regulations met the sifting requirements and the appropriate procedure for these Regulations is the negative resolution procedure. A link to the CLA Committee’s report can be found at: <http://www.assembly.wales/laid%20documents/cr-ld12192/cr-ld12192-e.pdf>

3. Legislative background

3.1 This instrument relates to the withdrawal of the United Kingdom from the European Union and is being made under section 11 of and Schedule 2 to the European Union (Withdrawal) Act 2018. The Minister for Finance and Trefnydd has made the relevant statements in Part 2 of the Annex to this Explanatory Memorandum.

4. Purpose and intended effect of the legislation

What did any relevant EU law do before exit day?

4.1 The Railway (Licensing of Railway Undertakings) Regulations 2005 (SI 2005/3050) created the concept of a “European licence”. Any operator established in Great Britain could be granted a European Licence subject to the Office of Rail and Road being satisfied that the applicant met certain conditions regarding their professional competence etc. Once granted, the licence was valid for the holder to provide train services in any EEA Member State. The 2005 Regulations implemented into domestic law the EU Directives that were introduced for this purpose (EU 95/18, as amended by EU 2001/13 and EU 2004/49).

4.2 Regulation 4 of the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (Wales) Regulations 2013 provides a power to billing authorities to require prescribed persons to provide information in certain circumstances. “Any bank” and “any insurer” are included in the list of the persons prescribed and those terms are defined. The current definitions of “bank” and “insurer” include reference to EEA firms authorised under the Financial Services and Markets Act 2000.

Why is it being changed?

4.3 The minor and technical changes made to these instruments address the failure of retained EU law to operate effectively following the withdrawal of the United Kingdom from the European Union.

What will it now do?

4.4 After exit day, the European licence regime in the Railway (Licensing of Railway Undertakings) Regulations 2005 will not be able to operate effectively unless the references they contain to Europe and European institutions are corrected. The amendments made to those Regulations will enable the legal framework for train operator licensing in Great Britain provided for in the 2005 Regulations to continue after exit day. The amendments made to provision made about railway hereditaments in the Central Ratings List (Wales) Regulations 2005 are made in consequence of the changes made to the licensing regime.

4.5 The amendment to the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (Wales) Regulations 2013 is consequential upon the EEA

Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018 which repeals provision in the 2000 Act that deals with authorisations granted to EEA firms to carry on regulated activities. This SI makes amendments to the definitions of “bank” and insurer” to remove references to EEA firms which will no longer be automatically granted authorisations under the Financial Services and Markets Act 2000.

5 Consultation

5.1 As there is no policy change, no public consultation was undertaken. The purpose of the instrument is solely to enable the current legislative and policy framework to remain unchanged by the withdrawal of the United Kingdom from the European Union.

6 Regulatory Impact Assessment (RIA)

6.1 A Regulatory Impact Assessment has not been conducted. No policy change is introduced through the amending Regulations. The Regulations are technical in nature and intended solely to enable the current legislative and policy framework to remain unchanged by the withdrawal of the United Kingdom from the European Union.

6.2 These amending Regulations have no impact on the statutory duties as set out in sections 77 to 79 of the Government of Wales Act 2006 or the statutory partners as set out in Sections 72 to 75 of the Government of Wales Act 2006.

Annex

Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required of the Welsh Ministers under the 2018 Act. The table also sets out those statements that may be required of Ministers of the Crown under the 2018 Act, which the Welsh Ministers have committed to also provide when required. The required statements can be found in Part 2 of this annex.

| Statement | Where the requirement sits | To whom it applies | What it requires |
|------------------|---|--|---|
| Sifting | Paragraphs 3(7) and 4(3), Schedule 7 <i>Paragraph 3(7) (anticipated to be a requirement on Welsh Ministers in Standing Orders)</i> | The Welsh Ministers exercising powers in Part 1 of Schedule 2 to make a Negative SI Paragraph 3(7) applies to Ministers of the Crown, but Welsh Ministers have committed to make the same statement | A statement to explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation of the CLA Committee (as sifting committee) |
| Appropriate-Ness | Sub-paragraph (2) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement that the SI does no more than is appropriate. |
| Good Reasons | Sub-paragraph (3) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement to explain the good reasons for making the instrument and that what is being done is a reasonable course of action. |

| | | | |
|-------------------|--|--|--|
| Equalities | Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | <p>A statement to explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them.</p> <p>A statement that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.</p> |
| Explanations | Sub-paragraph (6) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement to explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g. whether minor or technical changes only are intended to the EU retained law. |
| Criminal offences | Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement setting out the 'good reasons' for creating a criminal offence, and the penalty attached. |
| Sub-delegation | Paragraph 30, Schedule 7 | <p>Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority.</p> <p>Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 or paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved</p> | A statement to explain why it is appropriate to create such a sub-delegated power. |

| | | Authority | |
|---------|--|---|--|
| Urgency | Sub-paragraph (2) and (8) of paragraph 7, Schedule 7 | Welsh Ministers exercising powers in Part 1 of Schedule 2 but using the urgent procedure in paragraph 7 of Schedule 7 | A statement that the Welsh Ministers are of the opinion that it is necessary to make the SI using the urgent procedure and the reasons for that opinion. |

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

1. Sifting statement(s)

- 1.1 The Minister for Finance and Trefnydd, Rebecca Evans AM, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Service Charges (Consultation Requirements) (Wales) (Amendment) (EU Exit) Regulations 2019 should be subject to annulment in pursuance of a resolution of the National Assembly for Wales (i.e. the negative procedure). This is the case because this instrument provides for necessary technical amendments and makes no substantive changes to the law in Wales”.

2. Appropriateness statement

- 2.1 The Minister for Finance and Trefnydd, Rebecca Evans AM, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Service Charges (Consultation Requirements) (Wales) (Amendment) (EU Exit) Regulations 2019 do no more than is appropriate. This is the case because the instrument makes amendments which are technical in nature and designed to address failures of retained EU Law to operative effectively after exit day”.

3. Good reasons

- 3.1 The Minister for Finance and Trefnydd, Rebecca Evans AM, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action. This is because the instrument makes technical amendments to substitute the e-notification system for the Official Journal of the European Union.”

4. Equalities

- 4.1 The Minister for Finance and Trefnydd, Rebecca Evans AM, has made the following statement:

“The instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts”.

4.2 The Minister for Finance and Trefnydd, Rebecca Evans AM, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“I have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010”.

5. Explanations

5.1 The explanations statement has been made in paragraph 4 (Purpose & intended effect of the legislation) of the main body of this Explanatory Memorandum.

6. Criminal offences

6.1 Not applicable.

7. Legislative sub-delegation

7.1 Not applicable.

8. Urgency

8.1 Not applicable.

SL(5)392 – The Sea Fish Licensing (Wales) Order 2019

Background and Purpose

This Order prohibits, subject to exceptions, fishing by Welsh fishing boats (article 3) and fishing by Crown Dependency Boats within the Welsh zone (article 4) unless such boats are licensed by the Welsh ministers. It also prohibits fishing by foreign boats (article 5) within the Welsh zone unless those boats are so licensed.

Article 6 of the Order revokes the Sea fish Licensing Order 1992 (S.I. 1992/2633) and instruments which varied or amended it so far as they relate to Welsh fishing boats and fishing within the Welsh zone.

Procedure

Negative

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument.

1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly

The Explanatory Memorandum makes the following points, which we draw to the attention of the National Assembly:

- i. “There are two purposes of this instrument:
 - To make provision about the licensing of fishing boats from outside the UK when fishing in Welsh waters after the UK leaves the EU. This provision is essential for Wales to control access by non-UK vessels to its domestic waters, and endorse any international agreements on fisheries access to UK waters post EU exit. This provision will be required if the Fisheries Bill does not receive Royal Assent by 29 March 2019. This will ensure continuity of current management measures in Welsh waters and allow us to progress our policy objectives beyond EU exit day.
 - To consolidate and update existing legislation, including the Sea Fish Licensing Order 1992 (S.I. 1992/2663) with the subsequent orders which varied and amended it. The consolidated instrument prohibits fishing, subject to exceptions, by Welsh fishing boats unless they are licensed by the Welsh Ministers. The Order revokes the existing legislation (listed in Schedule I).” [paragraph 4.1]



- ii. "The preferred approach is to introduce these powers through the UK Fisheries Bill, so that there is a consistent approach across the UK. However in the event that the UK Fisheries Bill does not gain Royal Assent before the UK leaves the EU, it is important that foreign vessels access to Welsh waters can still be controlled and managed." [paragraph 4.4]
- iii. "Failure to introduce this legislation would mean fishing by foreign vessels within Welsh waters post EU exit would be unlicensed and therefore uncontrolled and unmanaged. There would be no provision to license foreign vessels under current domestic legislation, or EU legislation being retained under the Withdrawal Act. This could jeopardise the UK's ability to enter into international fisheries agreements as provision to license and allow managed access to foreign vessels in Welsh waters would not be in place. This could also result in the UK not being able to demonstrate the management of marine resources effectively, which could have an adverse impact on fish stocks in Welsh waters and could attract criticism internationally." [paragraph 4.7]
- iv. "The provisions in this instrument are being implemented to align Wales with the rest of the UK and to give consistency for the interim period between exit from the EU and the UK Fisheries Bill gaining Royal Assent. A decision was required urgently and it was deemed the introduction of this legislation was the only realistic option available to Ministers and therefore, taking account of a fixed EU exit day over which Welsh Government has no control, no consultation was carried out." [paragraph 5.1]
- v. "To address any concerns from Welsh licence holders, this legislation will be brought to the attention of affected stakeholders (all Welsh fishing vessel licence holders and the Wales Marine and Fisheries Advisory Group) immediately it comes into force." [paragraph 5.2]

The Committee reported on the Welsh Government's Legislative Consent Memorandum on the Fisheries Bill on 12 February 2019.

Implications arising from exiting the European Union

The issues noted in the merits scrutiny above demonstrate the complexity of EU exit-related legislation.

Government Response

A government response is not required.

Legal Advisers

Constitutional and Legislative Affairs Committee

13 March 2019



W E L S H S T A T U T O R Y
I N S T R U M E N T S

2019 No. 507 (W. 117)

SEA FISHERIES, WALES

**The Sea Fish Licensing (Wales)
Order 2019**

EXPLANATORY NOTE

(This note is not part of the Order)

This Order prohibits, subject to exceptions, fishing by Welsh fishing boats (article 3) and fishing by Crown Dependency Boats within the Welsh zone (article 4) unless such boats are licensed by the Welsh ministers. It also prohibits fishing by foreign boats (article 5) within the Welsh zone unless those boats are so licensed.

Article 6 of the Order revokes the Sea fish Licensing Order 1992 (S.I. 1992/2633) and instruments which varied or amended it so far as they relate to Welsh fishing boats and fishing within the Welsh zone.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with this Order. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2019 No. 507 (W. 117)

SEA FISHERIES, WALES

**The Sea Fish Licensing (Wales)
Order 2019**

Made 6 March 2019

Laid before the National Assembly for Wales

7 March 2019

*Coming into force in accordance with article
1(1)*

The Welsh Ministers in exercise of the powers conferred by sections 4(1) and (2), 4A, 15(3) and 20(1) of the Sea Fish (Conservation) Act 1967(1) and now vested in them(2), make the following Order.

-
- (1) 1967 c.84 (“the 1967 Act”); section 4 was substituted by section 3 of the Fishery Limits Act 1976 (c.86) and amended by section 20 of the Fisheries Act 1981 (c.29), section 1 of the Sea Fish (Conservation) Act 1992 (c.60), sections 4, 196 and 197 of the Marine and Coastal Access Act 2009 (c.23) and S.I. 1999/1820. The definitions of “relevant British fishing boat” and “foreign fishing boat” are contained in section 4(12). Section 4A was inserted by section 21 of the Fisheries Act 1981 and amended by section 3 of the Sea Fish (Conservation) Act 1992, section 6 of the Marine and Coastal Access Act 2009 and S.I. 1999/1820. Section 15 was amended by section 22, paragraph 38 of Schedule 1 and Part II of Schedule 2 to the Sea Fisheries Act 1968 (c.77), section 25 of the Fisheries Act 1981, paragraph 15 of Schedule 2 to the Fishery Limits Act 1976, section 199 of the Marine and Coastal Access Act 2009. Section 20 was amended by section 21 of the Fisheries Act 1981 and section 7 of the Sea Fish (Conservation) Act 1992.
- (2) The functions of the Ministers under sections 4, 4A, 15(3), so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales and then transferred from that body to the Welsh Ministers: see article 2(a) of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order (S.I. 1999/672) and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32). So far as exercisable in relation to the Welsh zone, the functions of the Ministers under sections 4, 4A and 15(3) of the 1967 Act, were transferred to the Welsh Ministers by article 4(1)(b) of the Welsh Zone (Boundaries and Transfer of Functions) Order 2010 (S.I. 2010/760) on a concurrent basis. Those functions were further transferred, on a concurrent basis, in relation to Welsh fishing boats beyond

Title, commencement and application

1.—(1) This Order may be cited as the Sea Fish Licensing (Wales) Order 2019 and comes into force on exit day.

(2) This Order applies in relation to Wales, the Welsh zone and Welsh fishing boats wherever they may be.

Interpretation

2. In this Order –

“the baselines” (“*y gwaelodlinau*”) means the baselines established by the Territorial Sea (Baselines) Order 2014⁽¹⁾;

“length” (“*hyd*”) in relation to a boat, means the length calculated in accordance with the rules specified in Article 2(1) of Regulation (EU) 2017/1130 of the European Parliament and of the Council defining characteristics for fishing vessels;

“mile” (“*milltir*”) means an international nautical mile of 1,852 metres;

and

“Welsh fishing boat” (“*cwch pysgota Cymreig*”) means a fishing boat which is registered in the register maintained under section 8 of the Merchant Shipping Act 1995 and the entry of which in the register specifies a port in Wales as the port to which the boat is to be treated as belonging.

“the Welsh zone” (“*parth Cymru*”) has the same meaning as in the Government of Wales Act 2006⁽²⁾ (see section 158(1) and (3) of that Act).

Prohibition on Welsh fishing boats fishing without a licence and exceptions

3.—(1) Subject to paragraph (2), fishing by Welsh fishing boats (wherever they may be) is prohibited unless authorised by a licence granted by the Welsh Ministers.

(2) The prohibition in paragraph (1) does not apply to—

- (a) fishing for salmon or migratory trout;
- (b) fishing by any boat used wholly for the purpose of conveying persons wishing to fish solely for pleasure;
- (c) fishing in waters lying within 12 miles of the baselines from which the breadth of the

the seaward limit of the Welsh zone by paragraph 2(1) of Schedule 3A to the Government of Wales Act 2006.

(1) S.I. 2014/1353.

(2) 2006 c.32.

territorial sea adjacent to the Isle of Mann and the Channel Islands respectively is measured, but not extending beyond a line every point of which is equidistant from the nearest points of such baselines and the corresponding baselines adjacent to the United Kingdom and France respectively;

- (d) fishing for common eels (*Anguilla anguilla*) by any boat the length of which is not more than 10 metres; or
- (e) fishing by any boat the length of which is not more than 10 metres and which does not have an engine to power the boat.

Prohibition on fishing in the Welsh zone by non-British-owned Crown Dependencies fishing boats

4.—(1) Fishing in the Welsh zone by a fishing boat registered under the law of Jersey, Guernsey or the Isle of Man that is not British-owned is prohibited unless authorised by a licence granted by the Welsh Ministers.

(2) Paragraph (1) does not apply to fishing

- (a) for salmon or migratory trout;
- (b) for common eels (*Anguilla Anguilla*) by a boat whose length is 10 metres or less;
- (c) by a boat whose length is 10 metres or less and which does not have an engine to power the boat;
- (d) by a boat used wholly for the purpose of conveying persons wishing to fish for pleasure.

Prohibition on fishing in the Welsh zone by foreign fishing boats

5.—(1) Fishing in the Welsh zone by a foreign fishing boat is prohibited unless authorised by a licence granted by the Welsh Ministers.

(2) In paragraph (1), “foreign fishing boat” means a fishing boat that—

- (a) is not registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995⁽¹⁾;
- (b) is not registered under the law of Jersey, Guernsey or the Isle of Man; and
- (c) is not British-owned⁽²⁾.

(1) 1995 c.21.

(2) See section 22(1) (as amended by paragraph 38(c) of Schedule 13 to the Merchant Shipping Act 1995 (c. 21) and S.I. 1999/1820) for the definition of “British-owned”.

Revocations

6. In so far as they apply in relation to Welsh fishing boats, the instruments specified in the first column of the Schedule are revoked to the extent specified in the third column of the Schedule.

Lesley Griffiths

Minister for Environment, Energy and Rural Affairs,
one of the Welsh Ministers
6 March 2019

SCHEDULE Article 6

Revocations

| <i>Title</i> | <i>Reference</i> | <i>Extent of revocation</i> |
|--|------------------|--|
| The Sea Fish Licensing Order 1992 ⁽¹⁾ | S.I. 1992/2633 | In so far as it applies to Welsh fishing boats |
| The Sea Fish Licensing (Variation) Order 1993 ⁽¹⁾ | S.I. 1993/188 | In so far as it applies to Welsh fishing boats |
| The Sea Fish Licensing (Variation) (No.2) Order 1993 | S.I. 1993/2291 | In so far as it applies to Welsh fishing boats |
| The Scotland Act 1998 (Consequential S.I. 1999/1820 Modifications) (No.2) Order 1999 | S.I. 1999/1820 | Paragraph 150 of Schedule 2 |

(1) Varied by S.I. 1993/188 and 2291 and amended by S.I. 1999/1820.

Explanatory Memorandum to The Sea Fish Licensing (Wales) Order 2019.

This Explanatory Memorandum has been prepared by the Marine and Fisheries Division and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Sea Fish Licensing (Wales) Order 2019. I am satisfied the benefits justify the likely costs.

Lesley Griffiths AM

Minister for Environment, Energy and Rural Affairs

7 March 2019

1. Description

- 1.1. This Order seeks to consolidate the Sea Fish Licensing Order 1992 (SI 1992/2663) with subsequent orders which varied and amended it and to make provisions about the licensing of fishing boats from outside the UK when fishing in Welsh waters after the UK leaves the EU.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

- 2.1. None

3. Legislative background

- 3.1. Regulation (EU) No 1380/2013 sets out the objectives for the conservation and sustainable exploitation of European fisheries resources under the Common Fisheries Policy (CFP).
- 3.2. Article 5 of Regulation (EU) No 1380/2013 sets out general rules on access to EU waters. EU vessels have equal access to all Union waters and resources in areas between 12 and 200 nautical miles from Member State baselines.
- 3.3. When the UK leaves the EU and the CFP, article 5 of Regulation (EU) No 1380/2013 will cease to apply and foreign vessels will not have automatic rights to fish within UK waters. New licensing provisions are required to control and manage access by foreign vessels within UK waters after the UK leaves the EU.
- 3.4. Section 4 of the Sea Fish (Conservation) Act 1967 provides the power to prohibit fishing within British Fishery Limits by fishing vessels without the authority of a licence.
- 3.5. This Order is made in exercise of the powers conferred by Sections 4(1) and (2), 4A, 15(3) and 20(1) of the Sea Fish Conservation Act 1967.
- 3.6. Powers under sections 4, 4A, 15(3) were transferred to the National Assembly for Wales and then transferred from that body to the Welsh Ministers: see article 2(a) of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order (S.I. 1999/672) and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32). So far as exercisable in relation to the Welsh zone, those functions were transferred to the Welsh Ministers by article 4(1) (b) of the Welsh Zone (Boundaries and Transfer of Functions) Order 2010 (S.I. 2010/760) on a concurrent basis. In relation to Welsh fishing boats beyond the seaward limit of the Welsh zone, the same functions were further transferred, on a concurrent basis by paragraph 2(1) of Schedule 3A to the Government of Wales Act 2006.
- 3.7. Section 20(1), so far as is relevant, provides that any Order made under sections 4 and 4A may be varied or revoked by a further order under the same section. Since this provision is parasitic upon the powers in sections 4 and 4A it did not need to be separately transferred to the Welsh Ministers.

3.8. This Order applies to Wales, the Welsh zone and Welsh fishing boats wherever they may be.

4. Purpose & intended effect of the legislation

4.1. There are two purposes of this instrument:

- To make provision about the licensing of fishing boats from outside the UK when fishing in Welsh waters after the UK leaves the EU. This provision is essential for Wales to control access by non-UK vessels to its domestic waters, and endorse any international agreements on fisheries access to UK waters post EU exit. This provision will be required if the Fisheries Bill does not receive Royal Assent by 29 March 2019. This will ensure continuity of current management measures in Welsh waters and allow us to progress our policy objectives beyond EU exit day.
- To consolidate and update existing legislation, including the Sea Fish Licensing Order 1992 (S.I. 1992/2663) with the subsequent orders which varied and amended it. The consolidated instrument prohibits fishing, subject to exceptions, by Welsh fishing boats unless they are licensed by the Welsh Ministers. The Order revokes the existing legislation (listed in Schedule I).

Policy background

4.2. The UK will be an independent coastal state upon leaving the EU and the Common Fisheries Policy (CFP) which means EU vessels will no longer have automatic access to fish within Welsh waters. Access to waters and fish stocks will be the subject of an annual coastal states agreement.

4.3. Future access by foreign vessels to UK and Welsh waters will need to be authorised and controlled under the saved Sustainable Management of the External Fishing Fleet regulation. New legislation to specify which countries are allowed access, and ensure their compliance with domestic fisheries management rules, will be required. Failure to manage fishing activity can lead to over exploitation of fish stocks and resultant wider damage to the marine ecosystem. This could jeopardise our vision of a more competitive, profitable and sustainable UK fishing industry, and meeting international commitments on sustainable fishing.

4.4. The preferred approach is to introduce these powers through the UK Fisheries Bill, so that there is a consistent approach across the UK. However in the event that the UK Fisheries Bill does not gain Royal Assent before the UK leaves the EU, it is important that foreign vessels access to Welsh waters can still be controlled and managed.

4.5. It is intended to achieve this by prohibiting foreign vessels from fishing within Welsh waters without the authority of a licence issued by the Welsh Ministers. This will allow the Welsh Government to regulate the activity of foreign fishing vessels. Conditions attached to licences will detail the specific requirements for fishing within Welsh waters, such as vessel monitoring systems (VMS) and catch reporting. It will also allow fisheries managers to respond quickly to issues, such as introducing closed areas or gear requirements following scientific advice.

- 4.6. Vessel licensing is an effective method for managing fisheries sustainably, and is currently applied to the domestic fishing fleet. It is intended that foreign vessels will comply with the same standards applied to the domestic fleet, along with additional requirements such as catch and position reporting. This will help ensure fishing opportunities are managed fairly across both fleets, and that wider sustainability objectives are met.
- 4.7. Failure to introduce this legislation would mean fishing by foreign vessels within Welsh waters post EU exit would be unlicensed and therefore uncontrolled and unmanaged. There would be no provision to license foreign vessels under current domestic legislation, or EU legislation being retained under the Withdrawal Act. This could jeopardise the UK's ability to enter into international fisheries agreements as provision to license and allow managed access to foreign vessels in Welsh waters would not be in place. This could also result in the UK not being able to demonstrate the management of marine resources effectively, which could have an adverse impact on fish stocks in Welsh waters and could attract criticism internationally.

European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 4.8. This instrument is not being made under the European Union (Withdrawal) Act but relates to the withdrawal of the United Kingdom from the European Union, because it introduces provisions for controlling access to Welsh waters as a result of leaving the EU and CFP.

5. Consultation

- 5.1. The provisions in this instrument are being implemented to align Wales with the rest of the UK and to give consistency for the interim period between exit from the EU and the UK Fisheries Bill gaining Royal Assent. A decision was required urgently and it was deemed the introduction of this legislation was the only realistic option available to Ministers and therefore, taking account of a fixed EU exit day over which Welsh Government has no control, no consultation was carried out.
- 5.2. To address any concerns from Welsh licence holders, this legislation will be brought to the attention of affected stakeholders (all Welsh fishing vessel licence holders and the Wales Marine and Fisheries Advisory Group) immediately it comes into force.

Part 2 - Regulatory Impact Assessment (RIA)

6. Options

Option 1 - Do nothing

- 6.1. Upon exit from the EU, existing legislation (Article 5 of Regulation (EU) No 1380/2013) which sets out general rules on access to EU waters, allowing EU vessels equal access to all UK waters and resources between 12 and 200 nautical miles from the baselines will no longer apply to any part of the UK. A new mechanism is therefore required to control and manage access by foreign vessels within UK waters. If the UK came to an international agreement with another coastal state we would not have the powers to be able to comply with it in response of licensing. We would have powers under retained EU legislation (Sustainable Management of External Fishing Fleet Regulations (SMEFF)) to allow access to Welsh waters through an authorisation, however this does not provide the necessary vires to effectively control & manage foreign vessels. This could result in the UK not being able to demonstrate the management of marine resources effectively, which could have an adverse impact on fish stocks in Welsh waters and could attract criticism internationally.

Option 2 - The UK Fisheries Bill

- 6.2. The UK Fisheries Bill provides a range of powers including changes to existing legislation to allow UK and Devolved Ministers to license foreign fishing vessels. This is the preferred approach so that there is a consistent approach across the UK. However, in the event that the UK Fisheries Bill does not gain Royal Assent before the UK leaves the EU, it is important that foreign vessels access to Welsh waters can still be controlled and managed.

Option 3 – The Sea Fish Licensing (Wales) Order 2019

- 6.3. In the absence of the UK Fisheries Bill, this is our **preferred option**. It would introduce powers for Wales to license foreign vessels, and prohibit foreign vessels from fishing within Welsh waters without a valid licence. Vessel licensing is currently in place for domestic vessels, which the Welsh Government are responsible for in Welsh waters. We expect the EU and other third countries will send lists of vessels seeking access to fish within Welsh waters. In response, the Welsh Government (through the Marine Management Organisation (MMO) as the Single Issuing Authority) will licence those vessels Welsh Government wishes to allow to fish in Welsh waters. Each vessel will be issued with an individual licence to fish within Welsh waters, which will refer to the conditions that vessels must comply with. Under a separate draft SI (The Sea Fishing (Licences and Notices) (Wales) Regulations 2019) licences for foreign vessels could be issued electronically and variations of the same could be issued on the Welsh Government website. Welsh Government staff will be able to amend foreign licence conditions in response to specific issues, by electronically updating the Welsh Government website. These powers are essential to effectively manage access by foreign vessels post EU exit.

7. Costs and benefits

Option 1

- 7.1. There are no costs identified to Welsh business, charities and/or the voluntary sector as Welsh vessels will be unaffected by these measures.
- 7.2. Any benefits for the domestic fleet by not licensing foreign vessels are difficult to assess and are likely far outweighed by the risk of not having the powers to manage our marine resources effectively and comply with international agreements.

Options 2 and 3 (The costs of both these options are the same).

- 7.3. There are no direct costs identified to Welsh business, charities and/or the voluntary sector as these measures will only significantly change the licensing regime in relation to foreign vessels. We anticipate that between 100 and 200 foreign vessels would likely come into Welsh waters. As foreign businesses, these are outside of the scope of the RIA.
- 7.4. There will be a cost to Government to license the foreign vessels, these costs are set out in the RIA for the Sea Fishing (Licenses and Notices) (Wales) Order 2019.
- 7.5. A benefit of these options is that they ensure a level playing field for UK and foreign vessels and give maximum enforcement possibilities in relation to individual vessels.
- 7.6. Option 3 is the preferred option if the UK Fisheries Bill is not passed by EU exit day as it will allow Wales to endorse any international agreements the UK enters which require signatories to manage access to fisheries by foreign boats. The SI will act as a stop-gap until such time as the UK Fisheries Bill gains Royal Assent. Option 1 is not considered appropriate as it does not allow the full suite of control and enforcement methods in place for domestic vessels to be deployed against individual foreign vessels. Option 2 is the preferred long term option, however in the event that the UK Fisheries Bill does not gain Royal Assent before the UK leaves the EU, it is important that foreign vessels access to Welsh waters can still be controlled and managed.

SL(5)335 - Rheoliadau Iechyd Planhigion (Diwygio) (Cymru) (Ymadael â'r UE) 2019

Cefndir a Diben

Mae'r Rheoliadau hyn (Rhan 2) yn gwneud diwygiadau (sy'n dod i rym drannoeth y diwrnod y'u gwneir) i Orchymyn Iechyd Planhigion (Cymru) 2018 (O.S. 2018/1064) i drosi darpariaethau penodol yn y cyfarwyddbau a ganlyn:

- Cyfarwydddeb y Cyngor 69/464/EEC ynglŷn â rheoli Clefyd y Ddafaden Tatws
- Cyfarwydddeb y Cyngor 93/85/EEC ynglŷn â rheoli pydredd cylch tatws
- Cyfarwydddeb y Cyngor 2007/33/EC ynglŷn â rheoli llyngyr tatws a diddymu Cyfarwydddeb 69/465/EEC

Mae'r darpariaethau'n ymwneud â phlannu rhywogaethau *mochlysaidd* penodol a rheoli plâu planhigion perthnasol.

At hynny, mae Rhannau 3-5 o'r Rheoliadau hyn (sy'n dod i rym ar y diwrnod ymadael) yn diwygio'r is-ddeddfwriaeth a ganlyn sy'n ymwneud ag iechyd planhigion er mwyn ymdrin ag unrhyw fethiant yng nghyfraith yr UE a ddargedwir i weithredu'n effeithiol a diffygion eraill:

- Gorchymyn Iechyd Planhigion (Cymru) (O.S. 2018/1064)
- Rheoliadau Iechyd Planhigion etc. (Ffioedd) (Cymru) (O.S. 2018/1179)

Mae'r Rheoliadau hyn hefyd yn dirymu Rheoliadau Tatws sy'n Tarddu o'r Aifft (Cymru)(O.S. 2004/2245).

Gweithdrefn

Cadarnhaol

Materion technegol: craffu

Nodir y pwyntiau a ganlyn i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.2

1. **Rheol Sefydlog 21.2(vii) – ei bod yn ymddangos bod anghysondebau rhwng ystyr testun Cymraeg a thestun Saesneg.**

Yn rheoliad 4 o'r offeryn hwn mae gwall yn y fersiwn Gymraeg ym mharagraff (o).

Mae'r fersiwn Saesneg yn nodi –

“Further investigations

13. If any suspected occurrence or confirmed presence of Potato cyst nematodes **in Wales** results from...”



Mae'r fersiwn Gymraeg yn nodi –

“Ymchwiliadau pellach

13. Os yw unrhyw achos a amheuir o Lyngyr tatws neu unrhyw achos o bresenoldeb Llyngyr tatws a gadarnhawyd yn deillio o...”

Nid yw'r fersiwn Gymraeg yn nodi “yng Nghymru”.

2. Rheol Sefydlog 21.2(vii) – ei bod yn ymddangos bod anghysondebau rhwng ystyr testun Cymraeg a thestun Saesneg.

Yn rheoliad 27(a) mae is-baragraff (e) a fewnosodwyd yn cyfeirio at y Deyrnas Unedig yn y testun Saesneg ond mae'r testun Cymraeg yn cyfeirio at Brydain Fawr.

3. Rheol Sefydlog 21.2(vii) – ei bod yn ymddangos bod anghysondebau rhwng ystyr testun Cymraeg a thestun Saesneg.

Yn rheoliad 55(c) mae gwall yn y fersiwn Gymraeg. Mae paragraff (c) o'r rheoliad hwnnw yn mewnosod geiriau ar ôl paragraff 1A o Atodlen 16 i Orchymyn Iechyd Planhigion (Cymru) 2018. Mae'r geiriau a fewnosodwyd yn 1AB(b) yn nodi –

‘yn achos tatws hadyd a, phan fo'n briodol, **thatws** eraill, cynnal profion swyddogol ar samplau gan ddefnyddio'r dull a nodir yn EPPO PM 7/21’

Dylai nodi –

‘yn achos tatws hadyd a, phan fo'n briodol, **datws** eraill, cynnal profion swyddogol ar samplau gan ddefnyddio'r dull a nodir yn EPPO PM 7/21’

4. Rheol Sefydlog 21.2(vi) – ei bod yn ymddangos bod gwaith drafftio'r offeryn neu'r drafft yn ddiffygiol.

Yn rheoliad 34(iv)(aa) – nid oes paragraff 13 o ran E o'r rhestr o ddeunydd a reolir.

5. Rheol Sefydlog 21.2(vi) – ei bod yn ymddangos bod gwaith drafftio'r offeryn neu'r drafft yn ddiffygiol.

Yn rheoliad 44 ym mharagraff (g), cyfeirir at 'Rhan A o Atodiad 3 i Gyfarwyddeb y Comisiwn 2008/61/EC'. Dylai gyfeirio at Atodiad III i Gyfarwyddeb y Comisiwn 2008/61/EC yn y fersiwn Gymraeg a'r fersiwn Saesneg.

6. Rheol Sefydlog 21.2(vi) – ei bod yn ymddangos bod gwaith drafftio'r offeryn neu'r drafft yn ddiffygiol.

Yn rheoliad 53(e)(ii) ac (g) cyfeirir at 'Atodiad 3 i Gyfarwyddeb 2007/33/EC'. Dylai gyfeirio at Atodiad III i Gyfarwyddeb 2008/33/EC yn y fersiwn Saesneg o ran rheoliad 53(e)(ii) ac yn y fersiwn Gymraeg a'r fersiwn Saesneg o ran rheoliad 53(g).

7. Rheol Sefydlog 21.2(vi) – ei bod yn ymddangos bod gwaith drafftio'r offeryn neu'r drafft yn ddiffygiol.



Yn rheoliad 54 ym mharagraff (e) yn y ddau le y mae'n digwydd, cyfeirir at 'Atodiad 3 i Gyfarwyddeb 93/85/EEC' a dylai gyfeirio at 'Atodiad III i Gyfarwyddeb 93/85/EEC yn y fersiwn Gymraeg a'r fersiwn Saesneg.

Rhinweddau: craffu

Nodwyd y pwynt a ganlyn i gyflwyno adroddiad arno o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.

1. Rheol Sefydlog 21.3(ii) – ei fod o bwysigrwydd gwleidyddol neu gyfreithiol neu ei fod yn codi materion polisi cyhoeddus sy'n debygol o fod o ddiddordeb i'r Cynulliad.

Mae'r Rheoliadau hyn yn creu dwy drosedd.

Mae'r diwygiadau a wnaed gan reoliad 13 a rheoliad 48 yn cynnwys trosedd newydd mewn perthynas â'r gofynion mewnforio newydd o ran gwirio iechyd planhigion pan fyddant yn cyrraedd Cymru ac yn darparu'r gallu i orfodi ac erlyn achosion difrifol o ddiffyg cydymffurfiaeth.

Ychwanegir trosedd hefyd i orfodi unrhyw fethiant i gydymffurfio ag unrhyw ofyniad mewn hysbysiad cyffredinol a gyhoeddir gan Weinidogion Cymru o dan Orchymyn Iechyd Planhigion (Cymru) 2018 mewn perthynas ag ardal sydd wedi'i darnodi o dan reoliad 5(k) a rheoliad 48. Mae penderfyniadau'r UE (deddfwriaeth uniongyrchol yr UE a ddargedwir) yn ei gwneud yn ofynnol i Weinidogion Cymru ddarnodi'r ardal gyfagos pan fydd achos o bla a chymryd camau i ddileu a chynnwys yr achos hwnnw.

Y goblygiadau yn sgil gadael yr Undeb Ewropeaidd

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.

Ymateb y Llywodraeth

Mae angen ymateb gan y Llywodraeth.

Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

13 Mawrth 2019



Rheoliadau drafft a osodwyd gerbron Cynulliad Cenedlaethol Cymru o dan baragraff 2(2) o Atodlen 2 i Ddeddf y Cymunedau Ewropeaidd 1972 a pharagraff 1(8) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018, i'w cymeradwyo drwy benderfyniad gan Gynulliad Cenedlaethol Cymru.

D R A F F T O F F E R Y N N A U
S T A T U D O L C Y M R U

2019 Rhif (Cy.)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

**IECHYD PLANHIGION,
CYMRU**

**Rheoliadau Iechyd Planhigion
(Diwygio) (Cymru) (Ymadael â'r
UE) 2019**

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn wedi eu gwneud, yn rhannol, drwy arfer y pwerau a roddir gan Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018, er mwyn ymdrin ag unrhyw fethiant yng nghyfraith yr UE a ddargedwir i weithredu'n effeithiol a diffygion eraill sy'n deillio o ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd.

Mae Rhan 2 yn diwygio Gorchymyn Iechyd Planhigion (Cymru) 2018 i drosi darpariaethau penodol yng Nghyfarwyddeb y Cyngor 69/464/EEC ynglŷn â rheoli Clefyd y Ddafaden Tatws (OJ Rhif L 323, 24.12.1969, t. 1), Cyfarwyddeb y Cyngor 93/85/EEC ynglŷn â rheoli pydredd cylch tatws (OJ Rhif L 259, 18.10.1993, t. 1), Cyfarwyddeb y Cyngor 98/57/EC ynglŷn â rheoli *Ralstonia solanacearum* (Smith) Yabuuchi et al. (OJ Rhif L 235, 21.8.1998, t. 1), a Chyfarwyddeb y Cyngor 2007/33/EC ynglŷn â rheoli llyngyr tatws a diddymu Cyfarwyddeb 69/465/EEC (OJ Rhif L 156, 16.6.2007, t. 12).

Mae Rhannau 3 i 5 yn diwygio is-ddeddfwriaeth sy'n ymwneud ag iechyd planhigion er mwyn ymdrin ag unrhyw fethiant yng nghyfraith yr UE a ddargedwir i weithredu'n effeithiol a diffygion eraill (yn benodol y

diffygion y cyfeirir atynt ym mharagraffau (a) i (d) ac (g) o adran 8(2) o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018) sy'n deillio o ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd.

Mae Rhan 3 yn diwygio Gorchymyn Iechyd Planhigion (Cymru) 2018 (O.S. 2018/1064). Mae Rhan 4 yn diwygio Rheoliadau Iechyd Planhigion etc. (Ffioedd) (Cymru) 2018.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, ystyriwyd nad oedd yn angenrheidiol cynnal asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn.

Rheoliadau drafft a osodwyd gerbron Cynulliad Cenedlaethol Cymru o dan baragraff 2(2) o Atodlen 2 i Ddeddf y Cymunedau Ewropeaidd 1972 a pharagraff 1(8) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018, i'w cymeradwyo drwy benderfyniad gan Gynulliad Cenedlaethol Cymru.

D R A F F T O F F E R Y N N A U
S T A T U D O L C Y M R U

2019 Rhif (Cy.)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

**IECHYD PLANHIGION,
CYMRU**

**Rheoliadau Iechyd Planhigion
(Diwygio) (Cymru) (Ymadael â'r
UE) 2019**

Gwnaed

Yn dod i rym yn unol â rheoliad 1(2)

Mae Gweinidogion Cymru yn gwneud y Rheoliadau hyn drwy arfer y pwerau a roddir gan—

- (a) mewn perthynas â Rhan 1, y pwerau a grybwyllir ym mharagraffau (b) ac (c);
- (b) mewn perthynas â Rhan 2, adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972(1);
- (c) mewn perthynas â Rhannau 3 i 5, paragraff 1(1) o Atodlen 2, a pharagraff 21 o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018(2).

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- (1) 1972 p. 68; diwygiwyd adran 2(2) gan adran 27(1)(a) o Ddeddf Diwygio Deddfwriaethol a Rheoleiddiol 2006 (p. 51) a chan Ran 1 o'r Atodlen i Ddeddf yr Undeb Ewropeaidd (Diwygio) 2008 (p. 7). Mae wedi ei diddymu yn rhagolygol gan adran 1 o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 (p. 16) o'r diwrnod ymadael (gweler adran 20 o'r Ddeddf honno).
 - (2) 2018 p. 16. *Gweler* adran 20(1) o'r Ddeddf honno am ddiffiniad o "devolved authority" ("awdurdod datganoledig").

Mae Gweinidogion Cymru wedi eu dynodi(1) at ddiwedd adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972 mewn perthynas â pholisi amaethyddol cyffredin yr Undeb Ewropeaidd.

Gosodwyd drafft o'r offeryn hwn gerbron Cynulliad Cenedlaethol Cymru ac fe'i cymeradwywyd ganddo drwy benderfyniad yn unol â pharagraff 2(2) o Atodlen 2 i Ddeddf y Cymunedau Ewropeaidd 1972 a pharagraff 1(8) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018.

RHAN 1

Cyflwyniad

Enwi, cychwyn a chymhwysu

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Iechyd Planhigion (Diwygio) (Cymru) (Ymadael â'r UE) 2019.

(2) Deuant i rym fel a ganlyn—

- (a) o ran y Rhan hon a Rhan 2, drannoeth y diwrnod y'u gwneir;
- (b) o ran y gweddill, ar y diwrnod ymadael.

(3) Maent yn gymwys o ran Cymru.

RHAN 2

Diwygio Gorchymyn Iechyd Planhigion (Cymru) 2018

2. Mae Gorchymyn Iechyd Planhigion (Cymru) 2018(2) wedi ei diwygio fel a ganlyn.

3. Ym mharagraff 3 o Atodlen 13, yn lle "Caiff hysbysiad o dan erthygl 32 ei gwneud yn ofynnol" rhodder "Rhaid i arolygydd gyflwyno hysbysiad o dan erthygl 32 sy'n ei gwneud yn ofynnol".

4. Yn Atodlen 14—

- (a) hepgorer paragraff 1;
- (b) yn lle paragraff 2 rhodder—

“Yn yr Atodlen hon—

ystyr “bylbiau sy'n dueddol o gael plâu neu glefydau” (“*susceptible bulbs*”) yw bylbiau, cloron neu risomau, a dyfir mewn pridd ac a fwriedir ar gyfer eu plannu, ac eithrio'r rhai y mae tystiolaeth ar eu deunydd pecynnu,

(1) O.S. 2010/2690.

(2) O.S. 2018/1064 (Cy. 223).

neu drwy ddulliau eraill, eu bod wedi eu bwriadu ar gyfer eu gwerthu i ddefnyddwyr terfynol nad ydynt yn ymwneud â chynhyrchu blodau wedi eu torri yn broffesiynol, *Allium ascalonicum* L., *Allium cepa* L., *Dahlia* spp., *Gladiolus* Tourn. Ex L., *Hyacinthus* spp., *Iris* spp., *Lilium* spp., *Narcissus* L. neu *Tulipa* L.;

ystyr “cae” (“*field*”) yw ardal sydd wedi ei ddarnodi yn gae at ddibenion Erthygl 3 o Gyfarwyddeb 2007/33/EC(1);

ystyr “cae wedi ei heigio” (“*infested field*”) yw cae sydd wedi ei gofnodi yn gae wedi ei heigio yn unol â pharagraff 2B;

ystyr “deunydd sy’n dueddol o gael plâu neu glefydau” (“*susceptible material*”) yw planhigion cynhaliol, bylbiau sy’n dueddol o gael plâu neu glefydau, neu blanhigion sy’n dueddol o gael plâu neu glefydau;

ystyr “hysbysiad” (“*notice*”) yw hysbysiad o dan erthygl 32;

ystyr “planhigion cynhaliol” (“*host plants*”) yw planhigion gyda gwreiddiau *Capsicum* spp., *Solanum lycopersicum* L. neu *Solanum melongena* L.;

ystyr “planhigion sy’n dueddol o gael plâu neu glefydau” (“*susceptible plants*”) yw planhigion gyda gwreiddiau *Allium porrum* L., *Asparagus officinalis* L., *Beta vulgaris* L., *Brassica* spp. neu *Fragaria* L.”;

(c) ar ôl paragraff 2, mewnosoder—

“Ymchwiliadau swyddogol ac arolygon swyddogol

2A. Rhaid i Weinidogion Cymru sicrhau—

- (a) bod ymchwiliadau swyddogol yn cael eu cynnal yn unol ag Erthyglau 4 a 5 o Gyfarwyddeb 2007/33/EC am bresenoldeb Llyngyr tatws mewn caeau lle y mae tatws hadyd neu ddeunydd sy’n dueddol o gael plâu neu glefydau, a fwriedir ar gyfer cynhyrchu planhigion ar gyfer eu plannu, i’w plannu neu eu storio;
- (b) bod arolygon swyddogol yn cael eu cynnal yn unol ag Erthygl 6 o Gyfarwyddeb 2007/33/EC am bresenoldeb Llyngyr tatws mewn caeau a ddefnyddir i gynhyrchu tatws, ac

(1) OJ Rhif L 156, 16.6.2007, t. 12.

eithrio'r rhai a fwriedir ar gyfer cynhyrchu tatws hadyd.

Cofnodion swyddogol

2B. Rhaid i Weinidogion Cymru sicrhau bod canlyniadau pob ymchwiliad swyddogol neu arolwg swyddogol a gynhelir yn unol â pharagraff 2A yn cael eu cofnodi i nodi pa un a ganfuwyd Llyngyr tatws yn y cae yn ystod yr ymchwiliad neu'r arolwg.

2C. Pan fo'r mesurau a gymeradwywyd yn swyddogol a nodir yn adran 3(C) o Atodiad 3 i Gyfarwyddeb 2007/33/EC wedi eu gweithredu mewn cae a gofnodwyd yn gae sydd wedi ei heigio yn unol â pharagraff 2B ac, yn dilyn cwblhau gweithredu'r mesurau hynny, nad yw presenoldeb Llyngyr tatws yn cael ei gadarnhau, rhaid i Weinidogion Cymru sicrhau bod y cofnod yn cael ei ddiweddarau yn unol â hynny."

- (d) ym mharagraff 3—
 - (i) hepgorer y pennawd;
 - (ii) yn lle'r geiriau o "y cae", yn y lle cyntaf y mae'n digwydd, hyd at y diwedd, rhodder "gae wedi ei heigio sy'n pennu terfynau'r cae";
- (e) ym mharagraff 4, yn lle'r geiriau o "yn unol â'r" hyd at "Gyfarwyddeb 2007/33/EC," rhodder "yn unol â pharagraff 2C";
- (f) ar ôl paragraff 4, mewnosoder—

"Dynodiad swyddogol

4A. Rhaid i arolygydd, drwy hysbysiad, ddynodi yn halogedig unrhyw datws neu ddeunydd sy'n dueddol o gael plâu neu glefydau sy'n dod o gae sydd wedi ei gofnodi yn swyddogol yn gae sydd wedi ei heigio o dan baragraff 2B neu unrhyw ddeunydd sy'n dueddol o gael plâu neu glefydau sydd wedi bod mewn cyffyrddiad â phridd y canfuwyd Llyngyr tatws ynddo.";

- (g) ym mharagraff 5—
 - (i) yn is-baragraff (a)—
 - (aa) hepgorer "mewn cae sydd wedi ei ddarnodi";
 - (bb) ar ôl "tatws hadyd" mewnosoder "mewn cae wedi ei heigio";
 - (ii) yn is-baragraff (b), yn lle'r geiriau o "mewn" hyd at y diwedd rhodder "unrhyw ddeunydd sy'n dueddol o gael plâu neu glefydau a fwriedir ar gyfer ei blannu mewn cae wedi ei heigio";

- (h) ym mharagraff 6, yn lle'r geiriau o "mewn" hyd at y diwedd rhodder "bylbiau sy'n dueddol o gael plâu neu glefydau neu blanhigion sy'n dueddol o gael plâu neu glefydau mewn cae wedi ei heigio";
- (i) ym mharagraff 8—
 - (i) hepgorer "mewn cae sydd wedi ei ddarnodi";
 - (ii) yn lle'r geiriau o "oni bai" hyd at y diwedd rhodder "mewn cae wedi ei heigio oni bai ei fod wedi ei awdurdodi i wneud hynny gan arolygydd";
- (j) ar ôl paragraff 8 mewnosoder—

“8A. Rhaid i awdurdodiad o dan baragraff 8 fod drwy hysbysiad ac ni chaniateir ei roi oni bai bod yr arolygydd wedi ei fodloni bod yr holl gamau rhesymol i atal Llyngyr tatws yn y cae hwnnw wedi eu cymryd yn unol â'r rhaglen reolaeth swyddogol a fabwysiadwyd ar gyfer atal Llyngyr tatws.”;
- (k) ym mharagraff 9, yn lle'r geiriau o "a restrir" hyd at "gae sydd wedi ei ddarnodi", yn yr ail le y mae'n digwydd, rhodder "cynhaliol a ddynodwyd yn blanhigion halogedig yn unol â pharagraff 4A";
- (l) ar ôl paragraff 10 mewnosoder—

“Rheolaethau ar datws ar gyfer prosesu diwydiannol neu raddio diwydiannol

10A. Ni chaiff unrhyw berson symud unrhyw datws sydd wedi eu dynodi yn datws halogedig yn unol â pharagraff 4A ac a fwriedir ar gyfer prosesu diwydiannol neu raddio diwydiannol, oni bai ei fod wedi ei awdurdodi i wneud hynny gan arolygydd.

10B. Rhaid i awdurdodiad o dan baragraff 10A fod drwy hysbysiad, a rhaid iddo ei wneud yn ofynnol i'r tatws gael eu danfon i safle prosesu neu raddio sydd â gweithdrefnau gwaredu gwastraff priodol a gymeradwywyd yn swyddogol sy'n sicrhau nad oes unrhyw risg o ledaenu Llyngyr tatws.”;

- (m) ym mharagraff 11, yn lle'r geiriau o "blanhigion" hyd at y diwedd rhodder "fylbiau sy'n dueddol o gael plâu neu glefydau neu blanhigion sy'n dueddol o gael plâu neu glefydau a ddynodwyd yn rhai halogedig yn unol â pharagraff 4A, oni bai y buont yn destun y mesurau a nodir yn adran 3(A) o Atodiad 3 i Gyfarwyddeb 2007/33/EC a bod arolygydd wedi cadarnhau drwy hysbysiad nad ydynt yn halogedig mwyach”;

- (n) hepgorer paragraff 12;
- (o) ar y diwedd mewnosoder—

“Ymchwiliadau pellach

13. Os yw unrhyw achos a amheuir o Lyngyr tatws neu unrhyw achos o bresenoldeb Llyngyr tatws a gadarnhawyd yn deillio o fethiant neu newid o ran effeithiolrwydd amrywogaeth datws sydd ag ymwrthedd sy'n ymwneud â newid eithriadol o ran cyfansoddiad rhywogaethau nematodau, pathofathau neu grwpiau gwenwyndra, rhaid i Weinidogion Cymru sicrhau y cynhelir drwy ddulliau priodol ymchwiliad i'r rhywogaeth o Lyngyr tatws dan sylw a, phan fo'n gymwys, y pathofath a'r grŵp gwenwyndra dan sylw, a'u bod yn cael eu cadarnhau drwy ddulliau priodol.”

5. Yn Atodlen 15—

- (a) ym mharagraff 1—
 - (i) yn y lle priodol mewnosoder—

“ystyr “profion swyddogol” (*“official testing”*) yw cynnal profion mewn labordy swyddogol neu labordy sydd o dan oruchwyliaeth swyddogol;”;
 - (ii) yn y diffiniad o “hysbysiad”, ar ôl ““hysbysiad” (*“notice”*) mewnosoder “yn Rhan A i C”;
- (b) ar ôl paragraff 1 mewnosoder—

“RHAN A

Arolygon swyddogol a phroffion swyddogol

1A. Rhaid i Weinidogion Cymru sicrhau y cynhelir arolygon swyddogol systematig ar gyfer Pdredd cylch tatws ar gloron *Solanum tuberosum* L. a, phan fo'n briodol, ar blanhigion *Solanum tuberosum* L., sy'n tarddu o Gymru yn unol ag Erthygl 2(1) o Gyfarwyddeb 93/85/EEC⁽¹⁾.

1B. Pan amheuir bod Pdredd cylch tatws yn bresennol mewn deunydd sy'n dueddol o gael plâu neu glefydau, rhaid i Weinidogion Cymru sicrhau—

- (a) bod profion swyddogol yn cael eu cynnal gan ddefnyddio'r dull a nodir yn Atodiad 1 i Gyfarwyddeb

(1) OJ Rhif L 259, 18.10.1993, fel y'i diwygiwyd gan Gyfarwyddeb y Comisiwn 2006/56/EC (OJ Rhif L 182, 4.7.2006, t. 1).

93/85/EEC ac yn unol â'r amodau a bennir ym mhwynt 1 o Atodiad 2 i Gyfarwyddeb 93/85/EEC i gadarnhau ei fod yn bresennol neu beidio;

- (b) bod y pethau a ganlyn yn cael eu cadw, ac y cymerir camau priodol i'w diogelu hyd nes cwblheir y profion swyddogol—
 - (i) yr holl gloron a samplwyd, a phan fo'n bosibl, yr holl blanhigion a samplwyd;
 - (ii) unrhyw rin a deunydd paratoi ychwanegol ar gyfer y profion sgrinio;
 - (iii) yr holl ddogfennaeth berthnasol; ac
- (c) hyd nes y cadarnheir ei fod yn bresennol neu beidio, pan fo symptomau gweledol diagnostig sy'n peri amheuaeth ynghylch presenoldeb Pydredd cylch tatws wedi eu gweld, neu symptomau Pydredd cylch tatws wedi eu canfod gan brawf imiwnoffloroleuedd cadarnhaol neu brawf cadarnhaol priodol arall—
 - (i) bod symudiad yr holl lotiau neu lwythi y cymerwyd y samplau ohonynt, ac eithrio'r rhai sydd o dan reolaeth swyddogol, wedi ei wahardd, ac eithrio pan gadarnhawyd nad oes dim risg adnabyddadwy o ledaenu Pydredd cylch tatws;
 - (ii) bod camau yn cael eu cymryd i olrhain tarddiad yr achos a amheuir; a
 - (iii) bod camau rhagofalus priodol ychwanegol sy'n seiliedig ar lefel y risg dybiedig yn cael eu cymryd i atal y pla planhigion rhag lledaenu.

1C. Caiff hysbysiad gynnwys mesurau at ddibenion paragraff 1B(c)(i) i (iii).

RHAN B

Mesurau i'w cymryd yn dilyn cadarnhau presenoldeb Pydredd cylch tatws

1D. Os yw presenoldeb Pydredd cylch tatws yn cael ei gadarnhau mewn sampl o ddeunydd sy'n dueddol o gael plâu neu glefydau yn dilyn profion swyddogol a gynhelir yn unol â

pharagraff 1B(a) neu 1E, rhaid i Weinidogion Cymru sicrhau—

- (a) bod y deunydd sy'n dueddol o gael plâu neu glefydau, y llwyth neu'r lot ac unrhyw wrthrych y cymerwyd y sampl ohono a, phan fo'n briodol, y man cynhyrchu a'r cae y cynaeafwyd y deunydd sy'n dueddol o gael plâu neu glefydau ohonynt, yn cael eu dynodi yn halogedig gan arolygydd;
- (b) bod arolygydd yn canfod graddau'r halogi tebygol drwy gyffyrddiad cyn neu ar ôl cynaeafu neu drwy unrhyw gysylltiad cynhyrchu ag unrhyw beth a ddynodir yn halogedig o dan is-baragraff (a), gan ystyried y darpariaethau ym mhwynt 1 o Atodiad 3 i Gyfarwyddeb 93/85/EEC;
- (c) bod parth yn cael ei ddarnodi gan arolygydd ar sail y dynodiad a wneir o dan is-baragraff (a), gan ystyried y darpariaethau ym mhwynt 2 o Atodiad 3 i Gyfarwyddeb 93/85/EEC.

1E. Pan fo deunydd sy'n dueddol o gael plâu neu glefydau wedi ei ddynodi yn halogedig o dan baragraff 1D(a), rhaid i Weinidogion Cymru sicrhau y cynhelir profion ar stociau tatws sy'n perthyn drwy glonio i'r deunydd hwnnw sy'n dueddol o gael plâu neu glefydau yn y dull a bennir ym mharagraff 1B er mwyn canfod prif ffynhonnell debygol yr haint, a graddau'r halogi tebygol.

1F. Rhaid cynnal unrhyw brofion o'r fath ar faint bynnag o ddeunydd sy'n dueddol o gael plâu neu glefydau ag sy'n angenrheidiol i ganfod prif ffynhonnell debygol yr haint, a graddau'r halogi tebygol.

1G. Rhaid i unrhyw ddynodiad gan arolygydd o dan y Rhan hon gael ei wneud drwy hysbysiad.

1H. Pan fo arolygydd yn canfod o dan baragraff 1D(b) bod unrhyw ddeunydd sy'n dueddol o gael plâu neu glefydau, neu unrhyw wrthrych, yn halogedig o bosibl, rhaid i'r arolygydd ddynodi drwy hysbysiad bod y deunydd hwnnw neu'r gwrthrych hwnnw yn halogedig o bosibl.

RHAN C”;

(c) ym mharagraff 3—

- (i) yn lle'r geiriau cyn is-baragraff (a) rhodder “Pan fo deunydd sy'n dueddol o

gael plâu neu glefydau neu wrthrych wedi ei ddynodi yn halogedig neu'n halogedig o bosibl o dan Ran B, rhaid i arolygydd ddyroddi hysbysiad sy'n ei gwneud yn ofynnol”;

(ii) yn is-baragraff (a)—

(aa) yn lle “bod” ar y dechrau rhodder “yn achos”

(bb) ar ôl “glefydau” mewnosoder “, fod y deunydd”;

(iii) yn is-baragraff (b)—

(aa) yn lle “bod” ar y dechrau rhodder “yn achos”

(bb) ar ôl “glefydau” mewnosoder “, fod y deunydd”;

(iv) yn is-baragraff (c)—

(aa) yn y geiriau cyn paragraff (i), yn lle “bod” ar y dechrau rhodder “yn achos” ac ar ôl “o bosibl” mewnosoder “, fod y gwrthrych”;

(bb) ym mharagraff (ii), yn lle “o ledaenu Pydredd cylch tatws” rhodder “bod Pydredd cylch tatws yn goroesi neu'n lledaenu”;

(d) ym mharagraff 5—

(i) yn y pennawd, hepgorer “y caniateir eu gwneud yn ofynnol”;

(ii) yn y geiriau cyn is-baragraff (a), yn lle “Caiff” rhodder “Rhaid i”;

(e) ym mharagraff 6(c), ar y diwedd mewnosoder “, a bod y cloron a gynaeafir yn destun profion swyddogol gan ddefnyddio'r dull a nodir yn Atodiad 1 i Gyfarwyddeb 93/85/EEC”;

(f) ym mharagraff (7)(c)—

(i) yn lle “tatws” yn yr ail le y mae'n digwydd rhodder “hadyd neu datws”;

(ii) ar y diwedd mewnosoder “, a bod y cloron a gynaeafir yn destun profion swyddogol gan ddefnyddio'r dull a nodir yn Atodiad 1 i Gyfarwyddeb 93/85/EEC”;

(g) ym mharagraff 8—

(i) yn is-baragraff (a)—

(aa) ar y dechrau, mewnosoder “pan fo arolygydd wedi ei fodloni bod y risg o blanhigion tatws gwirfoddol a phlanhigion eraill sy'n tyfu'n naturiol sy'n cynnal Pydredd cylch tatws wedi ei dileu,”;

- (bb) ym mharagraff (iii), hepgorer y geiriau o “a bod” hyd at y diwedd;
- (ii) yn is-baragraff (d), ar y diwedd, mewnosoder “a gofyniad bod profion swyddogol yn cael eu cynnal ar gloron a gynaeafir ym mhob cae gan ddefnyddio’r dull a nodir yn Atodiad 1 i Gyfarwyddeb 93/85/EEC”;
- (h) ym mharagraff 9, yn lle “Caniateir” rhodder “Ac eithrio pan fo Gweinidogion Cymru wedi cyhoeddi hysbysiad o dan Ran D, rhaid”;
- (i) ar ôl paragraff 10 mewnosoder—

“**10A.** Pan fo arolygydd yn cyflwyno hysbysiad sy’n cynnwys y set gyntaf o fesurau dileu, rhaid i Weinidogion Cymru sicrhau y cynhelir arolwg swyddogol mewn perthynas â’r cae a grybwyllir ym mharagraff 6(d) yn unol ag Erthygl 2 o Gyfarwyddeb 93/85/EEC.”
- (j) ym mharagraff 12(a), ar ôl “Pydredd cylch tatws” mewnosoder “ac i symud ymaith yr holl blanhigion cynhaliol”;
- (k) ar ôl paragraff 13 mewnosoder—

“RHAN D

Darnodi parthau i reoli Pydredd cylch tatws

14. Mae’r Rhan hon yn gymwys pan fo arolygydd wedi darnodi parth yn unol â pharagraff 1D(c).

15. Caiff Gweinidogion Cymru bennu, drwy hysbysiad—

- (a) am ba hyd y mae’r parth i barhau i fod wedi ei ddarnodi; a
- (b) y mesurau sy’n gymwys yn y parth sydd wedi ei ddarnodi.

16. Mewn perthynas â hysbysiad o dan baragraff 15—

- (a) rhaid iddo fod yn ysgrifenedig;
- (b) rhaid iddo ddisgrifio hyd a lled y parth sydd wedi ei ddarnodi;
- (c) rhaid iddo bennu’r dyddiad y mae pob mesur yn cael effaith;
- (d) rhaid iddo gael ei gyhoeddi mewn dull sy’n briodol i’w ddwyn i sylw’r cyhoedd; ac
- (e) caniateir ei ddiwygio, ei atal dros dro neu ei ddirymu, yn llwyr neu’n rhannol, drwy hysbysiad pellach.

17. Rhaid trin unrhyw fangre sy'n rhannol o fewn parth sydd wedi ei ddarnodi ac yn rhannol y tu allan i'r parth hwnnw fel pe bai o fewn y parth hwnnw at ddibenion yr Atodlen hon, ac eithrio pan na fo'r rhan sydd y tu allan i'r parth sydd wedi ei ddarnodi yng Nghymru.

18. Mae hysbysiad a gyhoeddir yn unol â pharagraff 16 i'w drin fel pe bai wedi ei gyflwyno i—

- (a) unrhyw feddiannydd neu berson arall sydd â gofal am unrhyw fangre o fewn y parth sydd wedi ei ddarnodi; a
- (b) unrhyw berson sy'n gweithredu peiriannau neu'n cyflawni unrhyw weithgaredd arall mewn perthynas â chynhyrchu tatws o fewn y parth sydd wedi ei ddarnodi.

19. Rhaid i hysbysiad a gyflwynir o dan baragraff 15 bennu—

- (a) bod rhaid glanhau a diheintio mewn dull priodol unrhyw beiriannau neu storfeydd mewn mangre o fewn y parth sydd wedi ei ddarnodi a ddefnyddir i gynhyrchu tatws er mwyn sicrhau nad oes unrhyw risg adnabyddadwy bod Pyddredd cylch tatws yn goroesi neu'n lledaenu;
- (b) yn ystod y cyfnod penodedig, mai dim ond tatws hadyd ardystiedig neu datws hadyd a dyfir o dan reolaeth swyddogol y caniateir eu plannu, a rhaid cynnal profion swyddogol, ar ôl eu cynaeafu, ar unrhyw datws hadyd sydd wedi eu tyfu mewn man cynhyrchu sydd wedi ei halogi o bosibl;
- (c) yn ystod y cyfnod penodedig, bod rhaid trafod tatws a fwriedir ar gyfer eu plannu ar wahân i'r holl datws eraill mewn mangre o fewn y parth neu fod rhaid gweithredu system lanhau a, phan fo'n briodol, ddiheintio rhwng trafod tatws hadyd a thatws bwyta.

20. Rhaid i Weinidogion Cymru sicrhau, yn ystod y cyfnod penodedig—

- (a) bod mangreoedd sy'n tyfu, yn storio neu'n trafod cloron tatws a mangreoedd sy'n gweithredu peiriannau tatws o dan gontract yn cael eu goruchwylio gan arolygydd;
- (b) bod arolwg swyddogol yn cael ei gynnal yn unol ag Erthygl 2 o Gyfarwyddeb 93/85/EEC;

- (c) bod rhaglen yn cael ei sefydlu, pan fo'n briodol, i amnewid yr holl stociau tatws hadyd dros gyfnod priodol o amser.

21. At ddibenion paragraffau 19 ac 20, ystyr y “cyfnod penodedig” yw'r cyfnod a bennir yn yr hysbysiad, a rhaid i'r cyfnod hwnnw fod o leiaf dri thymor tyfu ar ôl y flwyddyn y darnodwyd y parth perthnasol ynddi.”.

6. Yn Atodlen 16—

- (a) ym mharagraff 1, yn y diffiniad o “hysbysiad” yn lle “Rhan A” rhodder “Rhannau A i C”;
- (b) Ar ôl pennawd Rhan A mewnosoder—

“Arolygon swyddogol a phrofion swyddogol

1A. Rhaid i Weinidogion Cymru sicrhau bod arolygon swyddogol systematig blynyddol yn cael eu cynnal i nodi presenoldeb Pydredd coch tatws ar ddeunydd sy'n dueddol o gael plâu neu glefydau sy'n tarddu o Gymru yn unol ag Erthygl 2 o Gyfarwyddeb 98/57/EC (1).

1B. Pan amheuir bod Pydredd coch tatws yn bresennol, rhaid i Weinidogion Cymru sicrhau—

- (a) bod profion swyddogol yn cael eu cynnal i gadarnhau pa un a yw'n bresennol ai peidio—
 - (i) yn achos deunydd sy'n dueddol o gael plâu neu glefydau, gan ddefnyddio'r dull a nodir yn Atodiad 2 i Gyfarwyddeb 98/57/EC ac yn unol â'r amodau a bennir ym mhwynt 1 o Atodiad 3 i Gyfarwyddeb 98/57/EC;
 - (ii) mewn unrhyw achos arall, gan ddefnyddio unrhyw ddull a gymeradwywyd yn swyddogol;
- (b) hyd nes y cadarnheir ei fod yn bresennol neu beidio, pan fo symptomau gweledol diagnostig sy'n peri amheuaeth o bresenoldeb Pydredd coch tatws wedi eu gweld, ac y cafwyd canlyniad cadarnhaol mewn prawf sgrinio cyflym, neu y cafwyd canlyniad cadarnhaol yn y prawf sgrinio a bennir ym mhwynt 2 o adran 1 ac adran 3 o Atodiad 2 i Gyfarwyddeb 98/57/EC—

(1) OJ Rhif L 235, 21.8.1998, t. 1, fel y'i diwygiwyd gan Gyfarwyddeb y Comisiwn 2006/63/EC (OJ Rhif L 206, 27.7.2006, t. 36).

- (i) bod symud yr holl blanhigion a'r holl gloron o'r holl gnydau, yr holl lotiau neu'r holl lwythi y cymerwyd y samplau ohonynt, ac eithrio'r rhai sydd o dan reolaeth swyddogol, wedi ei wahardd, ac eithrio pan gadarnhawyd nad oes unrhyw risg adnabyddadwy o ledaenu Pydredd coch tatws;
- (ii) bod camau yn cael eu cymryd i olrhain tarddiad yr achos a amheuir; a
- (iii) bod mesurau rhagofalus priodol ychwanegol sy'n seiliedig ar lefel y risg dybiedig yn cael eu gweithredu er mwyn atal Pydredd coch tatws rhag lledaenu.

1C. Caiff hysbysiad gynnwys mesurau at ddibenion paragraff 1B(b)(i) i (iii).

RHAN B

Mesurau i'w cymryd yn dilyn cadarnhau presenoldeb Pydredd coch tatws

1D. Os yw presenoldeb Pydredd coch tatws yn cael ei gadarnhau yn dilyn profion swyddogol a gynhelir yn unol â pharagraff 1B, rhaid i Weinidogion Cymru sicrhau y rhoddir y camau gweithredu a bennir ym mharagraffau 1E i 1G ar waith yn unol ag egwyddorion gwyddonol cadarn, bioleg Pydredd coch tatws a systemau cynhyrchu, marchnata a phrosesu perthnasol planhigion cynhaliol Pydredd coch tatws.

1E. Yn achos deunydd sy'n dueddol o gael plâu neu glefydau, y camau gweithredu yw—

- (a) cynnal ymchwiliad gan arolygydd i ganfod graddau'r halogi a phrif ffynonellau'r halogi yn unol ag Atodiad 4 i Gyfarwyddeb 98/57/EC;
- (b) cynnal profion swyddogol pellach, gan gynnwys cynnal profion ar yr holl stociau tatws hadyd sy'n perthyn drwy glonio;
- (c) dynodi gan arolygydd bod y pethau a ganlyn wedi eu halogi—
 - (i) y deunydd sy'n dueddol o gael plâu neu glefydau a'r llwyth neu'r lot y cymerwyd y sampl ohono neu ohoni;

- (ii) unrhyw wrthrychau sydd wedi dod i gyffyrddiad â'r sampl honno;
- (iii) unrhyw uned gynhyrchu cnwd dan orchudd neu gae cynhyrchu cnwd dan orchudd ac unrhyw fan cynhyrchu deunydd sy'n dueddol o gael plâu neu glefydau y cymerwyd y sampl ohoni neu ohono;
- (d) penderfyniad gan arolygydd ynghylch graddau'r halogi tebygol drwy ddod i gyffyrddiad cyn neu ar ôl cynaeafu, drwy gysylltiadau cynhyrchu, dyfrhau neu chwistrellu neu drwy berthynas drwy glonio;
- (e) darnodi parth gan arolygydd ar sail y dynodiad o dan is-baragraff (c), y penderfyniad a wneir o dan is-baragraff (d) a lledaeniad posibl Pydredd coch tatws yn unol â phwynt 2(i) o Atodiad 5 i Gyfarwyddeb 98/57/EC.

1F. Yn achos planhigion cynhaliol, ac eithrio deunydd sy'n dueddol o gael plâu neu glefydau, pan fo arolygydd yn nodi bod cynhyrchu deunydd o'r fath yn wynebu risg, y camau gweithredu yw—

- (a) cynnal ymchwiliad gan arolygydd i ganfod graddau'r halogi a phrif ffynonellau'r halogi yn unol ag Atodiad 4 i Gyfarwyddeb 98/57/EC;
- (b) dynodi gan arolygydd bod planhigion cynhaliol y cymerwyd y sampl ohonynt yn halogedig;
- (c) penderfyniad gan arolygydd o ran yr halogi tebygol;
- (d) darnodi parth gan arolygydd ar sail y dynodiad o dan is-baragraff (b), y penderfyniad a wnaed o dan is-baragraff (c) a lledaeniad posibl Pydredd coch tatws yn unol â phwynt 2(i) o Atodiad 5 i Gyfarwyddeb 98/57/EC.

1G. Yn achos dŵr wyneb a phlanhigion cynhaliol mochlysaidd gwyllt cysylltiedig, pan fo arolygydd yn nodi bod cynhyrchu deunydd sy'n dueddol o gael plâu neu glefydau yn wynebu risg oherwydd dyfrhau, chwistrellu neu lifogydd dŵr wyneb, y camau gweithredu yw—

- (a) cynnal ymchwiliad gan arolygydd i ganfod graddau'r halogi, sy'n cynnwys cynnal arolygon swyddogol, ar adegau priodol, o ddŵr wyneb ac, os ydynt yn

- bresennol, planhigion cynhaliol mochlysaidd gwyllt;
- (b) dynodi dŵr wyneb y cymerwyd y sampl ohono gan arolygydd, i'r graddau sy'n briodol ac ar sail yr ymchwiliad o dan is-baragraff (a);
 - (c) penderfyniad gan arolygydd o ran yr halogi tebygol ar sail y dynodiad a wnaed o dan is-baragraff (b);
 - (d) darnodi parth gan arolygydd ar sail y dynodiad o dan is-baragraff (b), y penderfyniad a wnaed o dan is-baragraff (c) a lledaeniad posibl Pydredd coch tatws yn unol â phwynt 2(ii) o Atodiad 5 i Gyfarwyddeb 98/57/EC.

RHAN C”;

- (c) ym mharagraff 3—
 - (i) yn lle'r geiriau cyn is-baragraff (a) rhodder “Pan fo deunydd sy'n dueddol o gael plâu neu glefydau neu unrhyw wrthrych wedi ei ddynodi yn halogedig neu'n halogedig o bosibl o dan Ran B, rhaid i arolygydd gyflwyno hysbysiad sy'n ei gwneud yn ofynnol”;
 - (ii) yn is-baragraff (a)—
 - (aa) yn lle “bod” ar y dechrau rhodder “yn achos”;
 - (bb) ar ôl “glefydau” mewnosoder “, fod y deunydd”;
 - (iii) yn is-baragraff (b)—
 - (aa) yn lle “bod” ar y dechrau rhodder “yn achos”
 - (bb) ar ôl “glefydau” mewnosoder “, fod y deunydd”;
 - (iv) yn is-baragraff (c)—
 - (aa) yn y geiriau cyn paragraff (i), yn lle “bod” ar y dechrau rhodder “yn achos” ac ar ôl “o bosibl” mewnosoder “, fod y gwrthrych”;
 - (bb) ym mharagraff (ii), yn lle “o ledaenu Pydredd coch tatws” rhodder “bod Pydredd coch tatws yn goroesi neu'n lledaenu”;
- (d) ym mharagraff 5—
 - (i) yn lle “Caiff” rhodder “Rhaid i”;
 - (ii) Yn lle “erthygl 39(4)”, rhodder “Rhan B”;
- (e) ym mharagraff (6)(c)—

- (i) ar ôl “tatws”, yn y trydydd lle y mae’n digwydd, mewnosoder “neu domatos”;
 - (ii) ar ôl “mochlysaidd,” mewnosoder “yn ystod arolygiadau swyddogol”;
 - (iii) ar y diwedd mewnosoder “, a bod y cloron neu blanhigion tomato a gynaeafir yn destun profion swyddogol gan ddefnyddio’r dull a nodir yn Atodiad 2 i Gyfarwyddeb 98/57/EC”;
- (f) ym mharagraff 7(b)—
- (i) ym mharagraff (ii), ar y dechrau mewnosoder “yn ystod y bedwaredd a’r pumed flwyddyn dyfu,”
 - (ii) ym mharagraff (iii), ar y diwedd mewnosoder “, ar yr amod y canfuwyd bod y cae neu’r uned yn rhydd rhag planhigion tatws gwirfoddol, planhigion tomato gwirfoddol a phlanhigion cynhaliol eraill, gan gynnwys chwyn mochlysaidd, yn ystod arolygiadau swyddogol ar gyfer Pydredd coch tatws, am o leiaf y ddwy flwyddyn dyfu olynol cyn plannu, a bod y cloron neu blanhigion tomato a gynaeafir yn destun profion swyddogol gan ddefnyddio’r dull a nodir yn Atodiad 2 i Gyfarwyddeb 98/57/EC”;
- (g) ym mharagraff 8—
- (i) yn is-baragraff (a), ar ôl “gyntaf” mewnosoder “nid yw unrhyw blanhigion cynhaliol Pydredd coch tatws i’w plannu neu”;
 - (ii) yn is-baragraff (f), ar y diwedd, mewnosoder—
“;
 - (g) arolygon swyddogol ar adegau priodol o gnydau sy’n tyfu a chynnal profion swyddogol ar datws a gynaeafir yn unol â’r dull a nodir yn Atodiad 2 i Gyfarwyddeb 98/57/EC”;
- (h) ym mharagraff 9, yn lle’r geiriau cyn is-baragraff (a) rhodder “Ac eithrio pan fo Gweinidogion Cymru wedi cyhoeddi hysbysiad o dan Ran D, rhaid i hysbysiad mewn perthynas â man cynhyrchu halogedig”;
- (i) ym mharagraff 12(a) ar ôl “Pydredd coch tatws” mewnosoder “ac i symud ymaith holl blanhigion cynhaliol Pydredd coch tatws”;
- (j) ar ôl paragraff 13, yn lle “RHAN B” rhodder “RHAN D”;
- (k) ym mharagraff 14, yn lle “erthygl 39(4)” rhodder “Rhan B”;

- (l) ym mharagraff 19—
 - (i) yn lle'r geiriau cyn is-baragraff (a) rhodder “Rhaid i hysbysiad o dan baragraff 15 bennu”;
 - (ii) yn is-baragraff (a), yn lle “storfeydd” rhodder “gyfleusterau storio”;
 - (iii) yn is-baragraff (b), ar ôl “cnydau tatws,” mewnosoder “yn ystod y cyfnod penodedig”;
 - (iv) yn is-baragraff (c), ar y dechrau, mewnosoder “yn ystod y cyfnod penodedig”;
 - (v) yn is-baragraff (d), ar ôl “cnydau tomatos,” mewnosoder “yn ystod y cyfnod penodedig”;
- (m) ar ôl paragraff 20 mewnosoder—

“**21.** Rhaid i Weinidogion Cymru sicrhau, yn ystod y cyfnod penodedig—

- (a) bod mangreoedd sy'n tyfu, yn storio neu'n trafod cloron tatws a mangreoedd sy'n gweithredu peiriannau tatws o dan gontract yn cael eu goruchwyllo gan arolygwyr;
- (b) bod arolwg swyddogol yn cael ei gynnal yn unol ag Erthygl 2 o Gyfarwyddeb 98/57/EC;
- (c) bod rhaglen yn cael ei sefydlu, pan fo'n briodol, i amnewid yr holl stociau tatws hadyd dros gyfnod priodol o amser.

22. At ddibenion paragraffau 19 ac 21, ystyr “y cyfnod penodedig” yw'r cyfnod a bennir yn yr hysbysiad, a rhaid i'r cyfnod hwnnw fod o leiaf dri thymor tyfu ar ôl y flwyddyn y darnodwyd y parth perthnasol ynddi.”

RHAN 3

Diwygio ymhellach Gorchymyn Iechyd Planhigion (Cymru) 2018: ymadael â'r Undeb Ewropeaidd

7. Mae Gorchymyn Iechyd Planhigion (Cymru) 2018 wedi ei ddiwygio fel a ganlyn.

8. Yn erthygl 2—

- (a) ym mharagraff (1)—
 - (i) yn y lleoedd priodol mewnosoder—

“ystyr “ardal sy'n rhydd rhag plâu” (“*pest free area*”) yw'r rhan honno o ardal yn y DU sy'n rhydd rhag plâu sydd yng Nghymru neu, pan fo'r ardal yn y DU sy'n

rhydd rhag plâu yn cynnwys dwy neu ragor o rannau o Gymru ar wahân, pob rhan o'r fath;

ystyr “ardal yn y DU sy'n rhydd rhag plâu” (“*UK pest free area*”) yw ardal yn y Deyrnas Unedig a sefydlwyd yn ardal sy'n rhydd rhag plâu yn unol ag ISPM Rhif 4;

ystyr “awdurdod iechyd planhigion priodol y DU” (“*appropriate UK plant health authority*”) yw—

- (a) o ran Cymru, Gweinidogion Cymru;
- (b) mewn perthynas â phren a phlâu coedwigoedd yn Lloegr, y Comisiynwyr Coedwigaeth;
- (c) fel arall o ran Lloegr, yr Ysgrifennydd Gwladol;
- (d) o ran yr Alban, Gweinidogion yr Alban;
- (e) o ran Gogledd Iwerddon, yr Adran Amaethyddiaeth, Amgylchedd a Materion Gwledig;

ystyr “EPPO PM 7/21” yw'r safon sy'n disgrifio protocol diagnostig ar gyfer *Ralstonia solanacearum*, *R. pseudosolanacearum* a *R. syzygii* a gymeradwywyd gan Sefydliad Diogelu Planhigion Ewrop a Glannau'r Canolfor (1);

ystyr “EPPO PM 7/59” yw'r safon sy'n disgrifio protocol diagnostig ar gyfer *Clavibacter michiganensis* subsp. *sepedonicus* a gymeradwywyd gan Sefydliad Diogelu Planhigion Ewrop a Glannau'r Canolfor(2);

ystyr “pasbort planhigion y DU” (“*UK plant passport*”) yw label a, phan fo hynny'n briodol, dogfen sy'n mynd gydag ef, sy'n bodloni'r gofynion perthnasol a nodir yn Rhan A neu B o Atodlen 9, a ddyroddir gan sefydliad iechyd planhigion priodol y DU, neu gyda'i awdurdod, ac mae'n cynnwys unrhyw basbort planhigion amnewid;

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- (1) Cymeradwywyd am y tro cyntaf gan Sefydliad Diogelu Planhigion Ewrop a Glannau'r Canolfor ym mis Medi 2003, ac ar gael oddi wrth ei Ysgrifenyddiaeth yn 21 Boulevard Richard Lenoir, 75011, Paris, Ffrainc ac ar https://www.eppo.int/RESOURCES/eppo_standards/pm7_diagnostic.
 - (2) Cymeradwywyd gan Sefydliad Diogelu Planhigion Ewrop a Glannau'r Canolfor ym mis Medi 2005, ac ar gael oddi wrth ei Ysgrifenyddiaeth yn 21 Boulevard Richard Lenoir, 75011, Paris, Ffrainc ac ar https://www.eppo.int/RESOURCES/eppo_standards/pm7_diagnostic.

ystyr “pla planhigion a reoleiddir” (“*regulated plant pest*”) yw—

- (a) pla planhigion o ddisgrifiad a bennir yn Rhan A, B neu D o’r rhestr o blâu planhigion gwaharddedig;
- (b) pla planhigion o ddisgrifiad a bennir yn Rhan C o’r rhestr o blâu planhigion gwaharddedig sy’n ymwneud ag ardal sy’n rhydd rhag plâu;
- (c) pla planhigion o ddisgrifiad a bennir yng ngholofn 2 o Ran A, B neu D o’r rhestr o ddeunydd wedi ei heigio gwaharddedig;
- (d) pla planhigion o ddisgrifiad a bennir yng ngholofn 2 o Ran C o’r rhestr o ddeunydd wedi ei heigio gwaharddedig sy’n ymwneud ag ardal sy’n rhydd rhag plâu;

ystyr “y Rheoliadau Iechyd Planhigion” (“*the Plant Health Regulations*”) yw Rheoliadau Iechyd Planhigion (Ymadael â’r UE) 2019;

ystyr “y rhestr o blâu planhigion gwaharddedig” (“*the list of prohibited plant pests*”) yw Atodlen 1 i’r Rheoliadau Iechyd Planhigion;

ystyr “y rhestr o ddeunydd a reoleiddir” (“*the list of regulated material*”) yw Atodlen 4 i’r Rheoliadau Iechyd Planhigion;

ystyr “y rhestr o ddeunydd a reolir” (“*the list of controlled material*”) yw Atodlen 6 i’r Rheoliadau Iechyd Planhigion;

ystyr “y rhestr o ddeunydd a reolir mewn ardaloedd sy’n rhydd rhag plâu” (“*the list of pest free area controlled material*”) yw Atodlen 7 i’r Rheoliadau Iechyd Planhigion;

ystyr “y rhestr o ddeunydd gwaharddedig” (“*the list of prohibited material*”) yw Atodlen 3 i’r Rheoliadau Iechyd Planhigion;

ystyr “y rhestr o ddeunydd wedi ei heigio gwaharddedig” (“*the list of prohibited infested material*”) yw Atodlen 2 i’r Rheoliadau Iechyd Planhigion;

ystyr “tiriogaeth y DU” (“*UK territory*”) yw Cymru, Lloegr, yr Alban neu Ogledd Iwerddon;”;

- (ii) Hepgorer y diffiniadau o “Atodiad II Rhan B” i “Atodiad IV Rhan B”;
- (iii) yn y diffiniad o “swyddog awdurdodedig” (“*authorised officer*”) yn lle paragraffau (a) a (b) rhodder—

- “(a) mewn perthynas â phasbort planhigion y DU, arolygydd sy’n gweithredu o dan awdurdod yr awdurdod iechyd planhigion priodol yn y DU; neu
- (b) mewn perthynas â thystysgrif ffytoiechydol neu dystysgrif ffytoiechydol ar gyfer ailallforio, cynrychiolydd awdurdodedig sefydliad gwarchod planhigion cenedlaethol y wlad y dyroddir ynddi dystysgrif ffytoiechydol neu dystysgrif ffytoiechydol ar gyfer ailallforio neu gyfieithiad o dystysgrif ffytoiechydol neu dystysgrif ffytoiechydol ar gyfer ailallforio, neu swyddog cyhoeddus sy’n gweithredu o dan awdurdod sefydliad o’r fath”;
- (iv) hepgorer y diffiniad o “ffrwythau sitrws ar gyfer eu prosesu”;
- (v) yn lle’r diffiniad o “llwyth” rhodder—
 “ystyr “llwyth” (“*consignment*”) yw nifer o nwyddau sydd wedi eu cwmpasu gan un ddogfen sy’n ofynnol ar gyfer tollau neu fesurau ffurfiol eraill”;
- (vi) hepgorer y diffiniadau o “Penderfyniad 2002/757/EC” i “Penderfyniad (EU) 2017/198”;
- (vii) hepgorer y diffiniad o “Cyfarwyddeb 2000/29/EEC”;
- (viii) hepgorer y diffiniad o “Cyfarwyddeb 2008/61/EC”;
- (ix) hepgorer y diffiniadau o “ardal Ewrop a Môr y Canoldir”, “cytundeb tramwy UE”, “Ewrop” a “nwyddau tramwy yr UE”;
- (x) yn y diffiniad o “yr Undeb Ewropeaidd” (“*European Union*”), hepgorer “gan gynnwys Ynys Manaw ac Ynysoedd y Sianel,”;
- (xi) hepgorer y diffiniad o “ffrwythau”;
- (xii) yn y diffiniad o “mewnforiwr” (“*importer*”), yn lle “lanio” rhodder “anfon”;
- (xiii) hepgorer y diffiniad o “wedi ei lanio”;
- (xiv) yn y diffiniad o “sefydliad gwarchod planhigion cenedlaethol” (“*national plant protection organisation*”), yn lle “i’r Comisiwn Ewropeaidd”, rhodder “i sefydliad gwarchod planhigion cenedlaethol y Deyrnas Unedig”;
- (xv) hepgorer y diffiniadau o “Gogledd America” a “meithrinfa”;

- (xvi) yn y diffiniad o “swyddogol” (“*official*”), yn lle “gorff swyddogol cyfrifol” rhodder “awdurdod iechyd planhigion priodol y DU”;
- (xvii) hepgorer y diffiniad o “dogfennaeth swyddogol”;
- (xviii) yn y diffiniad o “label swyddogol” (“*official label*”), yn lle’r geiriau o “gorff” hyd at y diwedd rhodder “awdurdod iechyd planhigion priodol y DU”;
- (xix) yn y diffiniad o “datganiad swyddogol” (“*official statement*”), ar ôl “planhigion” mewnosoder “y DU”;
- (xx) hepgorer y diffiniadau o “gwiriad iechyd planhigion” a “dogfen symud iechyd planhigion”;
- (xxi) yn lle’r diffiniad o “plannu” rhodder—
“ystyr “plannu” (“*planting*”) yw unrhyw weithrediad ar gyfer gosod planhigion er mwyn sicrhau eu twf, eu hatgynhyrchiad neu eu lluosogiad wedi hynny;”;
- (xxii) hepgorer y diffiniadau o “pasbort planhigion” a “planhigyn neu lwyn mewn meithriniaid meinwe”;
- (xxiii) yn lle’r diffiniad o “cynnyrch planhigion” rhodder—
“ystyr “cynnyrch planhigion” (“*plant product*”) yw cynnyrch sy’n dod o blanhigyn ac na chafodd ei brosesu neu a gafodd ei baratoi’n syml i’r graddau nad planhigyn ydyw;”;
- (xxiv) hepgorer y diffiniad o “parth gwarchod”;
- (xxv) hepgorer y diffiniad o “Rheoliad (EC) Rhif 690/2008”;
- (xxvi) hepgorer y diffiniad o “corff swyddogol cyfrifol”;
- (xxvii) hepgorer y diffiniadau o “De America” a “pasbort planhigion y Swistir”;
- (xxviii) yn y diffiniad o “trydedd wlad” (“*third country*”), yn lle “yr Undeb Ewropeaidd”, rhodder “y Deyrnas Unedig”;
- (xxix) hepgorer y diffiniad o “UDA”;
- (b) ym mharagraff (3), yn lle “Mae unrhyw” rhodder “Oni ddarperir yn benodol fel arall, mae unrhyw”;
- (c) hepgorer paragraff (5);
- (d) ar y diwedd mewnosoder—
“(6) Mae i eiriau ac ymadroddion nad ydynt wedi eu diffinio yn y Gorchymyn hwn ac sy’n

ymddangos yn y Rheoliadau Iechyd Planhigion yr un ystyr yn y Gorchymyn hwn ag sydd iddynt yn y Rheoliadau Iechyd Planhigion.”.

9. Yn erthygl 3—

(a) yn y lleoedd priodol mewn nosod—

“ystyr “deunydd hysbysedig yr UE” (“*notified EU material*”) yw unrhyw ddeunydd perthnasol hysbysadwy sy’n tarddu o’r Undeb Ewropeaidd neu’r Swistir y bwriedir ei draddodi, neu sydd wedi ei draddodi, i’r Deyrnas Unedig o’r Undeb Ewropeaidd neu’r Swistir drwy fan cyrraedd yng Nghymru, ac y mae Gweinidogion Cymru wedi eu hysbysu am hynny yn unol ag erthygl 6(1);

ystyr “deunydd tramwy yr UE” (“*EU transit material*”) yw unrhyw ddeunydd perthnasol hysbysadwy o drydedd wlad, ac eithrio gwlad neu diriogaeth yn yr Undeb Ewropeaidd, a draddodir i’r Deyrnas Unedig drwy’r Undeb Ewropeaidd ac nad oedd, wrth gyrraedd yr Undeb Ewropeaidd, yn ddarostyngedig i—

(a) y mesurau ffurfiol a ddisgrifir yn Erthygl 13a o Gyfarwyddeb 2000/29/EC; neu

(b) rheolaethau swyddogol tebyg eraill o dan Reoliad (EU) 2017/625 Senedd Ewrop a’r Cyngor, fel y mae’n cael effaith yng nghyfraith yr UE;

ystyr “dogfennau masnach” (“*trade documents*”) mewn perthynas â llwyth o ddeunydd perthnasol hysbysadwy, yw’r anfoneb, y nodyn danfon, y nodyn traddodi neu ddogfen debyg sy’n mynd gyda’r llwyth;

ystyr “gofynion rhagnodedig” (“*prescribed requirements*”), mewn perthynas ag unrhyw ddeunydd perthnasol hysbysadwy, yw’r gofynion a bennir mewn cysylltiad â’r deunydd yn erthygl 5;

ystyr “Gorchymyn Iechyd Planhigion perthnasol” (“*relevant Plant Health Order*”) yw—

(a) mewn perthynas â deunydd perthnasol y bwriedir iddo fynd i Gymru, Gorchymyn Iechyd Planhigion (Cymru) 2018 neu Orchymyn Iechyd Planhigion (Coedwigaeth) 2005 o ran ei gymhwyso i Gymru;

(b) mewn perthynas â deunydd perthnasol y bwriedir iddo fynd i Loegr, Gorchymyn Iechyd Planhigion (Lloegr)

2015 neu Orchymyn Iechyd Planhigion (Coedwigaeth) 2005 o ran ei gymhwyso i Loegr;

(c) mewn perthynas â deunydd perthnasol y bwriedir iddo fynd i'r Alban, Gorchymyn Iechyd Planhigion (Yr Alban) 2005 neu Orchymyn Iechyd Planhigion (Coedwigaeth) 2005 o ran ei gymhwyso i'r Alban;

(d) mewn perthynas â deunydd perthnasol y bwriedir iddo fynd i Ogledd Iwerddon, Gorchymyn Iechyd Planhigion (Gogledd Iwerddon) 2018;

ystyr “tystysgrif ffytoiechydol gywir” (“*correct phytosanitary certificate*”), mewn perthynas â deunydd perthnasol hysbysadwy, yw'r dystysgrif ffytoiechydol neu'r dystysgrif ffytoiechydol ar gyfer ailallforio a ddyroddir—

(a) yn y dull a bennir yn erthygl 7(2) i (6);
a

(b) mewn cysylltiad â'r gofynion rhagnodedig;”;

(b) yn y diffiniad o “man arolygu cymeradwy” (“*approved place of inspection*”), ar y diwedd mewnosoder “neu mewn perthynas â thiriogaethau eraill y DU, awdurdod iechyd planhigion priodol y DU o dan ddarpariaethau cyfatebol y Gorchymyn Iechyd Planhigion perthnasol”;

(c) hepgorer y diffiniad o “ardal rheolaeth iechyd planhigion” (“*area of plant health control*”);

(d) hepgorer y diffiniad o “y Cod Tollau” (“*the Customs Code*”);

(e) yn y diffiniad o “deunydd perthnasol hysbysadwy” (“*notifiable relevant material*”), yn lle paragraffau (a) a (b) rhodder—

“(a) o ddisgrifiad a bennir yn Atodlen 5 i'r Rheoliadau Iechyd Planhigion;

(b) o ddisgrifiad a bennir yn Atodlen 7 i'r Rheoliadau Iechyd Planhigion, sy'n tarddu o drydedd wlad;”;

(f) hepgorer y diffiniad o “corff swyddogol y gyrchfan”;

(g) yn y diffiniad o “man cyrraedd” (“*point of entry*”)—

(i) ar ddiwedd paragraff (a) mewnosoder “yn y Deyrnas Unedig”;

(ii) ym mharagraff (b), yn lle “; neu” rhodder “yn y Deyrnas Unedig;”;

(iii) ar ddiwedd paragraff (c) mewnosoder “yn y Deyrnas Unedig”;

(iv) ar ôl paragraff (c) mewnosoder—

“(d) yn achos deunydd perthnasol sy’n cyrraedd ar y ffordd, cyrchfan gyntaf y deunydd ar ôl iddo gyrraedd y Deyrnas Unedig;”.

10. Yn lle erthygl 4 rhodder—

“4. Mae’r Rhan hon yn gymwys i blâu planhigion a deunydd perthnasol a ddygir i Gymru o drydedd wlad, pa un ai’n uniongyrchol neu drwy un o diriogaethau eraill y DU.”.

11. Yn erthygl 5—

(a) yn lle paragraff (1) rhodder—

“(1) Ni chaiff unrhyw berson ddod ag unrhyw un o’r pethau a ganlyn i Gymru—

- (a) unrhyw bla planhigion o ddisgrifiad a bennir yn Rhan A, B neu D o’r rhestr o blâu planhigion gwaharddedig;
- (b) unrhyw ddeunydd perthnasol o ddisgrifiad a bennir yng ngholofn 2 o Ran A, B neu D o’r rhestr o ddeunydd wedi ei heigio gwaharddedig sy’n cario, neu wedi ei heintio â, phla planhigion o ddisgrifiad a bennir yn y cofnod cyfatebol mewn cysylltiad â’r disgrifiad hwnnw o ddeunydd perthnasol yng ngholofn 3;
- (c) unrhyw bla planhigion, er nad yw wedi ei bennu yn Rhan A, B neu D o’r rhestr o blâu planhigion gwaharddedig, nac yng ngholofn 3 o Ran A, B neu D o’r rhestr o ddeunydd wedi ei heigio gwaharddedig, nad yw’n bresennol ym Mhrydain Fawr fel arfer ac sy’n debygol o fod yn niweidiol i blanhigion ym Mhrydain Fawr;
- (d) unrhyw ddeunydd perthnasol o ddisgrifiad a bennir yng ngholofn 2 o Ran A neu B o’r rhestr o ddeunydd gwaharddedig sy’n tarddu o drydedd wlad a bennir yn y cofnod cyfatebol mewn cysylltiad â’r disgrifiad hwnnw o ddeunydd perthnasol yng ngholofn 3;
- (e) unrhyw ddeunydd perthnasol o ddisgrifiad a bennir yng ngholofn 2 o Ran A neu D o’r rhestr o ddeunydd a reoleiddir, oni bai y cydymffurfir â’r gofynion a bennir yn y cofnodion cyfatebol mewn cysylltiad â’r disgrifiad hwnnw o ddeunydd perthnasol yng ngholofn 3;
- (f) yn achos unrhyw ddeunydd perthnasol y bwriedir iddo fynd i ardal sy’n rhydd

rhag plâu, unrhyw bla planhigion o ddisgrifiad a bennir yng ngholofn 2 o Ran C o'r rhestr o blâu planhigion gwaharddedig sy'n ymwneud â'r ardal honno sy'n rhydd rhag plâu;

(g) yn achos unrhyw ddeunydd perthnasol y bwriedir iddo fynd i ardal sy'n rhydd rhag plâu a bennir yng ngholofn 4 o Ran C o'r rhestr o ddeunydd wedi ei heigio gwaharddedig, unrhyw ddeunydd perthnasol o ddisgrifiad a bennir yn y cofnod cyfatebol yng ngholofn 2 o Ran C o'r rhestr honno sy'n cario neu wedi ei heigio â phla planhigion o ddisgrifiad a bennir yn y cofnod cyfatebol yng ngholofn 3;

(h) yn achos unrhyw ddeunydd perthnasol y bwriedir iddo fynd i ardal sy'n rhydd rhag plâu a bennir yng ngholofn 4 o Ran C o'r rhestr o ddeunydd a reoleiddir, unrhyw ddeunydd perthnasol o ddisgrifiad a bennir yn y cofnod cyfatebol yng ngholofn 2 o'r Rhan honno, oni bai y cydymffurfir â'r gofynion a bennir yn y cofnodion cyfatebol mewn cysylltiad â'r deunydd perthnasol hwnnw yng ngholofn 3.”;

(b) ym mharagraff (4), yn lle “ac (f)” rhodder “, (g) ac (h)”;

(c) ar ôl paragraff (4) mewnosoder—

“(5) Nid yw'r gwaharddiadau ym mharagraff (1)(b) i (h) yn gymwys i ddeunydd perthnasol sy'n cyrraedd man cyrraedd sydd wedi ei leoli yn un o diriogaethau eraill y DU ac a ollyngir yn y diriogaeth honno yn unol ag erthygl 12 o'r Gorchymyn Iechyd Planhigion perthnasol.”.

12. Yn erthygl 6—

(a) yn lle paragraff (1) rhodder—

“(1) Ni chaiff unrhyw berson ddod ag unrhyw ddeunydd perthnasol hysbysadwy i fan cyrraedd a leolir yng Nghymru, oni bai y rhoddir hysbysiad yn unol â'r erthygl hon.”;

(b) ym mharagraff (2)(c), yn lle “i'r deunydd perthnasol gael ei lanio”, yn y ddau le y mae'n digwydd, rhodder “iddo gyrraedd”;

(c) yn lle paragraff (3) rhodder—

“(3) Yn achos tatws hadyd sy'n tarddu o'r Undeb Ewropeaidd neu'r Swistir, rhaid cynnwys yr wybodaeth a ganlyn o dan eitem 13 o'r hysbysiad a nodir yn Atodlen 11—

(a) y defnydd arfaethedig ohonynt;

(b) eu cyrchfan arfaethedig;

- (c) eu hamrywogaeth a'u nifer;
- (d) rhif adnabod cynhyrchydd y tatws.

(3A) Yn achos planhigion *Castanea* Mill, *Fraxinus* L., *Olea europaea* L., *Pinus* L., *Platanus* L., *Prunus* L., *Quercus* L. neu *Ulmus* L., a fwriedir ar gyfer eu plannu, sy'n tarddu o'r Undeb Ewropeaidd neu'r Swistir, rhaid cynnwys yr wybodaeth a ganlyn o dan eitem 13 o'r hysbysiad a nodir yn Atodlen 11—

- (a) eu cyrchfan arfaethedig;
 - (b) eu genws, eu rhywogaeth a'u nifer;
 - (c) rhif adnabod cyflenwr y planhigion.”;
- (d) ym mharagraff (5), yn lle “, 16 a 30(3)” rhodder “ac 16”.

13. Ar ôl erthygl 6 mewnosoder—

“Deunydd tramwy yr UE

6A.—(1) Ni chaiff unrhyw berson ddod ag unrhyw ddeunydd tramwy yr UE i mewn i borthladd gyrru mewn ac allan a leolir yng Nghymru oni fwriedir i'r deunydd hwnnw fynd i un man arolygu cymeradwy.

(2) Mae paragraff (1) yn ddarostyngedig i erthygl 8(1).

(3) Yn y paragraff hwn, ystyr “porthladd gyrru mewn ac allan” yw—

- (a) lleoliad rhestredig gyrru mewn ac allan o fewn ystyr rheoliad 130 o Reoliadau Tollau (Tollau Mewnforio) (Ymadael â'r UE) 2018; neu
- (b) os nad yw hysbysiad wedi ei gyhoeddi yn unol â rheoliad 130(1) o'r Rheoliadau hynny, man cyrraedd—
 - (i) sydd yn bennaf yn gwasanaethu fferïau gyrru mewn ac allan sy'n gweithredu rhwng Cymru ac Aelod-wladwriaeth; a
 - (ii) sydd wedi ei restru mewn hysbysiad a gyhoeddir gan Weinidogion Cymru o bryd i'w gilydd.”.

14. Yn erthygl 7—

- (a) ym mharagraff (1)—
 - (i) yn lle “lanio unrhyw ddeunydd perthnasol hysbysadwy” rhodder “ddod ag unrhyw ddeunydd perthnasol hysbysadwy i fan cyrraedd a leolir yng Nghymru”;
 - (ii) yn lle “, fel a bennir” rhodder “sy'n ardystio bod y deunydd yn bodloni'r

gofynion rhagnodedig ac yn bodloni'r gofynion”;

- (b) hepgorer paragraff (4);
- (c) ym mharagraff (7)(a), yn lle “Undeb Ewropeaidd”, rhodder “Deyrnas Unedig”;
- (d) ym mharagraff (8), yn lle “erthyglau 8(1) a 30(1) a (2)” rhodder “erthygl 8(1)”.

15. Yn erthygl 8(1)—

- (a) yn y geiriau cyn is-baragraff (a)—
 - (i) yn lle “gyflwynir” rhodder “ddygir”;
 - (ii) ar ôl “arall” mewnosoder “sy’n dod o unrhyw drydedd wlad, ac eithrio unrhyw wlad neu diriogaeth yn yr Undeb Ewropeaidd neu’r Swistir.”;
- (b) yn is-baragraff (a), yn lle “(f)” rhodder “(h)”;
- (c) ar ôl is-baragraff (b) mewnosoder—

“(ba) erthygl 6A(1).”.

16. Yn erthygl 9—

- (a) yn lle paragraff (1) rhodder—

“(1) Rhaid i’r dogfennau a ganlyn gael eu danfon i arolygydd gan fewnforiwr llwyth o ddeunydd perthnasol hysbysadwy o fewn tri diwrnod i’r dyddiad y mae’n cyrraedd Cymru—

 - (a) unrhyw dystysgrif ffytoiechydol neu dystysgrif ffytoiechydol ar gyfer ailallforio y mae’n ofynnol o dan erthygl 7 iddi fynd gyda’r llwyth o ddeunydd perthnasol hysbysadwy; a
 - (b) yn achos deunydd hysbysedig yr UE, y dogfennau masnach sy’n mynd gyda’r llwyth.”;
- (b) ym mharagraff (5), yn lle’r geiriau o “un” hyd at y diwedd, rhodder “weithdrefn Dollau o fewn ystyr adran 3(3) o Ddeddf Trethiant (Masnach Trawsffiniol) 2018”;
- (c) ar ôl paragraff (5) mewnosoder—

“(6) Nid yw paragraff (1) yn gymwys i unrhyw ddeunydd perthnasol hysbysadwy sydd wrthi’n cael ei draddodi i fan arolygu cymeradwy yn un o diriogaethau eraill y DU.”.

17. Yn erthygl 10—

- (a) ar y dechrau, mewnosoder—

“(A1) Mae’r erthygl hon yn gymwys i ddeunydd perthnasol hysbysadwy, ac eithrio deunydd hysbysedig yr UE, a ddygir i fan cyrraedd a leolir yng Nghymru.

(A2) Ni chaiff unrhyw berson symud unrhyw ddeunydd perthnasol hysbysadwy na pheri i unrhyw ddeunydd perthnasol hysbysadwy gael

ei symud o'i fan cyrraedd oni bai bod y deunydd yn cael ei symud i ardal rheolaeth iechyd planhigion ddynodedig neu fan arolygu cymeradwy.”

- (b) ym mharagraff (1), yn lle “ardal rheolaeth iechyd planhigion” rhodder “fan cyrraedd, neu pan fo'r deunydd yn cael ei symud i ardal rheolaeth iechyd planhigion ddynodedig neu fan arolygu cymeradwy yng Nghymru, yr ardal rheolaeth iechyd planhigion ddynodedig neu'r man arolygu cymeradwy,”.

18. Yn erthygl 11—

- (a) yn is-baragraff (b), yn lle “Undeb Ewropeaidd” rhodder “Deyrnas Unedig”;
- (b) hepgorer is-baragraff (d).

19. Yn erthygl 12—

- (a) ar y dechrau mewnosoder—

“(A1) Mae'r erthygl hon yn gymwys i unrhyw ddeunydd perthnasol hysbysadwy, ac eithrio deunydd hysbysedig yr UE, a ddygir i fan cyrraedd a leolir yng Nghymru, ac nad yw wrthi'n cael ei draddodi i fan arolygu cymeradwy yn un o diriogaethau eraill y DU.”;

- (b) ym mharagraff (1)—

- (i) yn y geiriau cyn is-baragraff (a), yn lle “ardal rheolaeth iechyd planhigion” rhodder “fan cyrraedd, ardal rheolaeth iechyd planhigion ddynodedig neu fan arolygu cymeradwy yng Nghymru”;

- (ii) yn lle is-baragraff (a) rhodder—

“(a) bod y deunydd yn bodloni'r gofynion rhagnodedig;”;

- (iii) hepgorer is-baragraffau (b) i (g);

- (iv) yn is-baragraff (h), ar y diwedd mewnosoder “a oedd yn mynd gyda'r deunydd wrth iddo gyrraedd”;

- (v) yn is-baragraff (i), yn lle'r geiriau o “neu'r” i “planhigion,” rhodder “gywir”;

- (c) ym mharagraff (2), hepgorer “i (g)”;

- (d) hepgorer paragraffau (4) a (5);

- (e) ym mharagraff (6)—

- (i) yn y geiriau cyn is-baragraff (a), yn lle “ardal rheolaeth iechyd planhigion” rhodder “fan cyrraedd, ardal rheolaeth iechyd planhigion ddynodedig neu fan arolygu cymeradwy”;

- (ii) yn is-baragraff (a), yn lle “a'r dyddiad y darparwyd y dystysgrif yn unol ag erthygl 9(1)” rhodder “a nodi'r dyddiad arni.”;

- (iii) hepgorer is-baragraff (b) a'r “; a” sy'n ei ragflaenu;
- (f) ym mharagraff (7), yn lle “gwiriad iechyd planhigion” rhodder “archwiliad o dan baragraff (2)”;
- (g) ym mharagraff (8)(b), yn lle “mae i “lot” yr un ystyr ag a roddir i “lot” yn Erthygl 2(1)(o) o Gyfarwydddeb 2000/29/EC” rhodder “ystyr “lot” (“*lot*”) yw nifer o unedau o un nwydd, y gellir ei adnabod drwy gydrywiaeth ei gyfansoddiad a'i darddiad, sy'n ffurfio rhan o lwyth”.

20. Ar ôl erthygl 12 mewnosoder—

“Gofynion sy'n gymwys i ddeunydd hysbysedig yr UE

12A.—(1) Mae'r erthygl hon yn gymwys i ddeunydd hysbysedig yr UE a ddygir i fan cyrraedd a leolir yng Nghymru.

(2) Rhaid i arolygydd gynnal archwiliad o—

- (a) y dystysgrif ffytoiechydol neu'r dystysgrif ffytoiechydol ar gyfer ailallforio sy'n mynd gyda llwyth o ddeunydd hysbysedig yr UE i gadarnhau bod y dystysgrif ffytoiechydol gywir yn mynd gyda'r llwyth; a
- (b) y dogfennau masnach sy'n mynd gyda'r llwyth i gadarnhau bod y dogfennau hynny yn cyfateb i'r disgrifiad o'r deunydd perthnasol yn y dystysgrif ffytoiechydol neu'r dystysgrif ffytoiechydol ar gyfer ailallforio.”

21. Yn erthygl 14(1), yn lle “o dan oruchwyliaeth tollau yn unol ag Erthygl 134 o'r Cod Tollau” rhodder “yn ddarostyngedig i reolaeth swyddog Cyllid a Thollau o fewn ystyr Atodlen 1 i Ddeddf Trethiant (Masnach Trawsffiniol) 2018”.

22. Yn erthygl 15—

- (a) ym mharagraff (1)—
 - (i) yn is-baragraff (b), hepgorer “gorff swyddogol cyfrifol neu”;
 - (ii) yn is-baragraff (d), yn lle “un o ieithoedd swyddogol yr Undeb Ewropeaidd”, rhodder “Saesneg”;
- (iii) hepgorer is-baragraff (e);
- (iv) yn is-baragraff (f), yn lle “Plant Protection Organisations of the Member States of the European Union”, rhodder

“Plant Protection Organisation of the United Kingdom”;

(b) ym mharagraff (2)—

- (i) yn lle'r geiriau o “neu C o Atodlen 4” hyd at “honno”, rhodder “, C neu D o'r rhestr o ddeunydd a reoleiddir, mwy nag un set o ofynion mynediad wedi eu pennu yn y cofnod cyfatebol yng ngholofn 3 o Ran A, C neu D o'r rhestr honno”;
- (ii) yn lle “ofyniad penodol”, rhodder “set penodol o ofynion”;
- (iii) hepgorer y geiriau o “gan gyfeirio” hyd at y diwedd.

23. Yn erthygl 16—

(a) yn y pennawd, hepgorer “nwyddau tramwy yr UE neu”.

(b) yn lle paragraff (1), rhodder—

“(1) Mae'r erthygl hon yn gymwys i ddeunydd perthnasol hysbysadwy, ac eithrio deunydd hysbysedig yr UE, y bwriedir iddo fynd i fan arolygu cymeradwy.”;

(c) ym mharagraff (2)—

- (i) yn y geiriau cyn is-baragraff (a), yn lle “unrhyw fan arall o fewn yr Undeb Ewropeaidd, oni bai” rhodder “fan arolygu cymeradwy yn un o diriogaethau eraill y DU, oni bai bod copi o'r dystysgrif ffytoiechydol neu'r dystysgrif ffytoiechydol ar gyfer ailallforio a oedd yn mynd gyda'r deunydd wrth iddo gyrraedd y Deyrnas Unedig yn mynd gyda'r deunydd ac”;
- (ii) yn is-baragraff (b), ar y dechrau mewnosoder “pan fwriedir i'r deunydd fynd i fan arolygu cymeradwy yng Nghymru,”;

(d) ym mharagraff (3)—

(i) yn y geiriau cyn is-baragraff (a)—

(aa) yn lle'r geiriau o “mae'r” hyd at “Ewropeaidd,” rhodder “y bwriedir iddo fynd i fan arolygu cymwys yng Nghymru”;

(bb) yn lle “phum” rhodder “thri”;

(ii) yn is-baragraff (a)—

(aa) hepgorer “neu'r ardal rheolaeth iechyd planhigion ddynodedig”;

(bb) hepgorer y geiriau o “neu, os nad” hyd at y diwedd;

- (iii) yn is-baragraff (b), yn lle'r geiriau “man y cyfeirir ato yn is-baragraff (a)” rhodder “man arolygu cymeradwy”;
- (iv) hepgorer is-baragraffau (c) a (d);
- (v) yn is-baragraff (f), yn lle “erthygl 7” rhodder “y Gorchymyn Iechyd Planhigion perthnasol”.

24. Yn erthygl 17—

- (a) ym mharagraff (1), yn lle'r geiriau o “man”, yn y lle cyntaf y mae'n digwydd, hyd at y diwedd, rhodder “mangreodded nad ydynt wedi eu lleoli mewn man cyrraedd neu nad ydynt yn rhan o ardal rheolaeth iechyd planhigion ddynodedig yn fan lle y caniateir i arolygydd gynnal gwiriadau priodol mewn cysylltiad â deunydd perthnasol hysbysadwy, ac eithrio deunydd hysbysedig yr UE”;
- (b) ym mharagraff (3), hepgorer “neu â nwyddau tramwy yr UE.”;
- (c) ym mharagraff (4), yn lle'r geiriau o “man”, yn y lle cyntaf y mae'n digwydd, hyd at y diwedd rhodder “mangre yn fan arolygu cymeradwy mewn cysylltiad â deunydd perthnasol hysbysadwy, ac eithrio deunydd hysbysedig yr UE, os yw'r fangre wedi ei dynodi neu wedi ei chymeradwyo gan Gomisiynwyr Cyllid a Thollau Ei Mawrhydi at y diben hwnnw”;
- (d) ar ôl paragraff (4) mewnosoder—

“(4A) Yn achos unrhyw fangre arall, caiff Gweinidogion Cymru ond gymeradwyo'r fangre honno yn fan arolygu cymeradwy at ddiben cynnal gwiriadau priodol mewn cysylltiad â deunydd tramwy yr UE.

(4B) Yn yr erthygl hon, ystyr “gwiriadau priodol”, mewn cysylltiad â llwyth o ddeunydd perthnasol, yw—

 - (a) archwilio'r dystysgrif ffytoiechydol neu'r dystysgrif ffytoiechydol ar gyfer ailallforio sy'n mynd gyda'r llwyth i ganfod pa un ai'r dystysgrif ffytoiechydol gywir ydyw;
 - (b) archwilio'r llwyth i ganfod pa un a yw'n cyfateb i'r disgrifiad ohono yn y dogfennau masnach sy'n mynd gyda'r llwyth;
 - (c) archwilio'r llwyth a'i ddeunydd pecynnu, a, phan fo hynny'n angenrheidiol, y cerbyd sy'n cludo'r llwyth, i ganfod pa un a yw'n bodloni'r gofynion rhagnodedig.”;
- (e) hepgorer paragraff (5), y pennawd i baragraff (6) a pharagraff (6).

25. Yn Rhan 3, yn y pennawd, hepgorer “yr UE”.

26. Hepgorer erthyglau 18 a 19.

27. Yn erthygl 20—

(a) ym mharagraff 1, yn lle is-baragraffau (a) i (g), rhodder—

“(a) unrhyw bla planhigion o ddisgrifiad a bennir yn Rhan A, B neu D o’r rhestr o blâu planhigion gwaharddedig;

(b) unrhyw ddeunydd perthnasol o ddisgrifiad a bennir yng ngholofn 2 o Ran A, B neu D o’r rhestr o ddeunydd wedi ei heigio gwaharddedig sy’n cario pla planhigion o ddisgrifiad a bennir yn y cofnod cyfatebol yng ngholofn 3, neu sydd wedi ei heintio â phla o’r fath;

(c) unrhyw bla planhigion, er nad yw wedi ei bennu yn Rhan A, B neu D o’r rhestr o blâu planhigion gwaharddedig, nac yng ngholofn 3 o Ran A, B neu D o’r rhestr o ddeunydd wedi ei heigio gwaharddedig, nad yw’n bresennol ym Mhrydain Fawr fel arfer ac sy’n debygol o fod yn niweidiol i blanhigion ym Mhrydain Fawr;

(d) unrhyw ddeunydd perthnasol sy’n tarddu o drydedd wlad a ddygir i Gymru yn groes i erthygl 5(1)(d) neu (e);

(e) unrhyw ddeunydd perthnasol o ddisgrifiad a bennir yng ngholofn 2 o Ran B neu E o’r rhestr o ddeunydd a reoleiddir sy’n tarddu o Brydain Fawr, oni bai y cydymffurfir â’r gofynion a bennir yn y cofnodion cyfatebol mewn cysylltiad â’r disgrifiad hwnnw o ddeunydd perthnasol yng ngholofn 3;

(f) unrhyw ddeunydd perthnasol sy’n tarddu o drydedd wlad ac a draddodir o ran arall o’r Deyrnas Unedig a fyddai wedi bod yn groes i erthygl 5(1)(d) neu (e) pe bai wedi ei ddwyn i fan cyrraedd a leolir yng Nghymru”;

(b) ar ôl paragraff (1) mewnosoder—

“(1A) Mae paragraff 1B yn gymwys i ardaloedd sy’n rhydd rhag plâu.

(1B) Ni chaiff unrhyw berson gadw, storio, plannu, gwerthu na symud y pethau a ganlyn yn fwriadol, na pheri na chaniatáu yn fwriadol i’r canlynol gael eu cadw, eu storio, eu plannu, eu gwerthu na’u symud—

(a) unrhyw bla planhigion o ddisgrifiad a bennir yng ngholofn 2 o Ran C o’r

rhestr o blâu planhigion gwaharddedig sy'n ymwneud ag ardal sy'n rhydd rhag plâu;

- (b) yn achos unrhyw ardal sy'n rhydd rhag plâu sy'n ardal yn y DU sy'n rhydd rhag plâu a bennir yng ngholofn 4 o Ran C o'r rhestr o ddeunydd wedi ei heigio gwaharddedig, neu sydd wedi ei chynnwys mewn ardal o'r fath, unrhyw ddeunydd perthnasol o ddisgrifiad a bennir yn y cofnod cyfatebol yng ngholofn 2 o'r Rhan honno sy'n cario neu wedi ei heigio â phla planhigion o ddisgrifiad a bennir yn y cofnod cyfatebol yng ngholofn 3;
 - (c) unrhyw ddeunydd perthnasol sy'n tarddu o drydedd wlad a ddygir i ardal sy'n rhydd rhag plâu yn groes i erthygl 5(1)(h);
 - (d) yn achos unrhyw ardal sy'n rhydd rhag plâu sy'n ardal yn y DU sy'n rhydd rhag plâu a bennir yng ngholofn 4 o Ran C o'r rhestr o ddeunydd a reoleiddir, neu sydd wedi ei chynnwys mewn ardal o'r fath, unrhyw ddeunydd perthnasol o ddisgrifiad a bennir yn y cofnod cyfatebol yng ngholofn 2 o'r Rhan honno sy'n tarddu o'r Deyrnas Unedig, oni bai y cydymffurfir â'r gofynion a bennir yn y cofnodion cyfatebol mewn cysylltiad â'r deunydd perthnasol hwnnw yng ngholofn 3;
 - (e) unrhyw ddeunydd perthnasol sy'n tarddu o drydedd wlad ac a draddodir o ran arall o'r Deyrnas Unedig a fyddai wedi bod yn groesi i erthygl 5(1)(h) pe bai wedi ei ddwyn i fan cyrraedd a leolir yng Nghymru.”;
- (c) ym mharagraff (2), ar ôl “mharagraff (1)” mewnosoder “a (1B)”;
 - (d) ym mharagraff (3), yn lle “(f)” rhodder “(1B)(d)”.

28. Yn erthygl 21—

- (a) yn y pennawd, ar ôl “basbortau planhigion” mewnosoder “y DU”;
- (b) yn lle paragraffau (1) i (6) rhodder —
 - “(1) Ni chaiff unrhyw berson symud dim o'r deunydd perthnasol a ganlyn i Gymru, nac o fewn Cymru, oni bai bod pasbort planhigion y DU yn mynd gyda'r deunydd—
 - (a) unrhyw ddeunydd perthnasol o ddisgrifiad a bennir yn y rhestr o

ddeunydd a reoleiddir sy'n tarddu o'r Deyrnas Unedig;

- (b) unrhyw ddeunydd perthnasol a ollyngir o dan erthygl 12 ac sydd o ddisgrifiad a bennir yn y rhestr o ddeunydd a reoleiddir.

(2) Ni chaiff unrhyw berson symud unrhyw un neu ragor o'r deunydd perthnasol a ganlyn i ardal sy'n rhydd rhag plâu, na'i symud o fewn ardal o'r fath, oni bai bod pasbort planhigion y DU sy'n ddilys ar gyfer yr ardal honno sy'n rhydd rhag plâu, neu ardal yn y DU sy'n rhydd rhag plâu y mae'r ardal honno yn rhan ohoni, yn mynd gyda'r deunydd hwnnw—

- (a) unrhyw ddeunydd perthnasol sy'n tarddu o'r Deyrnas Unedig sydd o ddisgrifiad a bennir yn y rhestr o ddeunydd a reoleiddir mewn ardal sy'n rhydd rhag plâu mewn cysylltiad â'r ardal berthnasol yn y DU sy'n rhydd rhag plâu;
- (b) unrhyw ddeunydd perthnasol a ollyngir o dan erthygl 12 ac sydd o ddisgrifiad a bennir yn y rhestr o ddeunydd a reoleiddir mewn ardal sy'n rhydd rhag plâu mewn cysylltiad â'r ardal berthnasol yn y DU sy'n rhydd rhag plâu.

(3) Ni chaiff unrhyw berson draddodi o Gymru i unrhyw un o diriogaethau eraill y DU unrhyw un neu ragor o'r deunydd perthnasol a ganlyn sy'n tarddu o Gymru, oni bai bod pasbort planhigion y DU yn mynd gyda ef—

- (a) yn achos unrhyw ddeunydd perthnasol y bwriedir iddo fynd i Ogledd Iwerddon neu Loegr, unrhyw ddeunydd perthnasol o ddisgrifiad a bennir yn y rhestr o ddeunydd a reoleiddir;
- (b) yn achos deunydd perthnasol y bwriedir iddo fynd i fan yng Ngogledd Iwerddon neu Loegr sydd o fewn ardal yn y DU sy'n rhydd rhag plâu, unrhyw ddeunydd perthnasol o ddisgrifiad a bennir yn y rhestr o ddeunydd a reoleiddir mewn ardal sy'n rhydd rhag plâu mewn cysylltiad â'r ardal honno yn y DU sy'n rhydd rhag plâu;
- (c) yn achos deunydd perthnasol y bwriedir iddo fynd i'r Alban, unrhyw ddeunydd perthnasol o ddisgrifiad a bennir yn Rhan A o Atodlen 6 i Orchymyn Iechyd Planhigion (Yr Alban) 2005;

- (d) yn achos deunydd perthnasol y bwriedir iddo fynd i fan yn yr Alban sydd o fewn ardal yn y DU sy'n rhydd rhag plâu, unrhyw ddeunydd perthnasol o ddisgrifiad a bennir yn Rhan B o Atodlen 6 i Orchymyn Iechyd Planhigion (Yr Alban) 2005 mewn cysylltiad â'r ardal honno yn y DU sy'n rhydd rhag plâu.

(4) Yn achos unrhyw ddeunydd perthnasol sy'n tarddu o fan cynhyrchu yng Nghymru, ni chaniateir dyroddi pasbort planhigion y DU mewn perthynas â'r deunydd hwnnw ond pan fu'r deunydd yn destun arolygiad boddhaol yn y man cynhyrchu.”;

- (c) hepgorer paragraffau (7) ac (8);

- (d) ar ôl paragraff (8) mewnosoder—

“(8A) Nid yw'r gofynion ym mharagraffau (1)(b) a (2)(b) yn gymwys i unrhyw ddeunydd hysbysedig yr UE sy'n symud o'i fan cyrraedd i'w gyrchfan gyntaf yn y Deyrnas Unedig os yw copi o'r dystysgrif ffytoiechydol neu'r dystysgrif ffytoiechydol ar gyfer ailallforio a oedd yn mynd gyda'r deunydd wrth iddo gyrraedd y Deyrnas Unedig yn mynd gyda'r deunydd.”;

- (e) ym mharagraff (9), yn lle “(1), (2), (5) a (6)” rhodder “(1)(a), (2)(a) a (3)”;
- (f) ym mharagraff (10), yn lle “Mae paragraffau (2) a (4)” rhodder “Mae paragraff (2) yn”.

29. Yn erthygl 22—

- (a) ym mharagraff (1)—

- (i) hepgorer is-baragraffau (a) a (b);

- (ii) yn is-baragraff (c) yn lle “(f)” rhodder “(1B)(d)”;

- (iii) yn is-baragraff (d) yn lle “(1), (2), (5) a (6)” rhodder “(1)(a), (2)(a) a (3)(a) neu (c)”;

- (b) hepgorer paragraffau (3) a (4);

- (c) ym mharagraff (5), yn lle “(1) neu (2)” rhodder “(1)(a) neu (2)(a)”.

30. Yn erthygl 23—

- (a) ym mharagraff (1), yn lle'r geiriau o “Rhan B” hyd at y diwedd rhodder “y rhestr o ddeunydd a reoleiddir mewn ardal sy'n rhydd rhag plâu sy'n ymwneud ag ardal sy'n rhydd rhag plâu ac a symudir drwy'r ardal honno i gyrchfan y tu allan i'r ardal berthnasol yn y DU sy'n rhydd rhag plâu”;

- (b) ym mharagraff (2)—

- (i) yn y geiriau cyn is-baragraff (a), hepgorer “a (4)”;
- (ii) yn is-baragraff (a) yn lle “o Brydain Fawr” rhodder “o’r tu allan i’r ardal berthnasol yn y DU sy’n rhydd rhag plâu”;
- (iii) ar ddiwedd is-baragraff (a), yn lle “neu” rhodder “a”;
- (iv) yn is-baragraff (b)—
 - (aa) yn lle “i Gymru”, yn y lle cyntaf y mae’n digwydd, rhodder “i’r ardal sy’n rhydd rhag plâu”;
 - (bb) yn lle “i Gymru”, yn yr ail le y mae’n digwydd, rhodder “i’r ardal berthnasol yn y DU sy’n rhydd rhag plâu”, ac yn lle “drwy Gymru”, rhodder “drwy’r ardal berthnasol yn y DU sy’n rhydd rhag plâu”;
- (c) ym mharagraff (3)—
 - (i) yn is-baragraff (a), hepgorer “y mae Cymru yn barth gwarchod mewn perthynas ag ef”;
 - (ii) yn is-baragraff (b), yn lle “drwy Gymru” rhodder “drwy’r ardal sy’n rhydd rhag plâu”;
- (d) ar y diwedd mewnosoder—
 - “(4) Yn yr erthygl hon—
 - (a) ystyr “ardal berthnasol yn y DU sy’n rhydd rhag plâu” (“*relevant UK pest free area*”), mewn perthynas ag unrhyw ddeunydd perthnasol o ddisgrifiad a bennir yn y rhestr o ddeunydd a reoleiddir mewn ardal sy’n rhydd rhag plâu, yw’r ardal sy’n rhydd rhag plâu sy’n ardal yn y DU sy’n rhydd rhag plâu a ddynodir mewn cysylltiad â’r deunydd hwnnw, neu sy’n rhan o’r ardal honno;
 - (b) ystyr “pla planhigion perthnasol” (“*relevant plant pest*”), mewn perthynas ag ardal yn y DU sy’n rhydd rhag plâu, yw’r pla planhigion y dynodwyd ardal yn y DU sy’n rhydd rhag plâu mewn cysylltiad ag ef.”.

31. Yn erthygl 24—

- (a) yn y pennawd, ar ôl “planhigion” mewnosoder “y DU”;
- (b) ym mharagraffau (1) i (5), ar ôl “pasbort planhigion” a “basbort planhigion”, ym mhob lle y maent yn digwydd, rhodder “y DU”;
- (c) ym mharagraff (4)(b)—

- (i) ar ôl “bla planhigion”, mewnosoder “a reoleiddir”;
- (ii) hepgorer y geiriau o “o ddisgrifiad” hyd at y diwedd.

32. Yn Rhan 4, yn y pennawd, ar ôl “pasbortau planhigion” mewnosoder “y DU”.

33. Yn erthygl 25, hepgorer paragraff (2).

34. Yn erthygl 28—

- (a) ym mharagraff (3)(c), yn lle “manylion a bennir yn Erthygl 10(4) o Benderfyniad (EU) 2015/789” rhodder “manylion a bennir”;
- (b) ym mharagraff (4)—
 - (i) cyn is-baragraff (a) mewnosoder—
 - “(za) ystyr “ardal sydd wedi ei darnodi” (“*demarcated area*”) yw ardal sydd wedi ei darnodi o dan baragraff 5 o Atodlen 15 i’r Rheoliadau Iechyd Planhigion neu, o ran yr Alban, o dan ddarpariaethau cyfatebol yng Ngorchymyn Iechyd Planhigion (Yr Alban) 2005 neu Orchymyn Iechyd Planhigion (Coedwigaeth) 2005;”;
 - (ii) yn is-baragraff (a), yn lle “mae i “gweithredwr proffesiynol” yr ystyr a roddir i “professional operator” yn Erthygl 1(d) o Benderfyniad (EU) 2015/789” rhodder “ystyr “gweithredwr proffesiynol” (“*professional operator*”) yw unrhyw berson sydd, wrth ei waith o fasnachu, rhedeg busnes neu broffesiwn, yn ymwneud â phlannu, bridio, cynhyrchu, mewnfario, marchnata neu ddsbarthu planhigion”;
 - (iii) ar ôl is-baragraff (a) mewnosoder—
 - “(ab) ystyr “manylion a bennir” (“*specified details*”), mewn perthynas â lot, yw ei tharddiad, ei thraddodwr, ei thraddodai, ei chyrchfan, ei rhif cyfresol neu wythnosol unigol neu rif swp unigol pasbort planhigion y DU, ei manylion adnabod a’i nifer;”;
 - (iv) yn is-baragraff (b)—
 - (aa) yn lle’r geiriau ym mharagraff (i) rhodder “planhigion a bennir ym mharagraff 13 o Ran E o’r rhestr o ddeunydd a reoleiddir sydd wedi eu tyfu am o leiaf ran o’u bywyd mewn ardal sydd wedi ei darnodi, neu wedi eu symud drwy ardal o’r fath”;

- (bb) ym mharagraff (ii), yn lle'r geiriau o "a sefydlwyd" hyd at y diwedd rhodder "a ddarnodwyd".

35. Yn erthygl 29—

- (a) yn y pennawd ac ym mharagraffau (1), (4), (5), (6) a (7), ar ôl "pasbortau planhigion" a "pasbort planhigion" ym mhob lle y maent yn digwydd, mewnosoder "y DU";
- (b) ym mharagraff (4)(a), yn lle "perthnasol", yn yr ail le y mae'n digwydd rhodder "a reoleiddir";
- (c) ym mharagraff (6)(a), yn lle "perthnasol", yn yr ail le y mae'n digwydd rhodder "a reoleiddir";
- (d) hepgorer paragraff (8).

36. Hepgorer Rhan 5.

37. Yn erthygl 31—

- (a) ym mharagraff (1)(c), ar ôl "pasbortau planhigion" mewnosoder "y DU";
- (b) ym mharagraff (10), hepgorer y geiriau "gan gynnwys cynrychiolwyr y Comisiwn Ewropeaidd."

38. Ar ôl erthygl 31 mewnosoder—

"Mesurau brys

31A.—(1) Pan ganfyddir bod pla planhigion a reoleiddir yn bresennol yng Nghymru, caiff Gweinidogion Cymru, drwy hysbysiad—

- (a) darnodi ardal mewn perthynas â'r heigiad hwnnw at ddiben dileu neu atal y pla planhigion hwnnw; a
- (b) pennu'r gwaharddiadau a'r cyfyngiadau sydd i fod yn gymwys yn yr ardal sydd wedi ei darnodi at y diben hwnnw.

(2) Mewn perthynas â hysbysiad o dan baragraff (1)—

- (a) rhaid iddo fod yn ysgrifenedig;
- (b) rhaid iddo ddisgrifio hyd a lled yr ardal sydd wedi ei ddarnodi;
- (c) rhaid iddo bennu'r dyddiad y mae unrhyw waharddiadau neu gyfyngiadau o'r fath i gychwyn;
- (d) rhaid iddo gael ei gyhoeddi mewn dull sy'n briodol i'w ddwyn i sylw'r cyhoedd; ac
- (e) caniateir ei ddiwygio neu ei ddirymu, yn gyfan gwbl neu'n rhannol, drwy hysbysiad pellach."

39. Yn erthygl 32—

- (a) ym mharagraff (1), yn lle “gyflwyno” rhodder “ddwyn”;
- (b) ym mharagraff (2)(b), yn lle “cael ei lanio” rhodder “cyrraedd”;
- (c) ym mharagraff (3)—
 - (i) yn is-baragraff (a), yn lle “glanio” rhodder “dwyn i mewn”;
 - (ii) yn is-baragraff (b)—
 - (aa) yn lle “i’w lanio” rhodder “i’w ddwyn i mewn”;
 - (bb) yn lle “wrth lanio” rhodder “wrth gyrraedd”;
- (d) ym mharagraff (7)—
 - (i) yn is-baragraff (a)—
 - (aa) yn lle’r geiriau ym mharagraff (i) rhodder “pla planhigion a reoleiddir”;
 - (bb) hepgorer paragraff (iii) a’r “neu” sy’n ei ragflaenu;
 - (ii) yn is-baragraff (b)(ii), hepgorer “neu 18”.

40. Yn erthygl 33—

- (a) ym mharagraff (5), hepgorer “, gan gynnwys cynrychiolwyr y Comisiwn Ewropeaidd,”;
- (b) yn lle’r geiriau ym mharagraff (8)(a)(i), rhodder “pla planhigion a reoleiddir”.

41. Yn erthygl 37(5), hepgorer “, gan gynnwys cynrychiolwyr y Comisiwn Ewropeaidd,”.

42. Yn erthygl 39—

- (a) ym mharagraff (1), yn lle “ac eithrio’r” rhodder “gwlad neu diriogaeth yn yr Undeb Ewropeaidd neu’r”;
- (b) ym mharagraff (2)—
 - (i) yn is-baragraff (a), ar ôl “swyddogol yn” mewnosoder “y Deyrnas Unedig,”;
 - (ii) yn is-baragraff (b), yn lle “Atodiad II i Gyfarwyddeb 98/57/EC” rhodder “EPPO PM 7/21”;
 - (iii) yn is-baragraff (c), yn lle “Atodiad I i Gyfarwyddeb 93/85/EEC” rhodder “EPPO PM 7/59”;
- (c) hepgorer paragraff (4).

43. Yn erthygl 40—

- (a) ym mharagraff (1)—
 - (i) yn lle “cyflwyno” rhodder “mewnforio”;
 - (ii) yn lle’r geiriau o “Weinidogion Cymru—” hyd at y diwedd rhodder “Weinidogion”

Cymru drwy arfer unrhyw randdirymiad a ganiateir gan Atodlen 8 i'r Rheoliadau Iechyd Planhigion”;

- (b) ym mharagraff (2), yn lle “(1)(b)” rhodder “(1)”;
- (c) hepgorer paragraff (3).

44. Yn erthygl 41—

- (a) yn y pennawd, hepgorer y geiriau “a ganiateir gan Gyfarwyddeb 2008/61/EC”;
- (b) ym mharagraff (1)—
 - (i) yn y geiriau cyn is-baragraff (a), yn lle “cyflwyno”, yn y ddau le y mae’n digwydd, rhodder “mewnforio”;
 - (ii) yn is-baragraff (a), yn lle “Erthygl 1(2) o Gyfarwyddeb 2008/61/EC”, rhodder “Rhan A o Atodlen 16A”;
 - (iii) yn is-baragraff (b), yn lle “Atodiad I i'r Gyfarwyddeb honno”, rhodder “Rhan B o Atodlen 16A”;
- (c) ym mharagraff (2)—
 - (i) yn is-baragraff (a), yn lle “osodir yn Erthygl 2(2) o Gyfarwyddeb 2008/61/EC”, rhodder “bennir yn Rhan C o Atodlen 16A”;
 - (ii) yn is-baragraff (b), yn lle’r geiriau o “sy’n pennu” hyd at y diwedd, rhodder “fel y caiff Gweinidogion Cymru bennu mewn perthynas â mesurau cwarantyn y drwydded sy’n briodol mewn cysylltiad â’r gweithgareddau hynny”;
- (d) ym mharagraff (4)—
 - (i) yn y geiriau cyn is-baragraff (a), yn lle “y mae’r drwydded a roddir o dan baragraff (1) yn ymwneud â hwy” rhodder “trwyddedig”;
 - (ii) yn is-baragraff (a), yn lle “gweithgareddau” rhodder “gweithgaredd trwyddedig”;
 - (iii) yn is-baragraff (b), yn lle “gweithgareddau” rhodder “gweithgaredd trwyddedig”;
- (e) ym mharagraff (5), yn lle “plâu planhigion a bennir yn Atodlen 1 ac yng nghlofn 3 o Atodlen 2” rhodder “y plâu planhigion a reoleiddir”;
- (f) hepgorer paragraff (6);
- (g) yn lle paragraff (7) rhodder—

“(7) Yn yr erthygl hon—

- (a) ystyr “mesurau cwarantín priodol” (“*appropriate quarantine measures*”) yw—
- (i) pan fo’n gymwys, mesurau cwarantín sy’n cyfateb i’r rhai a bennir yn Rhan A o Atodiad 3 i Gyfarwyddeb y Comisiwn 2008/61/EC sy’n pennu’r amodau lle caniateir i organeddau niweidiol penodol, planhigion niweidiol penodol, cynhyrchion planhigion niweidiol penodol a gwrthrychau penodol eraill a restrir yn Atodiadau I i V i Gyfarwyddeb y Cyngor 2000/29/EC gael eu cyflwyno i’r Gymuned neu eu symud o fewn y Gymuned neu barthau gwarchod penodol ohoni, at ddibenion treialu neu ddibenion gwyddonol neu ar gyfer gwaith ar ddetholiadau amrywogaethol⁽¹⁾;
 - (ii) yn unrhyw achos arall, unrhyw fesurau cwarantín, gan gynnwys cynnal profion, a bennir gan Weinidogion Cymru;
- (b) ystyr “mesurau cwarantín y drwydded” (“*licence quarantine measures*”) yw’r mesurau a bennir yn Rhan D o Atodlen 16A;
- (c) ystyr “gweithgaredd trwyddedig” (“*licensed activity*”) yw unrhyw weithgaredd at ddibenion treialu neu ddibenion gwyddonol neu ar gyfer gwaith ar ddetholiadau amrywogaethol a awdurdodir gan un drwydded o dan baragraff (1).”.

45. Yn erthygl 42, ym mharagraff (3)—

- (a) yn is-baragraff (a)—
- (i) yn lle’r geiriau ym mharagraff (i), rhodder “pla planhigion a reoleiddir”;
 - (ii) hepgorer paragraff (ii);
 - (iii) ym mharagraff (iii), yn lle “o Atodlen 2”, yn y ddau le y mae’n digwydd, rhodder “o’r rhestr o ddeunydd wedi ei heigio gwaharddedig”;
 - (iv) ym mharagraff (iv), yn lle “yw o ddisgrifiad a bennir yn Atodlen 1 na 2,” rhodder “yw’n bla planhigion a reoleiddir”;

(1) OJ Rhif L 158, 18.6.2008, t. 41.

- (b) yn is-baragraff (b)(iii)—
 - (i) yn lle “o Atodlen 2”, yn y lle cyntaf y mae’n digwydd, rhodder “o’r rhestr o ddeunydd wedi ei heigio gwaharddedig”;
 - (ii) yn lle “o Atodlen 2”, yn yr ail le y mae’n digwydd, rhodder “o’r rhestr honno”.

46. Yn erthygl 43(3)(b)—

- (a) yn lle’r geiriau ym mharagraff (i) rhodder “pla planhigion a reoleiddir”;
- (b) ym mharagraff (ii), yn lle “yw wedi ei bennu yn Atodlen 1 na 2” rhodder “yw’n bla planhigion a reoleiddir”;
- (c) ym mharagraff (iii)—
 - (i) yn lle “o Atodlen 3” rhodder “o’r rhestr o ddeunydd gwaharddedig”;
 - (ii) yn lle “yr Atodlen honno” rhodder “y rhestr honno”.

47. Yn erthygl 44—

- (a) ym mharagraff (3), ar ôl “pasbort planhigion,” mewnosoder “y DU”;
- (b) ym mharagraff (4)(b)—
 - (i) yn lle’r geiriau ym mharagraff (i) rhodder “pla planhigion a reoleiddir”;
 - (ii) ym mharagraff (ii) yn lle “yw wedi ei bennu yn Atodlen 1 na 2” rhodder “yw’n bla planhigion a reoleiddir”.

48. Yn erthygl 46—

- (a) ym mharagraff (1)—
 - (i) ar ôl is-baragraff (a)(i), mewnosoder—
 - “(ia)erthygl 6A;”;
 - (ii) yn is-baragraff (b), ar ôl “person” mewnosoder “; gwaharddiad neu gyfyngiad mewn hysbysiad a ddyroddir gan Weinidogion Cymru”;
- (b) ym mharagraff (2), ar ôl “pasbort planhigion”, yn y ddau le y mae’n digwydd, mewnosoder “y DU”;
- (c) ym mharagraff (3), ar ôl “pasbort planhigion”, ym mhob lle y mae’n digwydd, mewnosoder “y DU”.

49. Ar ôl erthygl 49 mewnosoder—

“Darpariaeth drosiannol: Pasbortau planhigion y DU

49A.—(1) Mae awdurdodiad i ddyroddi pasbortau planhigion sydd wedi ei roi ac sy’n cael effaith yn union cyn y diwrnod ymadael yn parhau i gael effaith ar ôl y diwrnod ymadael fel

pe bai'n awdurdodiad i ddyroddi pasbortau planhigion y DU.

(2) Yn achos unrhyw basbort planhigion a ddyroddir mewn cysylltiad ag unrhyw ddeunydd perthnasol cyn y diwrnod ymadael at ddibenion symud y deunydd hwnnw sy'n digwydd cyn y diwrnod ymadael ac ar ôl hynny, mae'r pasbort planhigion i'w drin fel pe bai'n basbort planhigion y DU, ac mae cyfeiriadau at basbort planhigion y DU i'w dehongli yn unol â hynny.”.

50. Hepgorer Atodlenni 1 i 8.

51. Yn Atodlen 9—

- (a) yn y pennawd i Atodlen 9, ar ôl “planhigion” mewnosoder “y DU”;
- (b) yn Rhan A, yn y pennawd—
 - (i) ar ôl “planhigion” mewnosoder “y DU”;
 - (ii) yn lle “ar gyfer unrhyw ddeunydd perthnasol yn Atodlen 6 neu 7” rhodder “mewn perthynas â deunydd perthnasol”;
- (c) ym mharagraffau 1 i 3, ar ôl “planhigion”, ym mhob lle y mae'n digwydd, mewnosoder “y DU”;
- (d) ym mharagraff 4—
 - (i) yn y geiriau cyn is-baragraff (a), yn lle “y pasbort planhigion” rhodder “pasbort planhigion y DU”;
 - (ii) yn is-baragraff (a), yn lle “EU-plant” rhodder “UK plant”;
 - (iii) hepgorer is-baragraff (b);
 - (iv) yn is-baragraff (c), yn lle'r geiriau o “corff swyddogol” hyd at y diwedd rhodder “awdurdod iechyd planhigion priodol y DU”;
 - (v) yn is-baragraff (d), ar ôl “pasbort planhigion”, yn y ddau le y mae'n digwydd, mewnosoder “y DU”;
 - (vi) yn is-baragraffau (e), (f), ac (g), ar ôl “pasbort planhigion”, ym mhob lle y mae'n digwydd, mewnosoder “y DU”;
 - (vii) yn is-baragraff (h)—
 - (aa) yn lle “parth gwarchod”, yn y ddau le y mae'n digwydd, rhodder “ardal yn y DU sy'n rhydd rhag plâu”;
 - (bb) yn lle “ZP” rhodder “PFA”;
 - (viii) yn is-baragraff (j), yn lle “i Gymru” rhodder “i'r Deyrnas Unedig”;
- (e) ym mharagraff (5)(c)(ii)—

- (i) yn lle “yr Undeb Ewropeaidd”, yn y lle cyntaf y mae’n digwydd, rhodder “y Deyrnas Unedig”;
- (ii) yn lle’r geiriau o “y corff swyddogol” hyd at y diwedd rhodder “awdurdod iechyd planhigion priodol y DU”;
- (f) ym mharagraff 6(1)(a), yn lle’r geiriau o “mewn o leiaf” hyd at y diwedd rhodder “yn Saesneg a caiff hefyd ei roi yn y Gymraeg”;
- (g) ym mharagraff 7, ar ôl “pasbort planhigion” mewnosoder “y DU”;
- (h) ym mharagraff 8, yn lle is-baragraffau (a) i (c) rhodder—
 - “(a) mewn perthynas â deunydd planhigion llysiuol—
 - (i) a gynhyrchir ym Mhrydain Fawr, Rhan B o Atodlen 2 i Reoliadau Marchnata Deunyddiau Planhigion Llysiuol 1995(1);
 - (ii) a gynhyrchir yng Ngogledd Iwerddon, Rhan B o Atodlen 2 i Reoliadau Marchnata Deunyddiau Planhigion Llysiuol (Gogledd Iwerddon) 1995(2);
 - (b) mewn perthynas â deunydd lluosogi planhigion addurniadol—
 - (i) a gynhyrchir yng Nghymru neu Loegr, yr Atodlen i Reoliadau Marchnata Deunydd Lluosogi Planhigion Addurniadol 1999(3);
 - (ii) a gynhyrchir yn yr Alban, Atodlen 1 i Reoliadau Marchnata Deunydd Lluosogi Planhigion Addurniadol 1999(4);
 - (iii) a gynhyrchir yng Ngogledd Iwerddon, yn yr Atodlen i Reoliadau Marchnata Deunydd Lluosogi Planhigion Addurniadol (Gogledd Iwerddon) 1999(5);”
- (i) Yn Rhan B, yn y pennawd—
 - (i) ar ôl “planhigion” mewnosoder “y DU”;
 - (ii) hepgorer “yn Atodlen 6 neu 7”;

(1) O.S. 1995/2652, y mae diwygiadau iddo nad ydynt yn berthnasol i’r Rheoliadau hyn.

(2) Rh.St. 1995 Rhif 415, y mae diwygiadau iddo nad ydynt yn berthnasol i’r Rheoliadau hyn.

(3) O.S. 1999/1801, y mae diwygiadau iddo nad ydynt yn berthnasol i’r Rheoliadau hyn.

(4) O.S. 1999/1801, a ddiwygiwyd gan O.S.A. 2018/284; mae offerynnau diwygio eraill ond nid oes yr un ohonynt yn berthnasol.

(5) Rh.St. 1999 Rhif 502, y mae diwygiadau iddo nad ydynt yn berthnasol i’r Rheoliadau hyn.

(j) ym mharagraff 9, ar ôl “basbort planhigion”, yn y ddau le y mae’n digwydd, mewnosoder “y DU”;

(k) ym mharagraff 10—

(i) yn is-baragraff (a), yn lle “Erthygl 13(1)(a) o Gyfarwyddeb y Cyngor 2002/56/EC ar farchnata tatws hadyd” rhodder—

“—

(i) yn achos tatws hadyd a gynhyrchir yng Nghymru, yn Rhan 1 o Atodlen 2 i Reoliadau Tatws Hadyd (Cymru) 2016(1);

(ii) yn achos tatws hadyd a gynhyrchir yn Lloegr, yn Rhan 1 o Atodlen 2 i Reoliadau Tatws Hadyd (Lloegr) 2015(2);

(iii) yn achos tatws hadyd a gynhyrchir yn yr Alban, yn Rhan 1 o Atodlen 5 i Reoliadau Tatws Hadyd (Yr Alban) 2015(3);

(iv) yn achos tatws hadyd a gynhyrchir yng Ngogledd Iwerddon, yn Rhan 1 o Atodlen 2 i Reoliadau Tatws Hadyd (Gogledd Iwerddon) 2016(4)”;

(ii) yn is-baragraff (b), yn lle “EU-plant” rhodder “UK plant”;

(iii) yn is-baragraff (c)—

(aa) yn lle “Undeb Ewropeaidd” rhodder “Deyrnas Unedig”;

(bb) yn lle “yn eitem 18.1 o Adran II o Atodiad IV Rhan A” rhodder “a bennir yn eitem 5 o Ran B o’r rhestr o ddeunydd a reoleiddir”;

(l) hepgorer paragraffau 11 a 12;

(m) ym mharagraff 13—

(i) yn is-baragraff (a), yn lle “Erthygl 10(1)(a) o Gyfarwyddeb y Cyngor 66/401/EEC ar farchnata hadau planhigion porthiant” rhodder—

“—

(i) yn achos hadau a gynhyrchir yng Nghymru, Rhannau 2 a 3 o

(1) O.S. 2016/106 (Cy.52); fel y’i diwygiwyd gan O.S. 2017/596 (Cy. 139).
(2) O.S. 2015/1953, a ddiwygiwyd gan O.S. 2017/288.
(3) O.S.A. 2015/395, fel y’i diwygiwyd gan O.S.A. 2016/434.
(4) Rh.St. 2016 Rhif 190, fel y’i diwygiwyd gan Rh.St. 2017 Rhif 155.

Atodlen 3 i Reoliadau Marchnata Hadau (Cymru) 2012(1);

- (ii) yn achos hadau a gynhyrchir yn Lloegr, Rhannau 2 a 3 o Atodlen 3 i Reoliadau Marchnata Hadau 2011(2);
 - (iii) yn achos hadau a gynhyrchir yn yr Alban, Rhan 2 o Atodlen 6 i Reoliadau Hadau Planhigion Olew a Ffeibr (Yr Alban) 2004(3);
 - (iv) yn achos hadau a gynhyrchir yng Ngogledd Iwerddon, Rhannau 2 a 3 o Atodlen 3 i Reoliadau Marchnata Hadau (Gogledd Iwerddon) 2016(4);”;
- (ii) yn is-baragraff (b), yn lle “EU-plant” rhodder “UK plant”;
- (iii) yn is-baragraff (c)—
- (aa) yn lle “Undeb Ewropeaidd” rhodder “Deyrnas Unedig”;
 - (bb) yn lle “yn eitemau 28.1 a 28.2 o Adran II o Atodiad IV Rhan A” rhodder “a bennir yn eitemau 21 a 22 o Ran B o’r rhestr o ddeunydd a reoleiddir”.

52. Hepgorer Atodlen 12.

53. Yn Atodlen 14(5)—

(a) ym mharagraff 2—

(i) yn y lleoedd priodol mewnosoder—

“ystyr “EPP0 PM 7/40” yw’r safon sy’n disgrifio protocol diagnostig ar gyfer *Globodera rostochiensis* a *Globodera pallida* a gymeradwyir gan Sefydliad Diogelu Planhigion Ewrop a Glannau’r Canolfor(6);

ystyr “EPP0 PM 7/119” yw’r safon sy’n disgrifio’r gweithdrefnau ar gyfer echdynnu nematodau a gymeradwyir gan Sefydliad

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- (1) O.S. 2012/245 (Cy. 39).
 - (2) O.S. 2011/463, yr offerynnau diwygio perthnasol yw O.S. 2011/2992, 2012/3055.
 - (3) O.S.A. 2004/317, yr offerynnau diwygio perthnasol yw O.S.A. 2009/223, 2016/434, 2016/68.
 - (4) Rh.St. 2016 Rhif 244.
 - (5) Fel y’i diwygiwyd gan Ran 2 o’r Rheoliadau hyn.
 - (6) Cymeradwywyd am y tro cyntaf gan Sefydliad Diogelu Planhigion Ewrop a Glannau’r Canolfor ym mis Medi 2003, ac ar gael oddi wrth ei Ysgrifenyddiaeth yn 21 Boulevard Richard Lenoir, 75011, Paris, Ffrainc ac ar https://www.eppo.int/RESOURCES/eppo_standards/pm7_diagnostic.

Diogelu Planhigion Ewrop a Glannau'r Canolfor⁽¹⁾;

ystyr “mesurau penodedig” (“*specified measures*”) yw—

(a) at ddibenion paragraff 2C, ail-samplu swyddogol y cae a chynnal profion swyddogol ar y samplau, a gynhelir o leiaf bob tair blynedd ar ôl gweithredu mesurau rheolaeth priodol a gymeradwywyd yn swyddogol yn y cae neu, yn unrhyw achos arall, o leiaf bum mlynedd ar ôl y flwyddyn y canfuwyd Llyngyr tatws neu y tyfwyd tatws ddiwethaf yn y cae ynddi;

(b) at ddibenion paragraffau 7 ac 11—

(i) dadheigio'r bylbiau neu'r planhigion drwy ddulliau priodol sy'n sicrhau nad oes unrhyw risg adnabyddadwy o ledaenu Llyngyr tatws;

(ii) symud pridd oddi ar y bylbiau neu'r planhigion drwy eu golchi neu eu brwsio hyd nes eu bod yn rhydd rhag pridd i bob pwrpas, er mwyn sicrhau nad oes unrhyw risg adnabyddadwy o ledaenu Llyngyr tatws;”

(ii) yn y diffiniad o “cae”, yn lle “Erthygl 3 o Gyfarwyddeb 2007/33/EC” rhodder “yr Atodlen hon”;

(b) ar ôl paragraff 2 mewnosoder—

“**2ZA.** Rhaid cynnal unrhyw brofion swyddogol ar samplau at ddibenion yr Atodlen hon yn unol ag EPPO PM 7/40 ac EPPO PM 7/119.”

(c) ym mharagraff 2A—

(i) yn is-baragraff (a), yn lle “ag Erthyglau 4 a 5 o Gyfarwyddeb 2007/33/EC” rhodder “â'r Rhan hon”;

(ii) yn is-baragraff (b), yn lle “ag Erthygl 6 o Gyfarwyddeb 2007/33/EC” rhodder “â'r Rhan hon”;

(d) ar ôl paragraff 2A mewnosoder—

“**2AA.** Rhaid i ymchwiliad swyddogol i gae at ddibenion paragraff 2A(a) gael ei gynnal—

(1) Cymeradwywyd am y tro cyntaf gan Sefydliad Diogelu Planhigion Ewrop a Glannau'r Canolfor ym mis Medi 2013, ac ar gael oddi wrth ei Ysgrifenyddiaeth yn 21 Boulevard Richard Lenoir, 75011, Paris, Ffrainc ac ar https://www.eppo.int/RESOURCES/eppo_standards/pm7_diagnostic.

- (a) cyn y plannu neu storio arfaethedig; a
- (b) oni bai bod tystiolaeth ddogfennol o ymchwiliad swyddogol blaenorol sy'n cadarnhau na chanfuwyd unrhyw Llyngyr tatws yn ystod yr ymchwiliad ac nad oedd tatws na phlanhigion cynhaliol yn bresennol ar adeg yr ymchwiliad hwnnw ac nad ydynt wedi eu tyfu yn y cae ers yr ymchwiliad hwnnw, rhwng cynaeafu'r cnwd diwethaf yn y cae a'r gwaith arfaethedig o blannu tatws hadyd neu ddeunydd arall sy'n dueddol o gael plâu neu glefydau.

2AB. Yn achos cae lle y mae tatws hadyd neu blanhigion cynhaliol, y bwriedir eu defnyddio i gynhyrchu planhigion ar gyfer eu plannu, i'w plannu neu eu storio, rhaid i ymchwiliad swyddogol at ddibenion paragraff 2A(a) gynnwys samplu pridd y cae ar y gyfradd samplu pridd briodol a chynnal profion swyddogol ar y samplau.

2AC. Yn achos cae lle y mae bylbiau sy'n dueddol o gael plâu neu glefydau neu blanhigion sy'n dueddol o gael plâu neu glefydau, y bwriedir eu defnyddio i gynhyrchu planhigion ar gyfer eu plannu, i'w plannu neu eu storio, rhaid i ymchwiliad swyddogol at ddibenion paragraff 2A(a) gynnwys—

- (a) samplu pridd y cae ar y gyfradd samplu pridd briodol a chynnal profion swyddogol ar y samplau; neu
- (b) gwirio, ar sail canlyniadau profion priodol a gymeradwywyd yn swyddogol, na fu Llyngyr tatws yn bresennol yn y cae yn ystod y 12 mlynedd flaenorol neu wirio, ar sail hanes cnydio hysbys y cae, na thyfwyd unrhyw datws na phlanhigion cynhaliol yn y cae yn ystod y 12 mlynedd flaenorol.

2AD. Rhaid i arolwg swyddogol at ddibenion paragraff 2A(b) gynnwys samplu pridd y cae ar y gyfradd samplu briodol ar o leiaf 0.5% o'r erwau a ddefnyddir i gynhyrchu tatws yn y flwyddyn berthnasol a chynnal profion swyddogol ar y samplau.

2AE. Nid yw paragraff 2A(a) yn gymwys pan fo Gweinidogion Cymru wedi cadarnhau nad oes unrhyw risg o ledaenu Llyngyr tatws ac—

- (a) bod unrhyw ddeunydd sy'n dueddol o gael plâu neu glefydau y bwriedir ei ddefnyddio i gynhyrchu planhigion ar

gyfer eu plannu i'w ddefnyddio o fewn yr un man cynhyrchu sydd wedi ei leoli o fewn ardal sydd wedi ei diffinio yn swyddogol;

- (b) bod tatws hadyd i'w defnyddio o fewn yr un man cynhyrchu sydd wedi ei leoli o fewn ardal sydd wedi ei diffinio yn swyddogol; neu
- (c) yn achos unrhyw fylbiau sy'n dueddol o gael plâu neu glefydau neu blanhigion sy'n dueddol o gael plâu neu glefydau y bwriedir eu defnyddio i gynhyrchu planhigion ar gyfer eu plannu, mae'r planhigion a gynaeafir i fod yn destun mesurau a gymeradwywyd yn swyddogol.

2AF. At ddibenion paragraffau 2AB i 2AD—

- (a) “y gyfradd samplu briodol”, mewn perthynas â chae, yw'r gyfradd samplu ofynnol a bennir yn y tabl a ganlyn—

| <i>Paragraff</i> | <i>Cae</i> | <i>Y Gyfradd</i> | |
|-----------------------|--|--|-------------------------------|
| 2AB a 2AC | Cae \leq 8 o hectarau | 1,500 ml o bridd fesul hectar a gesglir o 100 craidd/hectar o leiaf | |
| | Cae $>$ 8 o hectarau | Yr 8 o hectarau cyntaf | 1,500 ml o bridd fesul hectar |
| | | Pob hectar ychwanegol | 400 ml o bridd fesul hectar |
| | Cae \leq 4 o hectarau sy'n bodloni un maen prawf ym mharagraff (b) | 400 ml o bridd fesul hectar | |
| | Cae $>$ 4 o hectarau sy'n bodloni un maen prawf ym mharagraff (b) | Y 4 o hectarau cyntaf | 400 ml o bridd fesul hectar |
| Pob hectar ychwanegol | | 200 ml o bridd fesul hectar | |
| 2AD | Cae \leq 4 o hectarau | <p>Unrhyw un neu ragor o'r cyfraddau a ganlyn:</p> <p>—400 ml o bridd fesul hectar</p> <p>—gwaith samplu wedi ei dargedu ar o leiaf 400 ml o bridd yn dilyn cynnal archwiliad gweledol o wreiddiau sydd â symptomau gweledol; neu</p> <p>—pan fo'n bosibl olrhain y tatws a gynaeafwyd i'r cae lle y'u tyfwyd, 400 ml o bridd sy'n gysylltiedig â'r tatws a gynaeafwyd</p> | |

- (b) y meini prawf yw—
 - (i) bod tystiolaeth ddogfennol yn bodoli i ddangos nad yw tatws na phlanhigion cynhaliol wedi eu tyfu yn y cae yn y chwe mlynedd cyn yr ymchwiliad swyddogol, neu nad oeddent yn bresennol yn y cae yn ystod y cyfnod hwnnw;
 - (ii) nad oes unrhyw Lyngyr tatws wedi eu canfod yn ystod y ddau ymchwiliad swyddogol olynol diweddaraf mewn samplau o 1,500 ml o bridd/hectar, ac nad oes unrhyw datws na phlanhigion cynhaliol, ac eithrio'r rhai y mae'r ymchwiliad swyddogol yn ofynnol ar eu cyfer, wedi eu tyfu yn y cae ers y cyntaf o'r ddau ymchwiliad dan sylw;
 - (iii) nad oes unrhyw Lyngyr tatws na Llyngyr tatws heb gynnwys byw wedi eu canfod yn yr ymchwiliad swyddogol diweddaraf a oedd ar ffurf maint sampl o 1,500 ml o bridd/hectar o leiaf, ac nad oes unrhyw datws na phlanhigion cynhaliol, ac eithrio'r rhai y mae'r ymchwiliad swyddogol yn ofynnol ar eu cyfer, wedi eu tyfu yn y cae ers yr ymchwiliad swyddogol diweddaraf.”;

(e) ym mharagraff 2C—

- (i) yn lle “a gymeradwywyd yn swyddogol” rhodder “penodedig perthnasol”;
 - (ii) hepgorer “a nodir yn Adran III(C) o Atodiad III i Gyfarwyddeb 2007/33/EC”;
- (f) ym mharagraff 7, yn lle “y mesurau a nodir yn Adran III(A) o Atodiad III i Gyfarwyddeb 2007/33/EC” rhodder “un o'r mesurau penodedig perthnasol”;
- (g) ym mharagraff 11, yn lle “y mesurau a nodir yn Adran 3(A) o Atodiad 3 i Gyfarwyddeb 2007/33/EC” rhodder “un o'r mesurau penodedig perthnasol”;

54. Yn Atodlen 15—

(a) ym mharagraff 1—

- (i) yn y diffiniad o “halogedig”, yn lle “at ddibenion Erthygl 5(1)(a) o Gyfarwyddeb 93/85/EEC” rhodder “yn unol â pharagraff 1D(a)”;
- (ii) yn y diffiniad o “blwyddyn dyfu gyntaf”, yn lle “at ddibenion Erthygl 5(1)(a) o

Gyfarwyddeb 93/85/EEC” rhodder “yn unol â pharagraff 1D(a)”;

(iii) yn y diffiniad o “halogedig o bosibl”, yn lle “at ddibenion Erthygl 5(1)(b) o Gyfarwyddeb 93/85/EEC” rhodder “yn unol â pharagraff 1D(b)”;

(b) ym mharagraff 1A, hepgorer “yn unol ag Erthygl 2(1) o Gyfarwyddeb 93/85/EEC”;

(c) ar ôl paragraff 1A mewnosoder—

1AA. Yn achos cloron *Solanum tuberosum* L., rhaid i’r arolygon hynny gynnwys cynnal profion swyddogol ar datws hadyd a thatws eraill yn unol ag EPP0 PM 7/59.

1AB. Yn achos planhigion *Solanum tuberosum* L., rhaid cynnal yr arolygon hynny yn unol â dulliau priodol, a rhaid iddynt gynnwys cynnal profion swyddogol priodol ar samplau.

1AC. Rhaid i’r gwaith o gasglu samplau at ddibenion paragraffau 1AA ac 1AB fod yn seiliedig ar egwyddorion gwyddonol ac ystadegol cadarn a bioleg Pydredd cylch tatws, ac ystyried systemau cynhyrchu tatws perthnasol.”

(d) ym mharagraff 1B(a), yn lle’r geiriau o “Atodiad 1” hyd at “Gyfarwyddeb 93/85/EEC”, yn yr ail le y mae’n digwydd, rhodder “EPP0 PM 7/59”;

(e) ym mharagraff 1D—

(i) yn is-baragraff (b), yn lle “ystyried y darpariaethau ym mhwynt 1 o Atodiad 3 i Gyfarwyddeb 93/85/EEC” rhodder—

“roi sylw i’r ffactorau a ganlyn—

(i) y deunydd sy’n dueddol o gael plâu neu glefydau a dyfir yn y man cynhyrchu halogedig;

(ii) y manau cynhyrchu sydd ag unrhyw gysylltiad cynhyrchu â’r deunydd hwnnw sy’n dueddol o gael plâu neu glefydau, gan gynnwys y rhai sy’n rhannu cyfarpar a chyfleusterau cynhyrchu yn uniongyrchol neu drwy gontractwr sy’n gyffredin rhyngddynt;

(iii) cynhyrchu deunydd arall sy’n dueddol o gael plâu neu glefydau yn y man cynhyrchu halogedig, neu bresenoldeb deunydd o’r fath yn y man hwnnw;

(iv) y mangreoedd sy’n trafod tatws o’r man cynhyrchu halogedig a’r

mannau cynhyrchu a grybwyllir
ym mharagraff (ii);

- (v) unrhyw wrthrych a allai fod wedi
dod i gyffyrddiad â'r deunydd
halogedig sy'n dueddol o gael plâu
neu glefydau;
 - (vi) unrhyw ddeunydd sy'n dueddol o
gael plâu neu glefydau a gaiff ei
storio mewn unrhyw wrthrych cyn
iddo gael ei ddiheintio, neu
ddeunydd o'r fath sydd wedi dod i
gyffyrddiad ag unrhyw wrthrych
o'r fath;
 - (vii) y deunydd sy'n dueddol o gael
plâu neu glefydau sy'n perthyn fel
chwaer neu riant drwy glonio i'r
deunydd halogedig sy'n dueddol o
gael plâu neu glefydau a manau
cynhyrchu'r deunydd hwnnw";
- (ii) yn is-baragraff (c), yn lle "darpariaethau
ym mhwynt 2 o Atodiad 3 i
Gyfarwyddeb 93/85/EEC" rhodder
"agosrwydd manau cynhyrchu eraill
sy'n tyfu tatws neu blanhigion cynhaliol
eraill a chynhyrchu a defnyddio stociau
tatws hadyd ar y cyd";
- (f) ar ôl paragraff 1D mewnosoder—
- "**IDA.** Wrth wneud dynodiad neu
benderfyniad o dan baragraff 1D, rhaid i
arolygydd roi sylw i egwyddorion gwyddonol
cadarn, bioleg Pydredd cylch tatws a systemau
cynhyrchu, marchnata a phrosesu perthnasol.";
- (g) ym mharagraff 3—
- (i) yn is-baragraff (a), yn lle "unrhyw fesur
arall sy'n cydymffurfio â phwynt 1 o
Atodiad IV i Gyfarwyddeb 93/85/EEC"
rhodder "ddull gwaredu a
gymeradwywyd yn swyddogol sy'n
sicrhau nad oes unrhyw risg
adnabyddadwy o ledaenu Pydredd cylch
tatws";
 - (ii) yn is-baragraff (b), yn lle "yn unol â
phwynt 2 o Atodiad IV i Gyfarwyddeb
93/85/EEC" rhodder "mewn modd sy'n
sicrhau nad oes unrhyw risg
adnabyddadwy o ledaenu Pydredd cylch
tatws";
- (h) ym mharagraff 4, yn lle "Cyfarwyddeb
93/85/EEC" rhodder "yr Atodlen hon";
- (i) ym mharagraff 6(c), yn lle "Atodiad 1 i
Gyfarwyddeb 93/85/EEC" rhodder "EPP0
PM 7/59";

- (j) ym mharagraff 7(c), yn lle “Atodiad 1 i Gyfarwyddeb 93/85/EEC” rhodder “EPPO PM 7/59”;
- (k) ym mharagraff 8(d), yn lle “Atodiad 1 i Gyfarwyddeb 93/85/EEC” rhodder “EPPO PM 7/59”;
- (l) ym mharagraff 10A, yn lle “Erthygl 2 o Gyfarwyddeb 93/85/EEC” rhodder “EPPO PM 7/59”;
- (m) ym mharagraff 20(b), yn lle “Erthygl 2 o Gyfarwyddeb 93/85/EEC” rhodder “EPPO PM 7/59”;

55. Yn Atodlen 16—

- (a) ym mharagraff 1—
 - (i) yn y diffiniad o “halogedig”, yn lle “at ddibenion Erthygl 5(1)(a)(ii) o Gyfarwyddeb 98/57/EC” rhodder “yn unol â pharagraff 1E(c)”;
 - (ii) yn y diffiniad o “blwyddyn dyfu gyntaf”, yn lle “at ddibenion Erthygl 5(1)(a)(ii) o Gyfarwyddeb 98/57/EC” rhodder “yn unol â pharagraff 1E(c)”;
 - (iii) yn y diffiniad o “halogedig o bosibl” yn lle “at ddibenion Erthygl 5(1)(a)(iii) neu (c)(iii) o Gyfarwyddeb 98/57/EC” rhodder “yn unol â pharagraff 1E(d)”;
- (b) ym mharagraff 1A, hepgorer “yn unol ag Erthygl 2 o Gyfarwyddeb 98/57/EC”;
- (c) ar ôl paragraff 1A mewnosoder—

“**1AA.** Rhaid i’r arolygon hynny fod yn seiliedig ar asesiad risg i nodi ffynonellau halogi posibl eraill sy’n peryglu cynhyrchu deunydd sy’n dueddol o gael plâu neu glefydau a chynnwys arolygon swyddogol wedi eu targedu mewn ardaloedd cynhyrchu, yn seiliedig ar yr asesiad risg perthnasol, i nodi presenoldeb Pydredd coch tatws ar—

- (a) deunydd perthnasol, ac eithrio deunydd sy’n dueddol o gael plâu neu glefydau;
- (b) dŵr wyneb a ddefnyddir ar gyfer dyfrhau neu chwistrellu deunydd sy’n dueddol o gael plâu neu glefydau; ac
- (c) gollyngiadau gwastraff hylifol o fangre brosesu neu becynnu diwydiannol sy’n trafod deunydd sy’n dueddol o gael plâu neu glefydau.

1AB. Rhaid i’r arolygon hynny hefyd fod yn seiliedig ar fioleg Pydredd coch tatws a’r systemau cynhyrchu perthnasol, a rhaid iddynt gynnwys—

- (a) yn achos deunydd sy'n dueddol o gael plâu neu glefydau sy'n cynnwys planhigion *Solanum tuberosum* L., cynnal arolygiadau gweledol o'r cnwd sy'n tyfu, ar adegau priodol, neu samplu tatws hadyd a thatws eraill yn ystod y tymor tyfu neu wrth eu storio, a rhaid i hynny gynnwys cynnal arolygiad gweledol swyddogol o gloron drwy eu torri;
- (b) yn achos tatws hadyd a, phan fo'n briodol, thatws eraill, cynnal profion swyddogol ar samplau gan ddefnyddio'r dull a nodir yn EPPO PM 7/21;
- (c) yn achos deunydd sy'n dueddol o gael plâu neu glefydau sy'n cynnwys planhigion *Solanum lycopersicum* L., cynnal arolygiadau gweledol, ar adegau priodol, o leiaf o'r cnwd o blanhigion sy'n tyfu y bwriedir eu defnyddio i'w hailblannu at ddefnydd proffesiynol;
- (d) ar gyfer planhigion cynhaliol, ac eithrio deunydd sy'n dueddol o gael plâu neu glefydau, ac ar gyfer dŵr gan gynnwys gwastraff hylifol, cynnal profion swyddogol.

1AC. Rhaid i'r gwaith o gasglu samplau at ddibenion paragraff 1AB fod yn seiliedig ar egwyddorion gwyddonol ac ystadegol cadarn a bioleg Pydredd coch tatws, ac ystyried systemau cynhyrchu tatws perthnasol o ran deunydd sy'n dueddol o gael plâu neu glefydau a phlanhigion cynhaliol eraill Pydredd coch tatws."

- (d) ym mharagraff 1B(a)(i), yn lle'r geiriau o "Atodiad 2" hyd at y diwedd rhodder "EPPO PM 7/21";
- (e) ym mharagraff 1B(b), yn lle'r geiriau o "a bennir" hyd at "Cyfarwyddeb 98/57/EC" rhodder "y cyfeirir atynt yn EPPO PM 7/21";
- (f) ym mharagraff 1E—
 - (i) yn is-baragraff (a), yn lle "yn unol ag Atodiad 4 i Gyfarwyddeb 98/57/EC" rhodder—

"sy'n cynnwys cynnal ymchwiliad i'r pethau a ganlyn—

 - (i) tatws sy'n tyfu neu a gynaeafwyd sy'n perthyn drwy glonio i unrhyw datws halogedig;
 - (ii) tomatos sy'n tyfu neu a gynaeafwyd sydd o'r un ffynhonnell ag unrhyw domatos halogedig;

- (iii) tatws neu domatos sy'n tyfu neu a gynaeafwyd sydd o dan reolaeth swyddogol ac yr amheuir eu bod wedi eu halogi â Phydredd coch tatws;
 - (iv) tatws sy'n tyfu neu a gynaeafwyd sy'n perthyn drwy glonio i unrhyw datws a dyfwyd yn y man cynhyrchu halogedig;
 - (v) tatws neu domatos sy'n tyfu gerllaw'r man cynhyrchu halogedig, gan gynnwys y rhai sy'n rhannu cyfarpar a chyfleusterau cynhyrchu yn uniongyrchol neu drwy gcontractwr sy'n gyffredin rhyngddynt;
 - (vi) dŵr wyneb a ddefnyddir ar gyfer dyfrhau a chwistrellu o unrhyw ffynhonnell y cadarnheir neu yr amheuir ei bod wedi ei halogi a Phydredd coch tatws;
 - (vii) dŵr wyneb a ddefnyddir ar gyfer dyfrhau a chwistrellu o ffynhonnell a ddefnyddir ar y cyd â'r manau cynhyrchu halogedig a'r manau cynhyrchu sy'n halogedig o bosibl;
 - (viii) manau cynhyrchu sydd wedi eu gorlifo, neu a oedd wedi eu gorlifo, â dŵr wyneb halogedig neu ddŵr sy'n halogedig o bosibl;
 - (ix) dŵr wyneb a ddefnyddir ar gyfer dyfrhau neu chwistrellu'r man cynhyrchu halogedig neu gaeau sydd wedi eu gorlifo yn y man cynhyrchu halogedig";
- (ii) yn is-baragraff (e), yn lle "yn unol â phwynt 2(i) o Atodiad 5 i Gyfarwyddeb 98/57/EC" rhodder "gan ystyried y ffactorau perthnasol";
- (g) ym mharagraff 1F—
- (i) yn is-baragraff (a), yn lle "yn unol ag Atodiad 4 i Gyfarwyddeb 98/57/EC" rhodder "sy'n cynnwys cynnal ymchwiliad i'r pethau y cyfeirir atynt ym mharagraff 1E(a)(i) i (ix)";
 - (ii) yn is-baragraff (d), yn lle "yn unol â phwynt 2(i) o Atodiad 5 i Gyfarwyddeb 98/57/EC" rhodder "gan ystyried y ffactorau perthnasol";
- (h) ym mharagraff 1G(d), yn lle "yn unol â phwynt 2(ii) o Atodiad 5 i Gyfarwyddeb 98/57/EC" rhodder "gan ystyried y ffactorau perthnasol";

- (i) ar ôl paragraff 1G mewnosoder—
- “**1H.** Y “ffactorau perthnasol” yw—
- (a) at ddibenion paragraffau 1E ac 1F—
- (i) agosrwydd manau cynhyrchu eraill sy’n tyfu deunydd sy’n dueddol o gael plâu neu glefydau;
 - (ii) cynhyrchu a defnyddio stociau tatws hadyd ar y cyd;
 - (iii) manau cynhyrchu sy’n defnyddio dŵr wyneb i ddyfrhau neu chwistrellu deunydd sy’n dueddol o gael plâu neu glefydau pan fo risg o ddŵr wyneb ffo o’r man cynhyrchu halogedig;
- (b) at ddibenion paragraff 1G—
- (i) manau cynhyrchu sy’n cynhyrchu deunydd sy’n dueddol o gael plâu neu glefydau sy’n gyfagos i ddŵr wyneb halogedig, neu sy’n wynebu risg o orlifo gan ddŵr o’r fath;
 - (ii) unrhyw fasn dyfrhau ar wahân sy’n gysylltiedig â’r dŵr wyneb halogedig;
 - (iii) crynofeydd dŵr sy’n gysylltiedig â’r dŵr wyneb halogedig, gan roi sylw i gyfeiriad a chyfradd llif y dŵr wyneb halogedig a phresenoldeb planhigion cynhaliol mochlysaidd gwyllt.”;
- (j) ym mharagraff 3—
- (i) yn is-baragraff (a), yn lle “unrhyw fesur sy’n cydymffurfio â phwynt 1 o Atodiad VI i Gyfarwyddeb 98/57/EC” rhodder “dull gwaredu a gymeradwywyd yn swyddogol sy’n sicrhau nad oes unrhyw risg adnabyddadwy o ledaenu Pydredd coch tatws”;
 - (ii) yn is-baragraff (b), yn lle “yn unol â phwynt 2 o Atodiad VI i Gyfarwyddeb 98/57/EC” rhodder “drwy ddull gwaredu a gymeradwywyd yn swyddogol sy’n sicrhau nad oes unrhyw risg adnabyddadwy o ledaenu Pydredd coch tatws”;
- (k) ym mharagraff 4, yn lle “Cyfarwyddeb 98/57/EC” rhodder “yr Atodlen hon”;
- (l) ym mharagraff 6(c), yn lle “Atodiad 2 i Gyfarwyddeb 98/57/EC” rhodder “EPPO PM 7/21”;

- (m) ym mharagraff 7(b)(iii), yn lle “Atodiad 2 i Gyfarwyddeb 98/57/EC” rhodder “EPPO PM 7/21”;
- (n) ym mharagraff 8(g), yn lle “Atodiad 2 i Gyfarwyddeb 98/57/EC” rhodder “EPPO PM 7/21”;
- (o) ym mharagraff 20—
 - (i) yn is-baragraff (a), yn lle “Erthygl 5(1)(a)(iv) o Gyfarwyddeb 98/57/EC” rhodder “paragraff 1E(e)”;
 - (ii) yn is-baragraff (b), yn lle “Erthygl 5(1)(c)(iii) o Gyfarwyddeb 98/57/EC” rhodder “paragraff 1G(d)”;
- (p) ym mharagraff 21(b), yn lle “Erthygl 2 o Gyfarwyddeb 98/57/EC” rhodder “EPPO PM 7/21”;

56. Ar ôl Atodlen 16, mewnosoder—

“ATODLEN 16A Erthygl 41

Trwyddedau at ddibenion treialu neu ddibenion gwyddonol neu ar gyfer gwaith ar ddetholiadau amrywogaethol

1. Yn yr Atodlen hon, ystyr “gweithgaredd penodedig” (“*specified activity*”) yw unrhyw weithgaredd at ddibenion treialu neu ddibenion gwyddonol neu ar gyfer gwaith ar ddetholiadau amrywogaethol.

RHAN A

Yr wybodaeth sydd i’w chynnwys mewn
cais am drwydded wyddonol

2. Enw a chyfeiriad y person sy’n gyfrifol am y gweithgaredd penodedig arfaethedig.

3. Y manylion a ganlyn mewn perthynas â’r deunydd perthnasol a’r plâu planhigion sydd i’w defnyddio yn y gweithgaredd penodedig—

- (a) ei enw gwyddonol neu eu henwau gwyddonol;
- (b) y math o ddeunydd perthnasol;
- (c) swm y deunydd perthnasol;
- (d) tarddle’r deunydd perthnasol;
- (e) y man lle y mae’r deunydd perthnasol i’w storio gyntaf neu ei blannu gyntaf ar ôl ei ollwng yn swyddogol (pan fo’n berthnasol);

- (f) y dull arfaethedig o ddinistrio neu drin y deunydd perthnasol ar ôl cwblhau'r gweithgaredd perthnasol (pan fo'n berthnasol);
- (g) yn achos unrhyw ddeunydd perthnasol neu bla planhigion sydd i'w fewnforio o drydedd wlad, ei fan cyrraedd arfaethedig yn y Deyrnas Unedig.

4. Yn achos unrhyw ddeunydd perthnasol sydd i'w ddefnyddio yn y gweithgaredd penodedig, tystiolaeth ddogfennol briodol i gadarnhau ei darddle.

5. Hyd, natur ac amcanion y gweithgaredd penodedig arfaethedig, gan gynnwys crynodeb o'r gwaith sydd i'w wneud a manyleb y gwaith hwnnw.

6. Cyfeiriad y safle penodol neu'r safleoedd penodol lle y mae'r gweithgaredd penodedig arfaethedig i'w gynnal, a disgrifiad o'r safle hwnnw neu'r safleoedd hynny.

RHAN B

Yr amodau cyffredinol sydd i'w bodloni mewn perthynas â chais am drwydded wyddonol

7. Bod natur ac amcanion y gweithgaredd penodedig yn cydymffurfio â'r cysyniad o dreialu neu ddibenion gwyddonol neu ar gyfer gwaith ar ddetholiadau amrywogaethol.

8. Bod y fangre a'r cyfleusterau yn y safle neu'r safleoedd lle y mae'r gweithgaredd penodedig i'w gynnal yn bodloni unrhyw amodau perthnasol o ran ynysu o dan gwarant.

9. Bod y personél sy'n cynnal y gweithgaredd penodedig yn meddu ar gymwysterau gwyddonol a thechnegol priodol.

RHAN C

Yr amodau trwydded sy'n ymwneud ac unrhyw bla planhigion neu ddeunydd perthnasol sydd i'w ddefnyddio mewn gweithgaredd penodedig

10. At ddibenion erthygl 41(2)(a), yr amodau yw—

- (a) yn achos unrhyw ddeunydd perthnasol, bod llythyr awdurdodi a ddyroddir gan

- y sefydliad gwarchod planhigion cenedlaethol perthnasol ar sail tystiolaeth ddogfennol briodol o ran tarddle'r deunydd yn mynd gyda'r deunydd perthnasol wrth iddo gyrraedd y Deyrnas Unedig;
- (b) yn achos unrhyw ddeunydd perthnasol o ddisgrifiad a bennir yn Atodlen 5 i'r Rheoliadau Iechyd Planhigion, bod tystysgrif ffytoiechydol a ddyroddwyd yn y wlad y mae'r deunydd perthnasol yn tarddu ohoni yn mynd gyda'r deunydd hwnnw pan fo'n bosibl sy'n—
- (i) cadarnhau bod y deunydd yn rhydd rhag unrhyw bla planhigion a reoleiddir, ac eithrio unrhyw bla planhigion yr awdurdodir ei fewnforio gan y drwydded;
 - (ii) cynnwys y datganiad a ganlyn o dan y pennawd 'Additional declaration', 'This material is imported under Article 41 of the Plant Health (Wales) Order 2018'; a
 - (iii) cynnwys enw unrhyw bla planhigion awdurdodedig;
- (c) bod y deunydd perthnasol yn cael ei gadw o dan amodau cwarantín, ac ar ôl cyrraedd yn cael ei symud yn uniongyrchol ac ar unwaith i'r safle neu'r safleoedd a bennir yn y drwydded.

RHAN D

Mesurau cwarantín y drwydded

11. Mesurau cwarantín y drwydded yw—

- (a) yn achos y mangreoedd, y cyfleusterau â'r gweithdrefnau sy'n ymwneud â'r gweithgaredd penodedig:
- (i) ynysu yn ffisegol unrhyw blâu planhigion neu ddeunydd perthnasol a ddefnyddir yn y gweithgaredd penodedig rhag yr holl blâu planhigion eraill a'r holl ddeunydd perthnasol arall, gan gynnwys rheoli llystyfiant yn yr ardaloedd oddi amgylch, pan fo'n briodol;
 - (ii) dynodi person cyswllt sy'n gyfrifol am y gweithgaredd penodedig;

- (iii) gweithredu cyfyngiadau ar fynediad i'r mangreoedd a'r cyfleusterau a ddefnyddir mewn perthynas â'r gweithgaredd penodedig a, phan fo'n briodol, i'r ardaloedd oddi amgylch y mangreoedd a'r cyfleusterau hynny, i bersonél a enwir yn unig;
- (iv) manylion adnabod priodol y mangreoedd a'r cyfleusterau a ddefnyddir, gan nodi'r mathau o weithgareddau a'r personél sy'n gyfrifol amdanynt;
- (v) cadw cofrestr o'r gweithgareddau a gynhelir a llunio llawlyfr gweithdrefnau, gan gynnwys gweithdrefnau i'w rhoi ar waith pe bai plâu planhigion yn dianc o'r cyfleusterau ynysu;
- (vi) cynnal systemau diogelwch a larymau priodol;
- (vii) gweithredu—
 - (aa) mesurau rheoli priodol i atal cyflwyno plâu planhigion i'r mangreoedd a ddefnyddir ac atal y plâu rhag lledaenu o fewn y mangreoedd hynny;
 - (bb) gweithdrefnau a reolir ar gyfer samplu, ac ar gyfer trosglwyddo'r deunydd rhwng y mangreoedd a'r cyfleusterau a ddefnyddir;
 - (cc) rheolaethau ar gyfer gwaredu gwastraff, pridd a dŵr, fel y bo'n briodol;
 - (dd) gweithdrefnau a chyfleusterau hylendid a diheintio priodol ar gyfer personél, strwythurau a chyfarpar;
 - (ee) mesurau a chyfleusterau priodol ar gyfer gwaredu deunydd arbrofol; ac
 - (ff) cyfleusterau a gweithdrefnau mynegeio priodol (gan gynnwys cynnal profion); a
- (b) mesurau cwarantín priodol eraill yn unol â bioleg ac epidemioleg penodol y math o ddeunydd dan sylw a'r gweithgareddau a gymeradwywyd, gan gynnwys—

- (i) cynnal cyfleusterau sy'n hygyrch i bersonél awdurdodedig drwy ystafell ar wahân sydd â dau ddrws cydglodol;
- (ii) cynnal cyfleusterau o dan bwysedd aer negyddol,
- (iii) defnyddio cynwysyddion sy'n atal plâu neu glefydau rhag dianc ohonynt, sydd â masgl o faint priodol a rhwystrau eraill;
- (iv) cadw'r deunydd wedi ei ynysu rhag plâu planhigion eraill a deunyddiau eraill;
- (v) cadw unrhyw ddeunydd ar gyfer bridio mewn cewyll bridio sydd â dyfeisiau trin;
- (vi) gwahardd unrhyw ryngfridio rhwng y pla planhigion â mathau brodorol neu rywogaethau brodorol;
- (vii) gweithredu rheolaethau ar feithriniad parhaus y pla planhigion;
- (viii) cadw'r pla planhigion o dan amodau llym sy'n rheoli lluosogiad y pla planhigion;
- (ix) rhoi gweithdrefnau ar waith i wirio purdeb meithriniadau'r pla planhigion er mwyn sicrhau ei fod yn rhydd rhag parasitiaid a phlâu planhigion eraill;
- (x) gweithredu rhaglenni rheolaeth priodol mewn cysylltiad â'r deunydd er mwyn dileu fectorau posibl;
- (xi) yn achos gweithgareddau *in vitro*, gweithredu rheolaethau ar drafod y deunydd o dan amodau sterilaidd;
- (xii) cadw'r pla planhigion o dan amodau sy'n sicrhau nad yw'n gallu lledaenu drwy unrhyw fector; a
- (xiii) ynysu'r deunydd yn dymhorol i sicrhau y cynhelir y gweithgareddau yn ystod cyfnodau o risg isel i iechyd planhigion.”.

RHAN 4

Diwygio Rheoliadau Iechyd Planhigion etc. (Ffioedd) (Cymru) 2018: Ymadael â'r Undeb Ewropeaidd

57. Mae Rheoliadau Iechyd Planhigion etc. (Ffioedd) (Cymru) 2018(1) wedi eu diwygio fel a ganlyn.

58. Yn rheoliad 3—

(a) ym mharagraff (1), yn lle “i Orchymyn 2018” rhodder “neu Atodlen 7 i'r Rheoliadau Iechyd Planhigion (Ymadael â'r UE) 2019”;

(b) ar ôl paragraff (2) mewnosoder—

“(2A) Nid yw paragraff 2(b) i (d) yn gymwys i lwyth sy'n tarddu o'r Undeb Ewropeaidd neu'r Swistir.”.

(c) ym mharagraff (3)(b), yn lle “a gyflwynir i Gymru o drydedd wlad” rhodder—

“—

(i) a ddygir i fan cyrraedd a leolir yng Nghymru ac nas bwriedir iddo fynd i fan arolygu cymeradwy yn un o diriogaethau eraill y DU; neu

(ii) a ddygir i fan cyrraedd a leolir yn un o diriogaethau eraill y DU ac y bwriedir iddo fynd i fan arolygu cymeradwy yng Nghymru”;

(d) ar ôl paragraff (3), mewnosoder—

“(4) Mae i eiriau ac ymadroddion nad ydynt wedi eu diffinio yn y rheoliad hwn ac sy'n ymddangos yng Ngorchymyn 2018 yr un ystyr yn y rheoliad hwn ag sydd iddynt yng Ngorchymyn 2018.”;

59. Yn rheoliad 4(6)(a), ar ôl “pasbortau planhigion” mewnosoder “y DU”.

60. Yn rheoliad 6—

(a) ym mharagraff (1), yn lle “paragraff 5 o'r Atodiad i'r Penderfyniad” rhodder “eitem 7 o Ran D o Atodlen 4 i'r Rheoliadau Iechyd Planhigion (Ymadael â'r UE) 2019”;

(b) hepgorer paragraff (2).

61. Hepgorer rheoliad 7.

62. Yn rheoliad 8, ym mharagraffau (3) a (6), yn lle “yr Undeb” rhodder “y DU”.

63. Yn Atodlen 5, yng ngholofn 1 o'r tabl, yn lle “yr Undeb”, ym mhob lle y mae'n digwydd, rhodder “y DU”.

(1) O.S. 2018/1179 (Cy. 238).

RHAN 5

Dirymu

64. Mae Rheoliadau Tatws sy'n Tarddu o'r Aifft (Cymru) 2004(1) wedi eu dirymu.

Enw

Gweinidog yr Amgylchedd, Ynni a Materion Gwledig,
un o Weinidogion Cymru
Dyddiad

(1) O.S. 2004/2245 (Cy. 209), fel y'i diwygiwyd gan O.S. 2014/1463 (Cy. 144).

Explanatory Memorandum to Plant Health (Amendment) (Wales) (EU Exit) Regulations 2019

This Explanatory Memorandum has been prepared by the Plant Health and Environment Protection Branch within the Economy, Skills and Natural Resources Department and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister/Deputy Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Plant Health (Amendment) (Wales) (EU Exit) Regulations 2019

I have made the statements required by the European Union (Withdrawal) Act 2018. These statements can be found in Part 2 of the Annex to this memorandum.

I am satisfied that the benefits justify the likely costs.

Lesley Griffiths
Minister for Environment, Energy and Rural Affairs
20 February 2019

PART 1

1. Description

- 1.1 The Plant Health (Amendment) (Wales) (EU Exit) Regulations 2019 ('the Regulations') correct deficiencies in domestic legislation which implements EU Directive 2000/29/EC on measures to protect plant health arising in consequence of the UK's withdrawal from the EU in a 'no deal' scenario. The Regulations also transpose provisions in certain Council Directives in relation to the planting of certain *solanaceous* species and the control of relevant plant pests.
- 1.2 Parts of the Regulations come into force on "exit day", which section 20(1) of the European Union (Withdrawal) Act 2018 ('the 2018 Act') defines as 29 March 2019 at 11.00pm.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

- 2.1 In accordance with paragraph 1(8) of Schedule 7 to the 2018 Act the Regulations are subject to the affirmative procedure as they create a criminal offence and relate to a fee in respect of a function exercisable by a public authority in the UK. The Regulations are also subject to the affirmative procedure in accordance with paragraph 2(2) of the European Communities Act 1972.

3. Legislative background

- 3.1 The Regulations are being made in exercise of the power in Part 1 of Schedule 2 to the 2018 Act in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the UK from the European Union. The Regulations are also made in exercise of the power in paragraph 21 of Schedule 7 to the 2018 Act. In accordance with the requirements of the 2018 Act the Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.
- 3.2 Alongside the 2018 Act powers the Regulations are also made in exercise of powers conferred by the European Communities Act 1972. The Welsh Ministers are designated by the European Communities (Designation) (No 5) Order 2010 for the purposes of section 2(2) of the European Communities Act 1972 in relation to the common agricultural policy of the European Union.

4. Purpose and intended effect of the legislation

What did any relevant EU law do before exit day?

- 4.1 Council Directive 2000/29/EC on protective measures against the introduction into the EU of organisms harmful to plants or plant products and against their spread within the EU (“the Plant Health Directive”) establishes the EU plant health regime. Whilst protecting against plant health risks, the Plant Health Directive also provides for the trade and movement of plant material within and between EU Member States, thereby creating an internal EU market for this material.
- 4.2 Part of the Plant Health Directive is implemented in Wales by the Plant Health (Wales) Order 2018 (S.I. 2018/1064) (W.223). The Order sets out obligations for the control and management of plant health risks from the import of plant material from third countries and the movement of such material within the EU single market, in order to protect biosecurity and the value of plant material to the economy and society. Similar but separate legislation operates in Scotland, England and Northern Ireland.

Why is it being changed?

- 4.3 Under the EU single market, plant material may move freely between and within member states and between member states and Switzerland. Material which hosts the most serious pests and diseases requires an EU plant passport to facilitate its movement. The Regulations introduce changes in relation to the import of plant material from EU member states and Switzerland and the movement of such material within Wales, to ensure that the current legislation continues to operate effectively after the UK has left the EU in the event of a ‘no deal’ scenario.
- 4.4 The Regulations also make consequential minor amendments to the existing fees set out in the Plant Health etc. (Fees) (Wales) Regulations 2018 (S.I. 2018/1179) (W.238) to remove inappropriate references to EU legislation and ensure legal operability post-exit.

What will it now do?

- 4.5 The Regulations will ensure that plant health legislation in Wales, which implements current EU protective measures against the introduction and spread of organisms harmful to plants or plant products, remains effective after the UK leaves the EU in a ‘no deal’ scenario.
- 4.6 Plants and plant products currently managed under the EU plant passport regime when moving to Wales from EU member states and Switzerland (“the EU member states”) will be subject to import controls which will replace the assurance and traceability which the EU plant passport regime offers, maintaining biosecurity and border flow whilst minimising the impact on businesses. Consignments of these plants and plant products entering the UK will require a phytosanitary certificate issued in the country of export in accordance with International Plant Protection Convention obligations. However, in order to maintain the flow of goods, consignments of plants and plant products from EU member

states will not be stopped at the border. The relevant UK plant health authority will carry out documentary and identity checks for those consignments remotely, thereby ensuring future traceability of the material should that need arise. Recognising that biosecurity risks associated with EU goods do not change immediately on EU exit, physical checks will not be carried out on material imported from EU member states.

- 4.7 Under the Plant Health Directive checks on material imported from third countries are normally carried out at the first point of entry into the EU, so material arriving in Wales from a third country via the EU will already have been subject to the required plant health checks. Following the UK's exit from the EU consignments transiting the EU on their way to Wales will not be checked when they enter the EU and so will require checking on arrival in Wales. Some consignments arrive via fast moving roll-on, roll-off (Ro-Ro) ports, where stopping goods for checks at the border would create significant disruptions to the flow of traffic. Therefore, in order to ensure frictionless trade, businesses wishing to bring third country regulated goods into Wales via the EU at Ro-Ro ports will be required to facilitate plant health checks inland at their own premises. Premises will need to be authorised by the Welsh Government and provide specified inspection facilities. They will need to pre-notify arrival of such consignments to the Welsh Government and specify where the consignment will be held awaiting checks. The consignments will not be permitted to be moved from the authorised premises until the plant health authority has carried out the necessary checks.
- 4.8 The amendments outlined in paragraphs 4.6 and 4.7 are covered in Part 3, regulations 10 to 24 of the Regulations.
- 4.9 These amendments include a new offence in relation to the new import requirements described in paragraph 4.7 to provide the ability to enforce and prosecute serious cases of non-compliance.
- 4.10 In order to facilitate the monitoring of plant material moving within the UK, a system of UK plant passports is to be introduced to replace the EU plant passports required for the movement of material between and within member states under the EU single market.
- 4.11 A new criminal offence is also added to enforce any failure to comply with any requirement in a general notice issued under the Plant Health (Wales) Order 2018 in respect of a demarcated area. The provisions in EU emergency plant health decisions, which require demarcated areas to be established in the event of an outbreak, will be retained direct EU legislation. The EU decisions will require the Welsh Ministers to demarcate areas around a pest outbreak and take measures to eradicate and contain the outbreak. It has not been necessary for any demarcated areas to be established in the UK under any of the EU decisions to date, but the new powers to issue general notices in respect of any demarcated area that is established under these provisions will

ensure that the Welsh Ministers are able to meet their obligations under this retained direct EU legislation.

- 4.12 Regulations 57 to 63 (Part 4) of the Regulations also make consequential minor amendments to the existing fees set out in the Plant Health etc. (Fees) (Wales) Regulations 2018 to remove inappropriate references to EU legislation and ensure legal operability post-exit.
- 4.13 The Regulations also amend the provisions at articles 40 and 41 of the Plant Health (Wales) Order 2018 on the issue of licences for activities prohibited by the order to ensure that they remain operable after EU exit.
- 4.14 The Regulations also transpose provisions in Council Directives 69/464/EEC, 93/85/EEC, 98/57/EC and 2007/33/EC that apply to competent authorities in relation to the planting of certain *solanaceous* species and the control of relevant plant pests, so that following the UK's exit from the EU in a 'no deal' scenario, the UK will be able to demonstrate to third countries that it continues to maintain the same control over the production of potatoes. This is important in terms of any future trading arrangements the UK may enter into with third countries. These amendments are covered at Part 2, regulations 3 to 22 and the amendments relating to the deficiencies in these provisions that will arise on the UK's withdrawal from the EU, in Part 3, regulations 53 to 55.

5. Consultation

- 5.1 As there is no policy change, no public consultation was undertaken. The purpose of the instrument is to enable the current legislative and policy framework to remain operable after the withdrawal of the UK from the European Union.

6. Regulatory Impact Assessment (RIA)

- 6.1 The Regulations have no major policy impact. The Regulations largely correct technical deficiencies that will arise from withdrawal and ensure that the existing regimes for safeguarding UK biosecurity will continue to operate effectively.
- 6.2 There is no, or no significant, impact on business, charities or voluntary bodies. There is no, or no significant, impact on the public sector in Wales.
- 6.3 The impact on business results from additional phytosanitary requirements when importing plants and plant products from the EU into the UK which currently require a plant passport. This is associated with the requirement to provide a certificate, pre-notify imports from the EU, undergo document and identity checks, the requirement to use UK rather than EU plant passports for intra-UK movements of plant passported commodities and third country phytosanitary certificates transiting

through the EU. These direct costs on businesses overall are expected to be negligible and could affect around 20 businesses (based on those registered for plant passporting currently in Wales) and businesses importing third country commodities via the EU.

Additional Direct Costs – on Day 1 the main additional direct costs are expected to be:

- 6.4 Requirement to provide phytosanitary certificates for regulated EU commodities imported to the UK - The administrative burden of providing the phytosanitary certificate will fall on the National Plant Protection Organisation in the member state exporting the consignment, as well as the exporter in the first instance. However, the cost associated with this is likely to be passed on to the importer and ultimately, the customer. The requirement to provide a phytosanitary certificate is expected to affect a small proportion of plants/plant products only (i.e. those where plant passports are currently required for trade deemed to have a high biosecurity risk) from total annual imports of regulated plants/plant products from the EU to the UK.
- 6.5 There may also be additional time requirements to businesses of applying for and providing the required information to get the certificate.
- 6.6 Requirement to pre-notify imports of regulated EU commodities – this will represent an additional administrative burden. Importers will need to register onto the PEACH IT system and provide consignment details and scanned copies of import documentation and phytosanitary certificates. However, there are no charges to use this system and businesses who already trade in regulated third country plants and plant products will be familiar with this process, so the additional costs are expected to be negligible.
- 6.7 Requirement to undergo documentary and identity checks on regulated EU commodities – this will represent an additional cost burden on importers, who will be subject to a fee for the checks carried out. However, the checks will take place after entry to the UK and consignments will not be held awaiting checks. This avoids an additional time-related burden on businesses. EU imports will also not be subject to, or charged for, physical checks.
- 6.8 Requirement to use UK rather than EU plant passports for intra-UK movements of plant passported commodities – this will require businesses moving plant passported commodities within the UK to modify the reference code that they use when issuing plant passports, replacing 'EU' with 'UK'. The process for authorising businesses for plant passporting will not change and businesses who will need to use the system on Day 1 are likely to already be registered. Therefore, we expect no extra impact on business from this change.

- 6.9 Third Country consignments of regulated plant material arriving in the UK via the EU would incur some small additional costs, as importers entering plants and plant products from third countries through Ro-Ro ports will be able to have checks carried out at authorised trade premises inland to avoid impacts at the border. The costs associated with checks and issue of the phytosanitary certificate will simply be a transfer of what previously took place in the EU. It is likely the original EU cost would be passed through to UK importers, assuming the anticipated cost-savings in the EU are similarly passed through then no additional impacts are created. However, there is an additional potential indirect time delay cost for the small proportion of third country goods that transit through the EU to the UK, associated with checks now happening inland instead of at the border. There may also be costs for storage while carrying out checks and any additional transport/wage costs incurred. This is expected to be minimal.
- 6.10 The impact on the public sector results from the list of direct costs above. Where costs relate to the service provided by the Animal and Plant Health Agency, most can be recovered from businesses who use and benefit from these services, but there are some that are not eligible to be recovered and will, therefore, be borne by the public sector.

Additional Indirect Costs

- 6.11 We could expect indirect costs if phytosanitary certification processes (either pre-UK or within UK) lead to delays in delivering plants and plant products to the sales shelf, which could erode product life and value. This would particularly be an issue for perishable plants and plant products. However, given that the approach is to undertake any checks remotely for goods that currently require an EU plant passport, in order to minimise disruption (and only follow-up in the way that would be done for plant passporting already), we do not expect any additional impacts on businesses, unless they occur pre-border in EU countries.
- 6.12 Some businesses may not be able to host checks inland at their premises. These businesses would need to enter their consignment at a port in the UK that could carry out checks at the border. There may, therefore, be indirect costs associated with the requirement to send goods via a different route.

Additional Benefits

- 6.13 There may be some minimal increase in protection against the spread of plant pests and diseases. This is because the current requirement is for an EU plant passport for trade in higher risk plants and plant products between the UK and other EU countries and that requirement would now increase to a phytosanitary certificate for those plants and plant products. In addition, there may be extra data available on higher risk commodities (through pre-notification), which would allow for better

targeting of plants and pests from the EU which present a biosecurity risk.

- 6.14 An impact assessment has not been prepared for this instrument because the direct impacts on businesses and the public sector are expected to be negligible and not requiring an impact assessment, as outlined in paragraphs 6.3 to 6.13 above.

Annex

Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required of the Welsh Ministers under the 2018 Act. The table also sets out those statements that may be required of Ministers of the Crown under the 2018 Act, which the Welsh Ministers have committed to also provide when required. The required statements can be found in Part 2 of this annex.

| Statement | Where the requirement sits | To whom it applies | What it requires |
|-----------------|---|--|---|
| Sifting | Paragraphs 3(7) and 4(3), Schedule 7 <i>Paragraph 3(7) (anticipated to be a requirement on Welsh Ministers in Standing Orders)</i> | The Welsh Ministers exercising powers in Part 1 of Schedule 2 to make a Negative SI Paragraph 3(7) applies to Ministers of the Crown, but Welsh Ministers have committed to make the same statement | A statement to explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation of the CLA Committee (as sifting committee) |
| Appropriateness | Sub-paragraph (2) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement that the SI does no more than is appropriate. |
| Good Reasons | Sub-paragraph (3) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or | A statement to explain the good reasons for making the instrument and that what is being done is a reasonable |

| | | | |
|-------------------|--|--|---|
| | | jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | course of action. |
| Equalities | Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement to explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them. A statement that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010. |
| Explanations | Sub-paragraph (6) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement to explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g. whether minor or technical changes only are intended to the EU retained law. |
| Criminal offences | Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement setting out the 'good reasons' for creating a criminal offence, and the penalty attached. |
| Sub-delegation | Paragraph 30, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 18(1), 9 and paragraph 1 of Schedule 4 to create a legislative power exercisable not | A statement to explain why it is appropriate to create such a sub-delegated power. |

| | | | |
|---------|--|--|--|
| | | <p>by a Minister of the Crown or a Devolved Authority.</p> <p>Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 or paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority</p> | |
| Urgency | Sub-paragraph (2) and (8) of paragraph 7, Schedule 7 | Welsh Ministers exercising powers in Part 1 of Schedule 2 but using the urgent procedure in paragraph 7 of Schedule 7 | A statement that the Welsh Ministers are of the opinion that it is necessary to make the SI using the urgent procedure and the reasons for that opinion. |

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

1. Sifting statement(s)

Not applicable.

2. Appropriateness statement

The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Plant Health (Amendment) (Wales) (EU Exit) Regulations 2019 do no more than is appropriate”. This is the case because the Regulations largely correct technical deficiencies that will arise from withdrawal and ensure that the existing regimes for safeguarding UK biosecurity will continue to operate effectively, in Wales, once we leave the EU. This is in line with government policy.

3. Good reasons

The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this draft instrument, and I have concluded they are a reasonable course of action”. This is because there is real public concern about biosecurity and that the government should at least maintain the protections that currently exist. The public would also expect us to be able to take enforcement action against those that are in breach of plant health legislation. In addition, businesses would expect us to provide conditions within Wales that support the trade and movement of plant material.

4. Equalities

4.1 The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement(s):

“The draft instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts.

4.2 The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the draft instrument, I, Lesley Griffiths, have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010”.

4.3 Little or no impact on equalities is expected.

5. Explanations

The explanations statement has been made in paragraph 4 (Purpose & intended effect of the legislation) of the main body of this explanatory memorandum.

6. Criminal offences

6.1 The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018.

“In my view there are good reasons for the creation of criminal offences and for the penalties in respect of them in the Plant Health (Amendment) (Wales) (EU Exit) Regulations 2019.”

Amendments to existing offences in the Plant Health (Wales) Order 2018 will be needed to reflect new requirements introduced through the Plant Health (Amendment) (Wales) (EU Exit) Regulations 2019 for regulated third country goods which enter Wales via the EU, which have not been subject to plant health checks in the EU and arrive at fast-moving, high volume Ro-Ro ports. The new requirements will require these goods to be moved inland and held securely until plant health checks have been completed. The new offence will provide the ability to enforce and prosecute serious cases of non-compliance with these new requirements.

In addition, a new criminal offence is also required to enforce any failure to comply with any prohibition or restriction in demarcated areas to prevent the spread of certain harmful plant pests in cases where this is an outbreak involving certain pests.

Offences under the Plant Health (Wales) Order 2018 carry, on summary conviction, a penalty of a fine not exceeding level 5 on the standard scale.

7. Legislative sub-delegation

7.1 Not applicable.

8. Urgency

8.1 Not applicable.

Eitem 4.19

SL(5)365 - Rheoliadau Gwasanaethau Rheoleiddiedig (Darparwyr Gwasanaethau ac Unigolion Cyfrifol) (Cymru) (Diwygio) 2019

Cefndir a Diben

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Gwasanaethau Rheoleiddiedig (Darparwyr Gwasanaethau ac Unigolion Cyfrifol) (Cymru) 2017 ("**Rheoliadau 2017**"). Mae Rheoliadau 2017 yn nodi'r gofynion rheoleiddiol sy'n gymwys i ddarparwyr gwasanaethau penodol sy'n cael eu rheoleiddio o dan Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016 (**Deddf 2016**). Y rhain yw gwasanaethau cartrefi gofal, gwasanaethau llety diogel, gwasanaethau canolfannau preswyl i deuluoedd a gwasanaethau cymorth cartref.

Mae'r diwygiadau yn cynnwys:

- Mae rheoliad 4 yn gwneud nifer o ddiwygiadau i reoliad 2 o Reoliadau 2017 sy'n ymdrin ag amgylchiadau pan fo person wedi ei esemptio o'r gofyniad i gofrestru fel darparwr gwasanaeth cartref gofal.
- Mae rheoliad 5 yn diwygio rheoliad 3 o Reoliadau 2017 i bennu nad yw gofal nyrsio a ddarperir gan nyrs gofrestrdig yn dod o fewn cwmpas gweithgaredd gwasanaeth cymorth cartref.
- Mae rheoliad 8 yn ychwanegu gofyniad at reoliad 28 o Reoliadau 2017 ynghylch polisi a gweithdrefnau darparwr gwasanaeth ar gyfer cynilion plant.

Gweithdrefn

Cadarnhaol.

Materion technegol: craffu

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.2 mewn perthynas â'r offeryn hwn.

Rhinweddau: craffu

Nodwyd dau bwynt i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.

1. Rheol Sefydlog 21.3(ii) – ei fod o bwysigrwydd gwleidyddol neu gyfreithiol neu ei fod yn codi materion polisi cyhoeddus sy'n debyg o fod o ddiddordeb i'r Cynulliad.

Gwneir y Rheoliadau hyn yn rhannol o dan adran 27 o Ddeddf 2016. Mae adran 27(4) o Ddeddf 2016 yn ei gwneud yn ofynnol i Weinidogion Cymru ymgynghori cyn gwneud rheoliadau o dan adran 27 ac mae'n ei gwneud yn ofynnol iddynt **gyhoeddi** datganiad am yr ymgynghoriad. At hynny, mae adran 27(5) yn ei gwneud yn ofynnol i Weinidogion Cymru osod **copi** o'r datganiad cyhoeddiedig hwnnw gerbron y Cynulliad.



Hyd y gwyddom, nid oes copi o ddatganiad o'r fath wedi'i osod gerbron y Cynulliad. Nodwn fod y Memorandwm Esboniadol yn darparu linc at grynodeb o ymatebion i'r ymgynghoriad ond nid yw darparu linc at ddogfen yn gyfystyr â gosod dogfen gerbron y Cynulliad.

Rydym yn cydnabod nad yw adran 27 o Ddeddf 2016 yn nodi pryd y mae'n rhaid gosod copi o'r datganiad cyhoeddus gerbron y Cynulliad, ond byddem yn disgwyl iddo fod wedi cael ei osod yr un pryd ag y gosodwyd y Rheoliadau drafft er mwyn i'r Pwyllgor hwn a'r Cynulliad gael gwybodaeth cyn y ddadl a'r bleidlais yn y Cyfarfod Llawn - credwn mai dyna oedd bwriad y Cynulliad pan gymeradwyodd Ddeddf 2016, gan gynnwys adran 27(5).

Byddem yn croesawu eglurhad gan Lywodraeth Cymru ynghylch pryd y caiff copi o'r datganiad cyhoeddus ei osod gerbron y Cynulliad.

2. Rheol Sefydlog 21.3(ii) – ei fod o bwysigrwydd gwleidyddol neu gyfreithiol neu ei fod yn codi materion polisi cyhoeddus sy'n debyg o fod o ddiddordeb i'r Cynulliad.

Mae'r Rheoliadau drafft hyn yn ddarostyngedig i weithdrefn penderfyniad cadarnhaol, sy'n golygu na ellir eu gwneud (hynny yw, eu llofnodi) oni bai bod y drafft wedi'i gymeradwyo gan y Cynulliad.

Mae'r cymal llofnodi yn cynnwys enw teipiedig y Dirprwy Weinidog Iechyd a Gwasanaethau Cymdeithasol (Julie Morgan) a fydd yn gwneud y Rheoliadau hyn. Er ein bod wedi cael cadarnhad nad yw'r Rheoliadau drafft wedi cael llofnod yn llaw'r Dirprwy Weinidog, credwn ei fod yn arfer deddfwriaethol da i beidio â chynnwys enw (hyd yn oed enw wedi'i deipio) yng nghymal llofnodi is-ddeddfwriaeth ddrafft, er mwyn osgoi unrhyw awgrym bod y drafft wedi cael ei lofnodi.

Nodwn fod hyn wedi digwydd mewn sawl darn o is-ddeddfwriaeth ddrafft yn ddiweddar. Felly, byddem yn croesawu eglurhad gan Lywodraeth Cymru pam mae enw wedi'i deipio wedi'i gynnwys (pan na fu'n arferiad i wneud hynny mewn is-ddeddfwriaeth ddrafft yn y gorffennol).

Y goblygiadau yn sgil gadael yr Undeb Ewropeaidd

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.

Ymateb y Llywodraeth

Mae angen ymateb y llywodraeth i'r pwyntiau rhinweddau sy'n codi yn yr adroddiad hwn.

Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

8 Mawrth 2019



Rheoliadau drafft a osodwyd gerbron Cynulliad Cenedlaethol Cymru o dan adran 187(2)(b) ac (f) o Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016, i'w cymeradwyo drwy benderfyniad gan Gynulliad Cenedlaethol Cymru.

OFFERYNNAU STATUDOL
CYMRU DRAFFT

2019 Rhif (Cy.)

**GOFAL CYMDEITHASOL,
CYMRU**

**Rheoliadau Gwasanaethau
Rheoleiddiedig (Darparwyr
Gwasanaethau ac Unigolion
Cyfrifol) (Cymru) (Diwygio) 2019**

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Gwasanaethau Rheoleiddiedig (Darparwyr Gwasanaethau ac Unigolion Cyfrifol) (Cymru) 2017 ("Rheoliadau 2017"). Mae Rheoliadau 2017 yn nodi'r gofynion rheoleiddiol sy'n gymwys i ddarparwyr gwasanaethau penodol sy'n cael eu rheoleiddio o dan Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016. Y rhain yw gwasanaethau cartrefi gofal, gwasanaethau llety diogel, gwasanaethau canolfannau preswyl i deuluoedd a gwasanaethau cymorth cartref.

Mae rheoliad 3 yn diwygio Rheoliadau 2017 i nodi'r mathau o wasanaethau rheoleiddiedig y mae'r Rheoliadau hynny yn gymwys iddynt. Mae rheoliad 4 yn gwneud nifer o ddiwygiadau i rheoliad 2 o Rheoliadau 2017 sy'n ymdrin ag amgylchiadau pan yw person wedi ei esemptio o'r gofyniad i gofrestru fel darparwr gwasanaeth cartref gofal. Mae rhai o'r diwygiadau hyn yn addasiadau er mwyn rhwystro'r eithriadau yn rheoliad 2(1)(e), (f) ac (i) rhag peidio â bod yn gymwys os yw'r plant y darperir gofal a llety ar eu cyfer yn cynnwys plentyn sy'n anabl. Yn achos gwasanaeth sy'n darparu llety a gofal i blant at un o'r dibenion a bennir yn rheoliad 2(1)(i) o Rheoliadau 2017, effaith y diwygiad yw esemptio o'r gofyniad i gofrestru wasanaethau a ddarperir am hyd at 28 o

ddiwrnodau yn gyfan gwbl neu'n bennaf ar gyfer plant anabl pan fo hysbysiad ymlaen llaw wedi ei roi i Weinidogion Cymru.

Mae'r diwygiad yn rheoliad 4(c) yn creu eithriad pellach i'r diffiniad o wasanaeth cartref gofal o dan amgylchiadau pan fo gofal a llety yn cael eu darparu i blant. Bydd yr eithriad newydd yn esemptio person sy'n darparu gofal a llety yn ei gartref ei hunan i un plentyn (neu i grŵp o frodyr a chwiorydd) am 28 o ddiwrnodau neu lai bob blwyddyn fel nad yw'n ofynnol iddo gofrestru.

Mae rheoliad 5 yn diwygio rheoliad 3 o Reoliadau 2017 i bennu nad yw gofal nyrsio a ddarperir gan nyrs gofrestredig yn dod o fewn cwmpas gweithgaredd gwasanaeth cymorth cartref. Mae'n creu eithriad ar wahân ar gyfer gwasanaethau gofal a chymorth a ddarperir gan Fwrdd Iechyd Lleol pan fo hyn yn gysylltiedig ag angen am ofal nyrsio.

Mae rheoliad 8 yn ychwanegu gofyniad at reoliad 28 o Reoliadau 2017 ynghylch polisi a gweithdrefnau darparwr gwasanaeth ar gyfer cynilion plant.

Mae rheoliad 9 yn diwygio rheoliad 35 o Reoliadau 2017 i ohirio tan 1 Ebrill 2020 y gofyniad bod rhaid i reolwr gwasanaeth rheoleiddiedig fod wedi ei gofrestru â Gofal Cymdeithasol Cymru yn achos rheolwyr asiantaethau a oedd wedi eu cofrestru fel asiantaethau nyrsys o dan Ran 2 o Ddeddf Safonau Gofal 2000 cyn 2 Ebrill 2018 ond nad oeddent hefyd wedi eu cofrestru fel asiantaethau gofal cartref.

Mae rheoliadau 10 i 12 yn gwneud diwygiadau i Ran 13 o Reoliadau 2017 sy'n ymdrin â'r amgylchiadau pan fo gofynion ychwanegol ynghylch safon mangreoedd yn gymwys i wasanaethau newydd. Mae'r diwygiadau yn egluro sut y mae'r gofynion ychwanegol yn gymwys yn achos estyniadau a gaiff eu hadeiladu ar fangreoedd presennol gwasanaeth llety.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, ystyriwyd nad oedd yn angenrheidiol cynnal asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn.

Rheoliadau drafft a osodwyd gerbron Cynulliad Cenedlaethol Cymru o dan adran 187(2)(b) ac (f) o Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016, i'w cymeradwyo drwy benderfyniad gan Gynulliad Cenedlaethol Cymru.

OFFERYNNAU STATUDOL
CYMRU DRAFFT

2019 Rhif (Cy.)

**GOFAL CYMDEITHASOL,
CYMRU**

**Rheoliadau Gwasanaethau
Rheoleiddiedig (Darparwyr
Gwasanaethau ac Unigolion
Cyfrifol) (Cymru) (Diwygio) 2019**

Gwnaed

Yn dod i rym

1 Ebrill 2019

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir gan adrannau 2(3) a 27 o Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016(1), ac ar ôl ymgynghori â'r personau hynny y maent yn meddwl eu bod yn briodol, ar ôl cyhoeddi datganiad ynghylch yr ymgynghoriad ac ar ôl gosod copi o'r datganiad gerbron Cynulliad Cenedlaethol Cymru yn unol ag adran 27(4) a (5), yn gwneud y Rheoliadau a ganlyn.

Gosodwyd drafft o'r Rheoliadau hyn gerbron Cynulliad Cenedlaethol Cymru o dan adran 187(2)(b) ac (f) ac fe'i cymeradwywyd ganddo drwy benderfyniad.

Enwi a chychwyn

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Gwasanaethau Rheoleiddiedig (Darparwyr Gwasanaethau ac Unigolion Cyfrifol) (Cymru) (Diwygio) 2019.

(2) Daw'r Rheoliadau hyn i rym ar 1 Ebrill 2019.

(1) 2016 dccc 2.

Diwygiadau i Reoliadau Gwasanaethau Rheoleiddiedig (Darparwyr Gwasanaethau ac Unigolion Cyfrifol) (Cymru) 2017

2. Mae Rheoliadau Gwasanaethau Rheoleiddiedig (Darparwyr Gwasanaethau ac Unigolion Cyfrifol) (Cymru) 2017(1) wedi eu diwygio yn unol â'r rheoliadau a ganlyn.

Dehongli

3. Yn rheoliad 1(3), yn y lle priodol yn ôl trefn yr wyddor, mewnosoder y diffiniad a ganlyn—

“ystyr “gwasanaethau rheoleiddiedig” (“*regulated services*”) yw gwasanaethau cartrefi gofal, gwasanaethau cymorth cartref, gwasanaethau llety diogel neu wasanaethau canolfannau preswyl i deuluoedd;”.

Eithrio rhag cwmpas gwasanaeth cartref gofal

4. Yn rheoliad 2—

(a) yn lle is-baragraff (1)(e) rhodder—

“(e) y ddarpariaeth o lety, ynghyd â gofal, pan fo'r gofal a ddarperir yn gyfystyr â gwarchod plant o fewn ystyr adran 19(2), neu ofal dydd o fewn ystyr adran 19(3), o Fesur Plant a Theuluoedd (Cymru) 2010(2) ond nid yw'r eithriad hwn yn gymwys—

(i) os oes, mewn unrhyw gyfnod o 12 mis, 28 neu ragor o gyfnodau o 24 awr y darperir mwy na 15 awr o warchod plant neu ofal dydd ynddynt mewn perthynas ag unrhyw un plentyn; neu

(ii) os darperir y gofal yn gyfan gwbl neu'n bennaf ar gyfer plant anabl;”
;

(b) yn is-baragraff (1)(f), yn lle “yw'r llety wedi ei ddarparu i blentyn anabl” rhodder “darperir gofal yn gyfan gwbl neu'n bennaf ar gyfer plant anabl”;

(c) yn is-baragraff (1)(i)—

(i) yn y geiriau cyflwyno hepgorer “oherwydd eu hyglwyfedd neu eu hangen”;

(ii) yn is-baragraff (i) o'r rhan o'r cymal sy'n nodi pryd nad yw'r eithriad yn gymwys, yn lle “pan fo'r llety wedi ei ddarparu i

(1) O.S. 2017/1264 (Cy. 295).

(2) 2010 mccc 1.

blentyn anabl” rhodder “pan fo gofal yn cael ei ddarparu yn gyfan gwbl neu’n bennaf ar gyfer plant anabl oni bai bod y darparwr gwasanaeth yn gyntaf wedi hysbysu Gweinidogion Cymru yn ysgrifenedig am y trefniadau”;

(d) ar ddiwedd is-baragraff (1)(i), yn lle “.” rhodder “;”;

(e) ar ôl is-baragraff (1)(i) mewnosoder yr is-baragraff a ganlyn—

“(j) y ddarpariaeth o lety, ynghyd â gofal, i un plentyn neu i grŵp o frodyr a chwiorydd gan berson yng nghartref y person hwnnw ei hunan a phan na fo gofal a llety yn cael eu darparu gan y person hwnnw am gyfanswm o fwy nag 28 o ddiwrnodau mewn unrhyw gyfnod o 12 mis.”;

(f) ar ôl paragraff (3) mewnosoder—

“(4) Yn is-baragraff (1)(j) o’r rheoliad hwn, mae “grŵp o frodyr a chwiorydd” yn cynnwys brodyr a chwiorydd a hanner brodyr a hanner chwiorydd.”

Eithriadau rhag cwmpas gwasanaeth cymorth cartref

5. Yn rheoliad 3(1)—

(a) yn is-baragraff (g), yn lle “.” rhodder “;”;

(b) ar ôl is-baragraff (g) mewnosoder—

“(h) y ddarpariaeth o ofal nyrsio gan nyrs gofrestredig;

(i) y ddarpariaeth o ofal a chymorth gan Fwrdd Iechyd Lleol i ddiwallu anghenion sy’n gysylltiedig ag anghenion unigolion am ofal nyrsio.”

Mân ddiwygiad i reoliad 12

6. Yn rheoliad 12(1), yn y cromfachau ar ôl “Derbyniadau a chychwyn y gwasanaeth”, yn lle “Rhan 5” rhodder “Rhan 4”.

Polisi a gweithdrefnau ar gyfer cynilion plant

7. Yn rheoliad 28 (cefnogi unigolion i reoli eu harian), ar ôl paragraff (2) ychwaneger y paragraff a ganlyn—

“(2A) Pan fo gwasanaeth yn darparu llety ar gyfer plant, rhaid i’r polisi a’r gweithdrefnau sy’n ofynnol gan y rheoliad hwn nodi’r camau y bydd y darparwr gwasanaeth yn eu cymryd i sicrhau y caiff cynilion a wneir gan neu ar ran plant eu goruchwyllo a’u monitro’n ddigonol,

gan gynnwys trefniadau ar gyfer cadw cofnodion o gynilion (a gwariant o gynilion) a throsglwyddo'r cofnodion hyn pan ddaw lleoliad i ben.”

Mân ddiwygiad i reoliad 34

8. Yn y testun Saesneg yn rheoliad 34(5), hepgorer y gair “as” yn yr ail le y mae'n ymddangos.

Diwygiad i'r gofyniad o ran addasrwydd rheolwyr gwasanaethau cymorth cartref o dan amgylchiadau penodol

9. Yn rheoliad 35—

- (a) yn is-baragraff (2)(e), ar y dechrau, mewnosoder “yn ddarostyngedig i baragraff (10) o'r rheoliad hwn,”;
- (b) ym mharagraff (9), yn lle'r geiriau o “adran 1” hyd at y diwedd rhodder “adran 87(1) o Ddeddf Diogelu Rhyddidau 2012(1)”;
- (c) ar ôl paragraff (9) mewnosoder—

“(10) Tan 1 Ebrill 2020, nid yw'r gofyniad o dan baragraff (2)(e) i reolwr fod wedi ei gofrestru â Gofal Cymdeithasol Cymru yn gymwys i reolwr sydd wedi ei benodi i reoli ymgymeriad—

 - (a) y mae person wedi ei gofrestru, neu wedi gwneud cais i gofrestru, mewn cysylltiad ag ef, fel darparwr gwasanaeth cymorth cartref, a
 - (b) yr oedd person wedi ei gofrestru mewn cysylltiad ag ef i gynnal asiantaeth nyrsys o dan Ran 2 o Ddeddf Safonau Gofal 2000(2) yn union cyn 2 Ebrill 2018 ond nad oedd hefyd wedi ei gofrestru i gynnal asiantaeth gofal cartref.”

Diwygio rheoliad 49 – Cymhwyso Rhan 13

10. Yn rheoliad 49—

- (a) ym mharagraff (2), yn y testun sy'n disgrifio mangre Categori B, yn lle'r geiriau o “estyniad” i “sy'n” rhodder “adeilad neu adeiladau yr ychwanegir estyniad ato neu atynt ac mae'r estyniad yn”;
- (b) ym mharagraff (3), ar ôl “54” mewnosoder “ond yn achos mangre Categori B, nid yw'r gofynion ond yn gymwys i'r rhan o'r fangre sy'n cynnwys yr estyniad (neu yn achos

(1) 2012 p. 9.
(2) 2000 p. 14.

rheoliad 53, i unrhyw rannau o'r tiroedd allanol sydd wedi eu datblygu ar y cyd â'r estyniad”.

Diwygio rheoliad 52 – gofynion ychwanegol – lle cymunedol

11. Yn rheoliad 52—

- (a) ar y dechrau, yn lle “Rhaid” rhodder “(1) Yn ddarostyngedig i baragraff (2), rhaid”;
- (b) ar y diwedd, ychwaneger y paragraff a ganlyn—

“(2) Ar gyfer mangre Categori B, mae'r rheoliad hwn yn gymwys fel bod rhaid i'r gofyniad o ran lle gael ei fodloni mewn perthynas ag unrhyw ystafelloedd ychwanegol i unigolion.”

Diwygio rheoliad 53 – gofynion ychwanegol – lle yn yr awyr agored

12. Yn rheoliad 53, ar ôl “allanol”, mewnosoder “(neu, yn achos mangre Categori B, unrhyw ran o'r tiroedd allanol a ddatblygir ar y cyd ag adeiladu'r estyniad)”.

Mân ddiwygiad i reoliad 67

13. Yn rheoliad 67(4), yn lle “rheoliad 34(2)” rhodder “rheoliad 35(2)”.

Mân ddiwygiad i reoliad 73

14. Yn rheoliad 73(2), yn lle “unrhyw wasanaethau rheoleiddiedig eraill” rhodder “gwasanaeth cymorth cartref”.

Mân ddiwygiad i reoliad 85

15. Yn rheoliad 85(4), yn y rhestr o reoliadau, yn lle “33(1)” rhodder “33(2)”.

Diwygiadau i Atodlen 2

16. Ym mharagraff 5 o Atodlen 2—

- (a) yn is-baragraff (a), yn lle “, anaf, neu salwch” rhodder “neu anaf”;
- (b) yn is-baragraff (f), yn lle “wlserau” rhodder “niwed”.

Diwygiadau i Atodlen 3

17. Yn Atodlen 3—

- (a) ym mharagraff 13, ar ôl “staff” ychwaneger “a/neu wirfoddolwr”;

- (b) ym mharagraff 16, yn lle'r geiriau o "wlser pwyso categori 3 neu 4" i'r diwedd rhodder "niwed pwyso categori 3 neu 4 neu niwed pwyso nad oes modd ei osod ar unrhyw gam";
- (c) ym mharagraff 17, yn lle " , anaf neu salwch" rhodder "neu anaf";
- (d) ym mharagraff 30, yn lle "Achos o gamfanteisio'n rhywiol ar blentyn neu o amheuaeth o gamfanteisio'n rhywiol ar blentyn" rhodder "Unrhyw achos o gamfanteisio'n rhywiol neu'n droseddol ar blentyn neu o amheuaeth o gamfanteisio'n rhywiol neu'n droseddol ar blentyn";
- (e) ym mharagraff 33, yn lle " , anaf neu salwch" rhodder "neu anaf";
- (f) ym mharagraff 34, yn lle'r geiriau o "wlser pwyso categori 3 neu 4" i'r diwedd rhodder "niwed pwyso categori 3 neu 4 neu niwed pwyso nad oes modd ei osod ar unrhyw gam.";
- (g) ym mhob un o baragraffau 42, 44 a 46, yn lle "Unrhyw achos o gamfanteisio'n rhywiol ar blentyn neu o amheuaeth o gamfanteisio'n rhywiol ar blentyn" rhodder "Unrhyw achos o gamfanteisio'n rhywiol neu'n droseddol ar blentyn neu o amheuaeth o gamfanteisio'n rhywiol neu'n droseddol ar blentyn".

Julie Morgan

Y Dirprwy Weinidog Iechyd a Gwasanaethau
Cymdeithasol o dan awdurdod y Gweinidog Iechyd a
Gwasanaethau Cymdeithasol, un o Weinidogion
Cymru

Dyddiad

Explanatory Memorandum to the Regulated Services (Service Providers and Responsible Individuals) (Wales) Amendment Regulations 2019

This Explanatory Memorandum has been prepared by the Health and Social Services Department and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister/Deputy Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Regulated Services (Service Providers and Responsible Individuals) (Wales) Amendment Regulations 2019.

Julie Morgan

Deputy Minister for Health and Social Services

5 March 2019

PART 1

1. Description

The Regulation and Inspection of Social Care (Wales) Act ('the 2016 Act') received Royal Assent on 18 January 2016. It provides the statutory framework for the regulation and inspection of social care services and the regulation of the social care workforce in Wales. To help achieve this it provides the Welsh Ministers with a range of regulation-making and other subordinate legislation powers.

This Explanatory Memorandum relates to *the Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2019* ("The 2019 amendment Regulations"). These regulations make changes to the substantive *Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017* ("the substantive Regulations").

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

No specific matters have been identified.

3. Legislative background

The powers enabling these Regulations to be made are contained in section 2(3) and 27 of the 2016 Act.

These Regulations are being laid before the National Assembly under the affirmative procedure.

4. Purpose and intended effect of the legislation

The purpose of the substantive Regulations is to ensure that providers of care home services, domiciliary support services, residential family centres and secure accommodation services achieve the required standards of care and support so that people's well-being and safety is maintained.

Requirements within the substantive Regulations span a number of aspects of care and support including the provision of information, staffing arrangements, premises and overall environmental standards, governance arrangements, safeguarding arrangements and ensuring the provision of person-centred care.

The 2019 amendment Regulations make a number of small changes to the substantive Regulations for additional clarity and to ensure consistency, where appropriate, with regulations made under phase 3 of implementation of the 2016 Act.

These amendments relate to a number of different areas, outlined below:

Exceptions

Amendments have been made to the exceptions in the substantive Regulations to provide further clarity and certainty about the activity which should fall within the scope of regulation under the 2016 Act.

Exception from the scope of a care home service

Changes have been made to the exceptions for care home services in relation to the provision of care and support to disabled children. These amendments ensure that only services which provide care and support “wholly or mainly” to disabled children, within the criteria set out in the regulations, are required to register as a care home, rather than any service which may have a disabled child participating. This replicates the position under the Care Standards Act 2000 and avoids the unintended consequence of bringing services into the scope of regulation that it would not be appropriate to regulate.

A further amendment has been made to the care home exceptions to exempt all holiday schemes of up to 28 days - regardless of whether the children are disabled or not - from having to register as a care home service. This amendment is part of the transitional arrangements for putting in place a suitable regulatory framework for residential holiday schemes for disabled children and ensures a more proportionate approach to the regulation of these schemes.

An amendment has also been made to provide an exception for small scale respite arrangements carried out in the carer’s own home for a child or sibling group. This will provide a degree of flexibility for short respite arrangements by parents of disabled children e.g. by those who use direct payments.

Exception from scope of domiciliary support service

Amendments have been made to the exceptions for domiciliary support services to except services which only provide domiciliary support as ancillary to nursing care by a registered nurse from the scope of regulation as a domiciliary support service. It also excludes Local Health Board services providing care and support to meet needs which are related to the needs of individuals for nursing care. The intention is to exclude district and community nursing services from the scope of Care Inspectorate Wales regulation as they are already regulated under NHS legislation.

Extending Social Care Wales (SCW) registration date for managers of nurses agencies

Managers of nurses agencies were not required to register with SCW under the Care Standards Act 2000. As indicated above however, some nurses agencies will be registering with Care Inspectorate Wales (CIW) as domiciliary support services under the 2016 Act. This amendment allows additional time for persons previously registered as managers of nurses agencies under the Care Standards Act, but who were not previously registered as managers of

domiciliary care agencies, to register with SCW. The purpose of this amendment is to provide a degree of flexibility and period of transition for these individuals.

Removing notification and record keeping requirements in respect of incidents of illness

This amendment removes the requirement for regulated services to make notifications and keep records in respect of illness. The purpose of removing this requirement is to recognise that people will develop serious illnesses such as cancer or dementia but not as a consequence of the quality of care provided by the regulated service.

Amending wording in respect of pressure damage

This amendment changes to wording in relation to record keeping and notification requirements in respect of incidents of pressure damage will ensure the Regulations are consistent with the revised wording in the All Wales Tissue Viability Nurse Guidance.

Category B

Amending the wording of the definition of 'Category B' accommodation based services (which relate to a new extension to an existing building), will clarify how the additional requirements for new accommodation apply to providers who extend their premises.

5. Consultation

A 12 week consultation ran from 28 September to 21 December 2019 on the draft regulations. Some changes were made to the regulations following the consultation. The consultation summary report and a list of respondents to the consultation will be published at <https://beta.gov.wales/regulated-services-service-providers-and-responsible-individuals-wales-amendment-regulations-2019>

6. Regulatory Impact Assessment (RIA)

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these regulations.

A detailed regulatory impact assessment was completed for the substantive Regulations and is available at <http://www.assembly.wales/laid%20documents/sub-ld11277-em/sub-ld11277-em-e.pdf>

Eitem 4.20

SL(5)366 - Rheoliadau Bwyd (Diwygiadau Amrywiol) (Cymru) (Ymadael â'r UE) (Rhif 2) 2019

Cefndir a Diben

Gwneir y Rheoliadau drafft hyn o dan baragraff 1(1) o Atodlen 2 a pharagraff 21(b) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 (Deddf 2018). Maent yn ceisio mynd i'r afael â methiannau cyfraith yr UE a ddargedwir i weithredu'n effeithiol, a diffygion eraill, sy'n deillio o ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd.

Mae'r Rheoliadau drafft hyn yn diwygio naw darn o is-ddeddfwriaeth ym maes bwyd ac amaethyddiaeth:

- Rheoliadau Bwyd Cyffredinol 2004
- Rheoliadau Hylendid Bwyd (Cymru) 2006
- Rheoliadau Cynhyrchion Pysgodfeydd (Taliadau Rheolaethau Swyddogol) (Cymru) 2007
- Rheoliadau Rheolaethau Swyddogol ar Fwyd Anifeiliaid a Bwyd (Cymru) 2009
- Rheoliadau Deunyddiau ac Eitemau mewn Cysylltiad â Bwyd (Cymru) 2012
- Rheoliadau Ychwanegion, Cyflasynnau, Ensymau a Thoddyddion Echdynnu Bwyd (Cymru) 2013
- Rheoliadau Dŵr Mwynol Naturiol, Dŵr Ffynnon a Dŵr Yfed wedi'i Botelu (Cymru) 2015
- Rheoliadau Bwyd Anifeiliaid (Cyfansoddiad, Marchnata a Defnydd) (Cymru) 2016
- Rheoliadau Bwydydd Newydd (Cymru) 2017.

Mae'r rhan fwyaf o'r darpariaethau yn gwneud mân newidiadau technegol i sicrhau y bydd rheoliadau Cymru, sy'n darparu ar gyfer gweithredu cyfraith yr UE a ddargedwir sy'n ymwneud â hylendid a diogelwch bwyd a bwyd anifeiliaid, safonau cyfansoddiadol bwyd a labelu a chynhyrchion bwyd a bwyd anifeiliaid a reoleiddir, yn parhau i gael eu gweithredu ac y gellir eu gorfodi yng Nghymru ar ôl i'r DU adael yr UE.

Fodd bynnag, mae'r diwygiadau i Reoliadau Dŵr Mwynol Naturiol, Dŵr Ffynnon a Dŵr Yfed wedi'i Botelu (Cymru) 2015 hefyd yn darparu, o'r diwrnod gadael, bod yn rhaid i ddŵr o'r UE/AEE, fel dŵr o drydydd gwledydd eraill, gael eu cydnabod fel dŵr mwynol yng Nghymru/y DU cyn eu gosod ar y farchnad yng Nghymru. Mae hyn yn amodol ar ddarpariaeth drosiannol sy'n parhau mewn grym y gydnabyddiaeth bresennol yng Nghymru o ddŵr mwynol naturiol a gydnabyddir cyn diwrnod ymadael â'r UE/AEE hyd nes y bydd Gweinidogion Cymru yn cyhoeddi hysbysiad y bydd cydnabyddiaeth o'r fath yn dod i ben.

Gweithdrefn

Cadarnhaol.



Craffu ar faterion technegol

Ni nodir unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.2 mewn perthynas â'r offeryn hwn.

Rhinweddau: craffu

Nodwyd y pwynt a ganlyn i gyflwyno adroddiad arno o dan Reol Sefydlog 21.3(ii), sef ei fod o bwysigrwydd gwleidyddol neu gyfreithiol neu ei fod yn codi materion polisi cyhoeddus sy'n debyg o fod o ddiddordeb i'r Cynulliad.

- Mae Cynghorwyr Cyfreithiol yn croesawu eglurder a manylion y Memorandwm Esboniadol a faint y mae hynny'n helpu'r Pwyllgor i graffu'n effeithiol.

Goblygiadau sy'n deillio o adael yr Undeb Ewropeaidd

Bydd yr is-ddeddfwriaeth a ddiwygir gan y Rheoliadau drafft hyn yn golygu "cyfraith yr UE a ddargedwir" at ddibenion Deddf yr Undeb Ewropeaidd (Ymadael) 2018. Gall hynny fod â goblygiadau ar gyfer cymhwysedd y Cynulliad, gan y gellid atal y Cynulliad rhag addasu cyfraith yr UE a ddargedwir, drwy reoliadau Llywodraeth y DU o dan adran 12 o Ddeddf 2018 (a elwir yn rheoliadau "rhewi" yn aml).

Fodd bynnag, ni ellir "rhewi" y rhan fwyaf o'r ddarpariaeth o sylwedd a wneir gan y Rheoliadau drafft hyn fel eu bod y tu allan i gymhwysedd y Cynulliad, gan y gallai'r Cynulliad fod wedi gwneud y ddarpariaeth gyfatebol o dan gyfraith yr UE cyn Brexit. Un eithriad fyddai'r darpariaethau yn rheoliad 8, sy'n darparu mecanwaith i Weinidogion Cymru roi'r gorau i gydnabod dŵr mwynol naturiol a gafodd gydnabyddiaeth mewn Gwladwriaethau eraill yn yr UE/AEE cyn y diwrnod ymadael. Ni allai'r Cynulliad fod wedi terfynu cydnabyddiaeth o'r fath cyn Brexit, gan y byddai gwneud hynny yn mynd i groes i gyfraith yr UE. Fodd bynnag, gallai adfer y gydnabyddiaeth honno yn y dyfodol, gan y byddai gwneud hynny yn gydnaws â chyfraith yr UE cyn Brexit - hyd yn oed pe bai Llywodraeth y DU yn gwneud rheoliadau rhewi i'r perwyl hwnnw.

Ymateb y Llywodraeth

Nid oes angen ymateb y Llywodraeth.

Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

6 Mawrth 2019



Rheoliadau drafft a osodwyd gerbron Cynulliad Cenedlaethol Cymru o dan baragraff 1(8) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018, i'w cymeradwyo drwy benderfyniad gan Gynulliad Cenedlaethol Cymru.

OFFERYNNAU STATUDOL
CYMRU DRAFFT

2019 Rhif (Cy.)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

AMAETHYDDIAETH, CYMRU

BWYD, CYMRU

**Rheoliadau Bwyd (Diwygiadau
Amrywiol) (Cymru) (Ymadael â'r
UE) (Rhif 2) 2019**

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn wedi eu gwneud drwy arfer y pwerau a roddir i Weinidogion Cymru gan baragraff 1(1) o Atodlen 2 a pharagraff 21(b) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 (p. 16), er mwyn ymdrin ag unrhyw fethiant yng nghyfraith yr UE a ddargedwir i weithredu'n effeithiol a diffygion eraill sy'n deillio o ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd.

Mae'r Rheoliadau hyn yn gwneud diwygiadau i is-ddeddfwriaeth sy'n gymwys yng Nghymru ym maes hylendid a diogelwch bwyd a bwyd anifeiliaid, cynhyrchion bwyd a bwyd anifeiliaid rheoleiddiedig, a safonau a labelu bwyd.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Aseidiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, ystyriwyd nad oedd yn angenrheidiol cynnal aseiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn.

Rheoliadau drafft a osodwyd gerbron Cynulliad Cenedlaethol Cymru o dan baragraff 1(8) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018, i'w cymeradwyo drwy benderfyniad gan Gynulliad Cenedlaethol Cymru.

OFFERYNNAU STATUDOL
CYMRU DRAFFT

2019 Rhif (Cy.)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

AMAETHYDDIAETH, CYMRU

BWYD, CYMRU

**Rheoliadau Bwyd (Diwygiadau
Amrywiol) (Cymru) (Ymadael â'r
UE) (Rhif 2) 2019**

Gwnaed

Yn dod i rym yn unol â rheoliad 1(3)

Mae Gweinidogion Cymru yn gwneud y Rheoliadau hyn drwy arfer y pwerau a roddir gan baragraff 1(1) o Atodlen 2 a pharagraff 21(b) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018(1).

Yn unol â pharagraff 1(8) o Atodlen 7 i'r Ddeddf honno, gosodwyd drafft o'r offeryn hwn gerbron Cynulliad Cenedlaethol Cymru ac fe'i cymeradwywyd ganddo drwy benderfyniad.

Fel sy'n ofynnol gan Erthygl 9 o Reoliad (EC) Rhif 178/2002 Senedd Ewrop a'r Cyngor sy'n gosod egwyddorion cyffredinol a gofynion cyfraith bwyd, yn sefydlu Awdurdod Diogelwch Bwyd Ewrop ac yn gosod gweithdrefnau o ran materion diogelwch

bwyd(1), ymgynghorwyd yn agored ac yn dryloyw â'r cyhoedd wrth lunio'r Rheoliadau hyn.

Enwi, cymhwyso a chychwyn

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Bwyd (Diwygiadau Amrywiol) (Cymru) (Ymadael â'r UE) (Rhif 2) 2019.

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

(3) Daw'r Rheoliadau hyn i rym ar y diwrnod ymadael.

Rheoliadau Bwyd Cyffredinol 2004

2. Yn rheoliad 4(a) o Reoliadau Bwyd Cyffredinol 2004(2), yn lle "European Union" rhodder "United Kingdom".

Rheoliadau Hylendid Bwyd (Cymru) 2006

3.—(1) Mae Rheoliadau Hylendid Bwyd (Cymru) 2006(3) wedi eu diwygio fel a ganlyn.

(2) Yn Atodlen 2, yn y tabl—

(a) yn y cofnod ar gyfer Erthygl 6(1) o Reoliad 852/2004, yn yr ail golofn, yn lle "ag unrhyw ddeddfwriaeth arall yr UE neu unrhyw gyfraith genedlaethol arall sy'n gymwys" rhodder "â chyfraith y Deyrnas Unedig";

(b) yn y cofnod ar gyfer Erthygl 4(1) o Reoliad 853/2004, yn yr ail golofn, hepgorer "ac sydd wedi'u gweithgynhyrchu yn yr Undeb Ewropeaidd";

(c) hepgorer y cofnod ar gyfer Erthygl 8 o Reoliad 853/2004.

(3) Yn Atodlen 3, ym mharagraff 10, yn lle "mewn un neu ragor o ieithoedd y Gymuned" rhodder "yn Saesneg, neu yn Gymraeg ac yn Saesneg".

Rheoliadau Cynhyrchion Pysgodfeydd (Taliadau Rheolaethau Swyddogol) (Cymru) 2007

4.—(1) Mae Rheoliadau Cynhyrchion Pysgodfeydd (Taliadau Rheolaethau Swyddogol) (Cymru) 2007(4) wedi eu diwygio fel a ganlyn.

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- (1) OJ Rhif L 31, 1.2.2002, t. 1, y mae diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.
- (2) O.S. 2004/3279, a ddiwygiwyd gan O.S. 2005/3254 (Cy. 247) ac O.S. 2011/1043; mae offerynnau diwygio eraill ond nid yw'r un ohonynt yn berthnasol i'r Rheoliadau hyn.
- (3) O.S. 2006/31 (Cy. 5), a ddiwygiwyd gan O.S. 2011/1043 ac O.S. 2016/845 (Cy. 214); mae offerynnau diwygio eraill ond nid yw'r un ohonynt yn berthnasol i'r Rheoliadau hyn.
- (4) O.S. 2007/3462 (Cy. 307), a ddiwygiwyd gan O.S. 2011/1043; mae offeryn diwygio arall ond nid yw'n berthnasol i'r Rheoliadau hyn.

(2) Yn rheoliad 2(1), yn y diffiniad o “trydedd wlad”, yn lle “unrhyw wlad neu diriogaeth, heblaw Kalaallit Nunaat (Greenland), nad yw’n Wladwriaeth AEE gyfan neu’n rhan o Wladwriaeth AEE” rhodder “gwlad neu wladwriaeth ac eithrio’r Deyrnas Unedig”.

(3) Yn lle rheoliad 4 rhodder—

“4. Mae unrhyw gyfeiriad yn y Rheoliadau hyn at nifer penodedig o Ewros i’w ddarllen fel y swm hwnnw wedi ei drosi i bunnoedd sterling gan ddefnyddio’r gyfradd gyfnewid o GBP1 = EUR1.1413.”

Rheoliadau Rheolaethau Swyddogol ar Fwyd Anifeiliaid a Bwyd (Cymru) 2009

5.—(1) Mae Rheoliadau Rheolaethau Swyddogol ar Fwyd Anifeiliaid a Bwyd (Cymru) 2009(1) wedi eu diwygio fel a ganlyn.

(2) Yn Atodlen 4, yn lle’r Tabl rhodder—

| <i>“Colofn 1</i> | <i>Colofn 2</i> |
|------------------------------|---|
| <i>Awdurdod Cymwys</i> | <i>Y darpariaethau yn Rheoliad 882/2004</i> |
| Yr Asiantaeth | Erthyglau 3(6), 4(2) i (6), 5(1) i (3), 6, 7, 8(1) a (3), 9, 10, 11(1) i (3) a (5) i (7), 12, 19(1) a (2), 24, 27, 28, 31(1) a (2)(f), a 54 |
| Yr awdurdod bwyd anifeiliaid | Erthyglau 3(6), 4(2) i (6), 5(1) i (3), 6, 7, 8(1) a (3), 9, 10, 11(1) i (3) a (5) i (7), 15(1) i (4), 16(1) a (2), 18, 19(1) a (2), 20, 21, 22, 24, 27, 28, 31, a 54”. |

(3) Yn Atodlen 5, yn lle’r Tabl rhodder—

| <i>“Colofn 1</i> | <i>Colofn 2</i> |
|------------------------|---|
| <i>Awdurdod Cymwys</i> | <i>Y darpariaethau yn Rheoliad 882/2004</i> |
| Yr Asiantaeth | Erthyglau 3(6), 4(2) i (6), 5(1) i (3), 6, 7, 8(1) a (3), 9, 10, 11(1) i (3) a (5) i (7), 12, 14, 19(1) a (2), 24, 27, 28, 31, a 54 |
| Yr awdurdod bwyd | Erthyglau 3(6), 4(2) i (6), 5(1) i (3), 6, 7, 8(1) a (3), 9, 10, 11(1) i (3) a (5) i (7), 15(1) |

(1) O.S. 2009/3376 (Cy. 298), a ddiwygiwyd gan O.S. 2011/1043; mae offerynnau diwygio eraill ond nid yw’r un ohonynt yn berthnasol i’r Rheoliadau hyn.

i (4), 16(1) a (2), 18,
19(1) a (2), 20, 21, 22,
24, 27, 28, 31, a 54”.

(4) Yn Atodlen 6, yn lle'r cofnod cyntaf yng Ngholofn 2 o'r Tabl rhodder—

“Gofyniad bod rhaid i weithredwyr busnesau bwyd anifeiliaid a bwyd neu eu cynrychiolwyr roi hysbysiad digonol ymlaen llaw o amcangyfrif o'r dyddiad a'r amser y bydd y llwyth yn ffisegol yn cyrraedd y pwynt mynediad dynodedig ac o natur y llwyth yn y modd a nodir yn yr Erthygl honno (dogfen fynediad gyffredin i gael ei llenwi a'i throsglwyddo o leiaf un diwrnod gwaith ymlaen llaw) ac yn Erthygl 7 (dogfen fynediad gyffredin i gael ei llunio yn Saesneg, neu yn Gymraeg ac yn Saesneg).”

Rheoliadau Deunyddiau ac Eitemau mewn Cysylltiad â Bwyd (Cymru) 2012

6.—(1) Mae Rheoliadau Deunyddiau ac Eitemau mewn Cysylltiad â Bwyd (Cymru) 2012(1) wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 4(3), hepgorer “Cymunedol”.

(3) Yn rheoliad 6(1)—

(a) hepgorer is-baragraff (a);

(b) yn is-baragraff (b), yn lle “16(1)” rhodder “16”.

Rheoliadau Ychwanegion, Cyflasynnau, Ensymau a Thoddyddion Echdynnu Bwyd (Cymru) 2013

7.—(1) Mae Rheoliadau Ychwanegion, Cyflasynnau, Ensymau a Thoddyddion Echdynnu Bwyd (Cymru) 2013(2) wedi eu diwygio fel a ganlyn.

(2) Hpgorer rheoliad 15.

(3) Yn Atodlen 1—

(a) yn Nhabl 1, yn y cofnod ar gyfer Erthygl 26.1, yn yr ail golofn, yn lle “Comisiwn” rhodder “Awdurdod”;

(b) yn Nhabl 2—

(i) yn y cofnod ar gyfer Erthygl 21.1 (fel y'i darllenir gydag Erthygl 22), yn yr ail golofn, yn lle “mewn iaith a ddeallir yn hawdd gan y prynwyr” rhodder “yn

(1) O.S. 2012/2705 (Cy. 291), y mae diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.

(2) O.S. 2013/2591 (Cy. 255), y mae diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.

Saesneg, neu yn Gymraeg ac yn Saesneg”;

- (c) yn y cofnod ar gyfer Erthygl 26.2, yn yr ail golofn, yn lle “y Comisiwn” rhodder “yr Awdurdod”.

(4) Yn Atodlen 2, yn Nhabl 1—

- (a) yn y cofnod ar gyfer Erthygl 10, yn yr ail golofn, yn lle “restr yr Undeb” rhodder “y rhestr ddomestig”;
- (b) yn y cofnod ar gyfer Erthygl 19.2, yn yr ail golofn, yn lle “Comisiwn” rhodder “Awdurdod”;
- (c) yn y cofnod ar gyfer Erthygl 19.3, yn yr ail golofn, yn lle “Comisiwn” rhodder “Awdurdod”.

(5) Yn Atodlen 3, yn Nhabl 1, yn y cofnod ar gyfer Erthygl 9.5, yn yr ail golofn, yn lle “Comisiwn” rhodder “Awdurdod”.

(6) Yn Atodlen 4, yn Nhabl 1—

- (a) yn y cofnod ar gyfer Erthygl 4, yn yr ail golofn, yn lle “restr yr Undeb” rhodder “y rhestr ddomestig”;
- (b) yn y cofnod ar gyfer Erthygl 14.1, yn yr ail golofn, yn lle “Comisiwn” rhodder “Awdurdod”;
- (c) yn y cofnod ar gyfer Erthygl 14.2, yn yr ail golofn, yn lle “Comisiwn” rhodder “Awdurdod”.

Rheoliadau Dŵr Mwynol Naturiol, Dŵr Ffynnon a Dŵr Yfed wedi’i Botelu (Cymru) 2015

8.—(1) Mae Rheoliadau Dŵr Mwynol Naturiol, Dŵr Ffynnon a Dŵr Yfed wedi’i Botelu (Cymru) 2015(1) wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 2—

- (a) ym mharagraff (1)—
- (i) hepgorer y diffiniad o “Cyfarwyddeb 2003/40”;
- (ii) yn y lle priodol, mewnosoder—
- “ystyr “deddfwriaeth berthnasol ynghylch dŵr wedi’i botelu” (“*relevant bottled water legislation*”) yw—
- (a) o ran Lloegr, Rheoliadau Dŵr Mwynol Naturiol, Dŵr Ffynnon a Dŵr Yfed wedi’i Botelu (Lloegr) 2007(2);

(1) O.S. 2015/1867 (Cy. 274), a ddiwygiwyd gan O.S. 2017/935 (Cy. 229).

(2) O.S. 2007/2785. Yr offerynnau diwygio perthnasol yw O.S. 2009/1598, O.S. 2010/433, O.S. 2011/451, O.S. 2014/1855 ac O.S. 2018/352.

- (b) o ran Gogledd Iwerddon, Rheoliadau Dŵr Mwynol Naturiol, Dŵr Ffynnon a Dŵr Yfed wedi'i Botelu (Gogledd Iwerddon) 2015(1);
 - (c) o ran yr Alban, Rheoliadau Dŵr Mwynol Naturiol, Dŵr Ffynnon a Dŵr Yfed wedi'i Botelu (Yr Alban) (Rhif 2) 2007(2);
- (iii) yn y lle priodol, mewnosoder—
- “ystyr “trydedd wlad” (“*third country*”) yw unrhyw wlad ac eithrio'r Deyrnas Unedig, ac mae'n cynnwys—
- (a) Beiliaeth Guernsey;
 - (b) Beiliaeth Jersey;
 - (c) Ynys Manaw.”;
- (b) ym mharagraff (3), hepgorer “Cyfarwyddeb 2003/40.”.
- (3) Yn rheoliad 3(1)—
- (a) yn is-baragraff (a), yn lle'r geiriau o “Cyfarwyddeb” hyd at y diwedd rhodder “rheoliad 2(1) o Reoliadau Meddyginiaethau Dynol 2012(3)”;
 - (b) yn is-baragraff (d), yn lle “wlad heblaw Gwladwriaeth AEE” rhodder “drydedd wlad”.
- (4) Yn rheoliad 4—
- (a) ym mharagraff (2)—
 - (i) yn is-baragraff (b), yn lle “yn unol â Chyfarwyddeb 2009/54” rhodder “o dan y ddeddfwriaeth berthnasol ynghylch dŵr wedi'i botelu”;
 - (ii) hepgorer is-baragraff (c);
 - (iii) yn is-baragraff (d)—
 - (aa) yn y geiriau o flaen paragraff (i), yn lle “gwlad heblaw Gwladwriaeth AEE” rhodder “trydedd wlad”;
 - (bb) yn lle paragraff (ii) rhodder—
 - “(ii) pan fo ganddo gydnabyddiaeth gyfatebol a roddir gan awdurdod cyfrifol mewn rhan arall o'r Deyrnas Unedig.”;
 - (b) hepgorer paragraff (3).
- (5) Ar ôl rheoliad 4 mewnosoder—

(1) Rh.St. 2015/365. Diwygiwyd gan Rh.St. 2017/201.
 (2) O.S.A. 2007/483. Yr offerynnau diwygio perthnasol yw O.S.A. 2009/273, O.S.A. 2010/89 ac O.S. 2011/1043.
 (3) O.S. 2012/1916.

“Darpariaeth drosiannol: ymadael â’r AEE a’r UE

4A.—(1) Mae’r dŵr a ganlyn wedi ei achredu, hynny yw mae’n cael ei drin at ddibenion y Rheoliadau hyn fel pe bai’n ddŵr mwynol naturiol a gydnabyddir gan yr Asiantaeth o dan reoliad 4(2)(d)(i)—

- (a) dŵr mwynol naturiol sefydledig a gydnabyddir yn yr UE;
- (b) dŵr mwynol naturiol sefydledig a gydnabyddir yng Ngwlad yr Iâ;
- (c) dŵr mwynol naturiol sefydledig a gydnabyddir yn Norwy.

(2) Mae’r achrediad ym mharagraff (1) yn parhau i gael effaith mewn perthynas â dŵr mwynol naturiol y mae is-baragraff (a), (b) neu (c) o’r paragraff hwnnw yn gymwys iddo hyd nes y dyddiad perthnasol y daw’r achrediad i ben.

(3) Yn achos dŵr mwynol naturiol sefydledig a gydnabyddir yn yr UE, os yw Gweinidogion Cymru o’r farn bod o leiaf un dŵr mwynol sefydledig a gydnabyddir yn y DU nad yw’n cael ei drin gan yr awdurdod cyfrifol mewn o leiaf un Aelod-wladwriaeth fel dŵr mwynol a gydnabyddir at ddibenion Cyfarwyddeb 2009/54/EC(1), caiff Gweinidogion Cymru hysbysu’r Comisiwn fod yr achrediad y darperir ar ei gyfer ym mharagraff (1)(a) mewn perthynas â dŵr mwynol naturiol sefydledig a gydnabyddir yn yr UE, i beidio.

(4) Yn achos dŵr mwynol naturiol sefydledig a gydnabyddir yng Ngwlad yr Iâ, os yw Gweinidogion Cymru o’r farn bod o leiaf un dŵr mwynol sefydledig a gydnabyddir yn y DU nad yw’n cael ei drin fel dŵr mwynol a gydnabyddir yng Ngwlad yr Iâ at ddibenion Cyfarwyddeb 2009/54/EC, caiff Gweinidogion Cymru hysbysu Awdurdod Bwyd a Milfeddygol Gwlad yr Iâ fod yr achrediad y darperir ar ei gyfer ym mharagraff (1)(b) mewn perthynas â dŵr mwynol naturiol sefydledig a gydnabyddir yng Ngwlad yr Iâ, i beidio.

(5) Yn achos dŵr mwynol naturiol sefydledig a gydnabyddir yn Norwy, os yw Gweinidogion Cymru o’r farn bod o leiaf un dŵr mwynol sefydledig a gydnabyddir yn y DU nad yw’n cael ei drin yn Norwy fel dŵr mwynol a gydnabyddir at ddibenion Cyfarwyddeb 2009/54/EC, caiff Gweinidogion Cymru hysbysu Awdurdod Diogelwch Bwyd Norwy fod yr achrediad y darperir ar ei gyfer ym

(1) OJ Rhif L 164, 26.6.2009, t. 45.

mharagraff (1)(c) mewn perthynas â dŵr mwynol naturiol sefydledig a gydnabyddir yn Norwy, i beidio.

(6) Ni chaniateir rhoi hysbysiad o dan baragraff (3), (4) neu (5) cyn diwedd y cyfnod o 6 mis sy'n dechrau ar y diwrnod y mae'r diwrnod ymadael yn digwydd.

(7) Rhaid i'r dyddiad a bennir mewn hysbysiad a roddir o dan baragraff (3), (4) neu (5) fel y dyddiad y daw achrediad i ben fod o leiaf 6 mis ar ôl y dyddiad y rhoddir yr hysbysiad arno, gan ddechrau â'r diwrnod ar ôl y diwrnod y rhoddir yr hysbysiad hwnnw arno.

(8) Rhaid i Weinidogion Cymru gyhoeddi copi o unrhyw hysbysiad a roddir o dan baragraff (3), (4) neu (5) mewn modd sy'n ymddangos i Weinidogion Cymru ei fod yn briodol er mwyn dwyn ei effaith, cyn gynted ag y bo'n rhesymol ymarferol, i sylw'r rhai hynny neu gynrychiolydd y rhai hynny, yng Nghymru, y mae Gweinidogion Cymru yn ystyried bod yr hysbysiad yn debygol o effeithio arnynt.

(9) Rhaid i Weinidogion Cymru gyhoeddi o bryd i'w gilydd, mewn modd sy'n ymddangos i Weinidogion Cymru ei fod yn briodol, restr o enwau y dŵr mwynol naturiol sefydledig a gydnabyddir yn yr UE, yng Ngwlad yr Iâ ac yn Norwy sy'n cael ei drin fel dŵr mwynol naturiol achrededig o dan baragraff (1) ("rhestr paragraff 9").

(10) Pan roddir hysbysiad o dan baragraff (3), (4) neu (5), rhaid i Weinidogion Cymru ddiweddarar'r rhestr paragraff 9 cyn gynted ag y bo'n rhesymol ymarferol ar ôl y dyddiad a bennir yn yr hysbysiad fel y dyddiad y daw'r achrediad i ben.

(11) Mae'r rhestr paragraff 9 i'w thrin fel tystiolaeth derfynol bod y dŵr yn ddŵr mwynol naturiol achrededig at ddibenion y Rheoliadau hyn.

(12) Yn y rheoliad hwn—

ystyr "Aelod-wladwriaeth" (*"member State"*) yw Aelod-wladwriaeth o'r UE fel y mae wedi ei gyfansoddi yn union ar ôl y diwrnod ymadael;

ystyr "Cyfarwyddeb 2009/54/EC" (*"Directive 2009/54/EC"*) yw Cyfarwyddeb 2009/54/EC fel y'i hymgorfforir yng nghytundeb yr AEE, ac fel yr oedd yn cael effaith, yn union cyn y diwrnod ymadael;

ystyr "dŵr mwynol naturiol sefydledig a gydnabyddir yng Ngwlad yr Iâ" (*"established Icelandic recognised natural"*)

mineral water”) yw dŵr mwynol naturiol a echdynnwyd o’r ddaear yng Ngwlad yr Iâ—

(a) yr oedd ganddo, yn union cyn y diwrnod ymadael, statws dŵr mwynol naturiol a gydnabyddir at ddibenion Cyfarwyddeb 2009/54/EC, a

(b) y mae’r gydnabyddiaeth honno yn parhau mewn grym ar ei gyfer;

ystyr “dŵr mwynol naturiol sefydledig a gydnabyddir yn y DU” (“*established recognised UK natural mineral water*”) yw dŵr mwynol naturiol a echdynnwyd o’r ddaear yn y Deyrnas Unedig—

(a) yr oedd ganddo, yn union cyn y diwrnod ymadael, statws dŵr mwynol naturiol a gydnabyddir at ddibenion Cyfarwyddeb 2009/54/EC, a

(b) y mae’r gydnabyddiaeth honno yn parhau mewn grym ar ei gyfer;

ystyr “dŵr mwynol naturiol sefydledig a gydnabyddir yn Norwy” (“*established Norwegian recognised natural mineral water*”) yw dŵr mwynol naturiol a echdynnwyd o’r ddaear yn Norwy—

(a) yr oedd ganddo, yn union cyn y diwrnod ymadael, statws dŵr mwynol naturiol a gydnabyddir at ddibenion Cyfarwyddeb 2009/54/EC, a

(b) y mae’r gydnabyddiaeth honno yn parhau mewn grym ar ei gyfer;

ystyr “dŵr mwynol naturiol sefydledig a gydnabyddir yn yr UE” (“*established EU recognised natural mineral water*”) yw—

(a) dŵr mwynol naturiol a echdynnwyd o’r ddaear mewn unrhyw Aelod-wladwriaeth—

(i) yr oedd ganddo, yn union cyn y diwrnod ymadael, statws dŵr mwynol naturiol a gydnabyddir at ddibenion Cyfarwyddeb 2009/54/EC, a

(ii) y mae’r gydnabyddiaeth honno yn parhau mewn grym ar ei gyfer;

(b) dŵr mwynol naturiol a echdynnwyd o’r ddaear mewn trydedd wlad—

(i) yr oedd ganddo, yn union cyn y diwrnod ymadael, statws dŵr mwynol naturiol a gydnabyddir at ddibenion Cyfarwyddeb 2009/54/EC ar ôl cael ei gydnabod gan unrhyw Aelod-wladwriaeth fel dŵr mwynol naturiol at ddibenion Cyfarwyddeb 2009/54/EC ar sail

tystysgrif (“tystysgrif Erthygl 1(2)”) o’r math y cyfeirir ato yn yr ail is-baragraff o Erthygl 1(2) o Gyfarwyddeb 2009/54/EC a ddyroddir gan yr awdurdod cyfrifol yn y wlad y’i hechdynnwyd ynddi,

(ii) y mae’r gydnabyddiaeth honno yn parhau mewn grym ar ei gyfer, a

(iii) y mae’r dystysgrif Erthygl 1(2) yn parhau i fod yn ddilys ar ei gyfer;

ystyr “dyddiad y daw’r achrediad i ben” (“*accreditation cessation date*”) yw’r dyddiad dod i ben a bennir mewn hysbysiad a roddir gan Weinidogion Cymru o dan baragraff (3), (4) neu (5);

mae i “trydedd wlad” yr un ystyr ag a roddir i “third country” yng Nghyfarwyddeb 2009/54/EC.”

(6) Yn rheoliad 24(1)(a), yn lle “bodloni gofynion Cyfarwyddeb 98/83 ac yn cydymffurfio’n benodol” rhodder “cydymffurfio”.

(7) Yn rheoliad 27A—

(a) ym mharagraff (b), hepgorer “neu o Wladwriaeth AEE arall”;

(b) ym mharagraff (c)—

(i) yn lle “wlad nad yw’n Wladwriaeth AEE arall” rhodder “drydedd wlad”;

(ii) hepgorer “neu mewn Gwladwriaeth AEE arall”.

(8) Yn rheoliad 27B—

(a) ym mharagraff (b)—

(i) hepgorer “neu o Wladwriaeth AEE arall”;

(ii) yn lle’r geiriau o “fel triniaeth sy’n cydymffurfio” i “fel y’i gweithredir” rhodder “o dan y ddeddfwriaeth berthnasol ynghylch dŵr wedi’i botelu sy’n gymwys”;

(iii) hepgorer “neu’r Wladwriaeth AEE honno”;

(b) ym mharagraff (c)—

(i) yn lle “wlad nad yw’n Wladwriaeth AEE arall” rhodder “drydedd wlad”;

(ii) hepgorer “neu mewn Gwladwriaeth AEE arall”;

(iii) yn lle’r geiriau o “Erthygl 5” i “ddŵr ffynnon” rhodder “y ddeddfwriaeth berthnasol ynghylch dŵr wedi’i botelu sy’n gymwys yn y rhan honno o’r Deyrnas Unedig”.

(9) Hefgorer rheoliad 33(4).

(10) Yn rheoliad 36(1)(b), yn lle “gwlad ar wahân i Wladwriaeth AEE” rhodder “trydedd wlad”.

(11) Yn Atodlen 1—

- (a) ym mharagraff 1, yn y geiriau o flaen is-baragraff (a), hepgorer “at ddibenion Erthygl 1 o Gyfarwyddeb 2009/54”;
- (b) yn Rhan 2, yn y pennawd, yn lle “gwlad heblaw Gwladwriaeth AEE” rhodder “trydedd wlad”;
- (c) ym mharagraff 5, yn y geiriau o flaen is-baragraff (a)—
 - (i) yn lle “gwlad heblaw Gwladwriaeth AEE” rhodder “trydedd wlad”;
 - (ii) hepgorer “at ddibenion Erthygl 1 o Gyfarwyddeb 2009/54”.

(12) Yn Atodlen 10, ym mharagraff 1(1), yn lle “ag Atodiad III i Gyfarwyddeb 98/83 a’r” rhodder “â’r”.

(13) Yn Atodlen 11, ym mharagraff 1, yn lle “ag Atodiad III i Gyfarwyddeb 2013/51 a’r” rhodder “â’r”.

Rheoliadau Bwyd Anifeiliaid (Cyfansoddiad, Marchnata a Defnydd) (Cymru) 2016

9.—(1) Mae Rheoliadau Bwyd Anifeiliaid (Cyfansoddiad, Marchnata a Defnydd) (Cymru) 2016(1) wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 7(2)—

- (a) yn is-baragraff (a), hepgorer y geiriau o “, fel y’i darllenir” hyd at y diwedd;
- (b) yn is-baragraff (c), yn lle “Comisiwn” rhodder “Awdurdod Diogelwch Bwyd”.

(3) Yn rheoliad 10(2)(d), yn lle “Comisiwn” rhodder “Awdurdod Diogelwch Bwyd”.

(4) Yn rheoliad 13(2)—

- (a) hepgorer is-baragraff (a);
- (b) yn is-baragraff (b), yn lle “Comisiwn” rhodder “awdurdod priodol”.

(5) Yn lle Atodlen 1, rhodder yr Atodlen 1 newydd a nodir yn yr Atodlen i’r Rheoliadau hyn.

Rheoliadau Bwydydd Newydd (Cymru) 2017

10.—(1) Mae Rheoliadau Bwydydd Newydd (Cymru) 2017(2) wedi eu diwygio fel a ganlyn.

(2) Yn Atodlen 1, yn y tabl—

(1) O.S. 2016/386 (Cy. 120), y mae diwygiadau iddo nad ydynt yn berthnasol i’r Rheoliadau hyn.

(2) O.S. 2017/1103 (Cy. 279).

- (a) yn y cofnod ar gyfer Erthygl 6(2) fel y'i darllenir gydag Erthyglau 24 a 35(2), yn yr ail golofn, yn lle "rhestr yr Undeb" rhodder "y rhestr";
- (b) yn y cofnod ar gyfer Erthygl 25, yn yr ail golofn, yn lle "Comisiwn Ewropeaidd" rhodder "Awdurdod Diogelwch Bwyd".

Vaughan Gething

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

Yr Atodlen i'w rhoi yn lle Atodlen 1 i Reoliadau Bwyd Anifeiliaid (Cyfansoddiad, Marchnata a Defnydd) (Cymru) 2016

“Atodlen 1 Rheoliad 12

Darpariaethau Penodedig Rheoliad 767/2009

| <i>Y ddarpariaeth benodedig</i> | <i>Y pwnc</i> |
|--|--|
| Erthygl 4(1) a (2), fel y'i darllenir gydag Erthygl 4(3) ac Atodiad 1 | Gofynion diogelwch cyffredinol a gofynion eraill i'w bodloni pan osodir bwyd anifeiliaid ar y farchnad neu pan y'i defnyddir. |
| Erthygl 5(1) | Estyn y gofynion mewn perthynas â bwyd anifeiliaid ar gyfer anifeiliaid sy'n cynhyrchu bwyd mewn deddfwriaeth arall i fod yn gymwys i fwyd anifeiliaid ar gyfer anifeiliaid nad ydynt yn cynhyrchu bwyd. |
| Erthygl 5(2), fel y'i darllenir gydag Erthygl 12(1), (2) a (3) | Rhwymedigaeth ar berson sy'n gyfrifol am labelu i roi gwybodaeth ar gael i'r awdurdod cymwys. |
| Erthygl 6(1), fel y'i darllenir gydag Atodiad 3 | Gwaharddiad neu gyfyngiad ar farchnata neu ddefnyddio deunyddiau penodol at ddibenion maeth anifeiliaid. |
| Erthygl 8 | Rheolaethau ar y lefelau o ychwanegion mewn bwydydd anifeiliaid. |
| Erthygl 9 | Rheolaethau ar farchnata bwydydd anifeiliaid at ddibenion maethol penodol. |
| Erthygl 11, fel y'i darllenir gydag Erthygl 12(1), (2) a (3), Atodiadau 2 a 4 a'r Catalog o ddeunyddiau bwyd anifeiliaid | Rheolau ac egwyddorion sy'n llywodraethu labelu a chyflwyno bwyd anifeiliaid. |
| Erthygl 12(4) a (5) | Dynodi'r person sy'n gyfrifol am labelu a rhwymedigaethau a chyfrifoldebau'r person hwnnw. |
| Erthygl 13(1), fel y'i darllenir gydag Erthygl 12(1), (2) a (3) | Amodau cyffredinol ar wneud honiad ynghylch nodweddion neu swyddogaethau bwyd anifeiliaid wrth ei labelu neu ei chyflwyno. |
| Erthygl 13(2) a (3), fel y'i darllenir gydag Erthygl 12(1), (2) a (3) | Amodau arbennig sy'n gymwys i honiadau ynghylch gwneud y gorau o'r maeth ac ynghylch cynnal neu warchod yr amodau ffisiolegol. |
| Erthygl 14(1) a (2), fel y'i darllenir gydag Erthygl 12(1), (2) a (3) | Y gofynion ar gyfer cyflwyno'r manylion labelu mandadol. |
| Erthygl 15, fel y'i darllenir gydag Erthyglau 12(1), (2) a (3) ac 21 a chydag Atodiadau 6 a 7 | Gofynion labelu mandadol cyffredinol ar gyfer deunyddiau bwyd anifeiliaid a bwydydd anifeiliaid cyfansawdd. |
| Erthygl 16, fel y'i darllenir gydag Erthyglau 12(1), (2) a (3) ac 21 a chydag Atodiadau 2 a 5 a'r Catalog o ddeunyddiau bwyd anifeiliaid | Gofynion labelu penodol ar gyfer deunyddiau bwyd anifeiliaid. |
| Erthygl 17(1) a (2) fel y'i darllenir gydag Erthyglau 12(1), (2) a (3) ac 21 a chydag Atodiadau 2, 6 a 7 | Gofynion labelu penodol ar gyfer bwydydd anifeiliaid cyfansawdd. |
| Erthygl 18, fel y'i darllenir gydag Erthygl | Gofynion labelu ychwanegol ar gyfer bwyd |

| | |
|--|---|
| 12(1), (2) a (3) | anifeiliaid at ddibenion maethol penodol (bwydydd anifeiliaid deietegol). |
| Erthygl 19, fel y'i darllenir gydag Erthygl 12(1), (2) a (3) | Gofynion labelu ychwanegol ar gyfer bwyd anifeiliaid anwes. |
| Erthygl 20(1), fel y'i darllenir gydag Erthygl 12(1), (2) a (3) a chydag Atodiad 8 | Gofynion ychwanegol ar gyfer labelu bwyd anifeiliaid nad yw'n cydymffurfio, megis bwyd anifeiliaid sy'n cynnwys deunyddiau halogedig. |
| Erthygl 23 | Gofynion sy'n ymwneud â phe cynnu a selio deunyddiau bwyd anifeiliaid a bwydydd anifeiliaid cyfansawdd ar gyfer eu rhoi ar y farchnad. |
| Erthygl 24(2) | Gofyniad, os defnyddir enw deunydd bwyd anifeiliaid sydd wedi ei restru yn y Catalog o ddeunyddiau bwyd anifeiliaid, fod rhaid cydymffurfio â holl ddarpariaethau perthnasol y Catalog. |
| Erthygl 24(3) | Rhwymedigaeth ar berson sy'n rhoi ar y farchnad am y tro cyntaf ddeunydd bwyd anifeiliaid nad yw wedi ei restru yn y Catalog o ddeunyddiau bwyd anifeiliaid i hysbysu am ei ddefnydd." |

Explanatory Memorandum to the Food (Miscellaneous Amendments) (Wales) (EU Exit) (No. 2) Regulations 2019

This Explanatory Memorandum has been prepared by the Food Standards Agency and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister/Deputy Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Food (Miscellaneous Amendments) (Wales) (EU Exit) (No.2) Regulations 2019

I have made the statements required by the European Union (Withdrawal) Act 2018. These statements can be found in Part 2 of the Annex to this Memorandum.

Vaughan Gething AM

Minister for Health and Social Services

5 March 2019

PART 1

1. Description

The Food (Miscellaneous Amendments) (Wales) (EU Exit) (No. 2) Regulations 2019 (“this Instrument”) amend the Statutory Instruments listed below. These amendments are required to address deficiencies arising from EU Exit and ensure that the statute book remains operable following the UK’s exit from the EU.

- General Food Regulations 2004
- The Food Hygiene (Wales) Regulations 2006
- The Fishery Products (Official Controls Charges) (Wales) Regulations 2007
- Official Feed and Food Controls (Wales) Regulations 2009
- The Materials and Articles in Contact with Food (Wales) Regulations 2012
- The Food Additives, Flavourings, Enzymes and Extraction Solvents (Wales) Regulations 2013
- The Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) Regulations 2015
- The Animal Feed (Composition, Marketing and Use) (Wales) Regulations 2016
- The Novel Foods (Wales) Regulations 2017

The instrument comes into force on “exit day”, which section 20(1) of the European Union (Withdrawal) Act 2018 (“the 2018 Act”) defines as 29 March 2019 at 11.00pm.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

This instrument is being made using powers conferred by paragraph 1(1) of Schedule 2 and paragraph 21(b) of Schedule 7 to the 2018 Act.

As set out in the Ministerial Statement in Part 2 of the Annex to this Explanatory Memorandum, it is proposed that the instrument be subject to the affirmative procedure under paragraph 1(8) of Schedule 7 to the 2018 Act.

3. Legislative background

This instrument is being made using the power in Part 1 of Schedule 2 to the 2018 Act in order to address failures of retained EU law to operate effectively, or other deficiencies arising from the withdrawal of the United Kingdom from the European Union. The instrument is also made under paragraph 21 of Schedule 7 to the 2018 Act. In accordance with the requirements of that Act the Minister has made the relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.

4. Purpose and intended effect of the legislation

What did any relevant EU law do before exit day?

General Food Regulations 2004

These Regulations provide for the enforcement of Regulation (EC) No 178/2002 in relation to Wales. The Regulations originally applied in relation to England, Scotland and Wales but have subsequently revoked in relation to England.

Regulation (EC) No 178/2002, as implemented in Wales by these Regulations, establishes the responsibility of Food Business Operators (FBOs) to produce food with a high level of protection of human life and health and establishes principles of traceability through the food chain. Together, they provide the high-level principles underpinning the placing of safe food and feed on the market in the EU. They also establish and describe institutions such as the European Food Safety Authority and administrative functions concerning food and feed safety such as the network for the notification of direct and indirect risk to human health arising from food and feed (the 'Rapid Alert System').

The Food Hygiene (Wales) Regulations 2006

These Regulations provide for the execution and enforcement of the following EU instruments in relation to Wales:

- Regulation (EC) 852/2004 laying down general principles for the hygienic production of foodstuffs by food business operators.
- Regulation (EC) 853/2004 laying down specific hygiene rules for food of animal origin.
- Regulation (EC) 854/2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption.
- Regulation (EC) No. 2073/2005 on microbiological criteria for foodstuffs.
- Regulation (EC) No. 2075/2005 laying down specific rules on official controls for *Trichinella* in meat.

The 2006 Regulations establish the enforcement mechanisms for competent authorities to implement EU food hygiene rules and set out the remedies available to enforcement authorities on the discovery of non-compliance.

Additionally, the 2006 Regulations provide for the procurement and analysis of samples and create a presumption that specified food is intended for human consumption.

The Fishery Products (Official Controls Charges) (Wales) Regulations 2007

These Regulations set out the charges required to be levied for official controls undertaken on relevant fishery products as specified in Regulation (EC) No. 854/2004.

Regulation (EC) No. 854/2004 lays down specific rules for the organisation of official controls on products of animal origin, including fishery products, intended for human consumption.

Official Feed and Food Controls (Wales) Regulations 2009

These Regulations implement the following EU Regulations in relation to Wales:

- Regulation (EC) No. 882/2004 providing for official controls to be performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules.
- Regulation (EU) 2017/625 setting out official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products.
- Regulation (EC) 854/2004 providing specific rules for the organisation of official controls on products of animal origin intended for human consumption.

The 2009 Regulations set out the competent authorities for the enforcement of feed and food law, the control mechanisms by which enforcement authorities may monitor the production and supply of food and feed in order to ensure a high level of protection for human life and health, as well as the powers to deal with any non-compliance with the relevant rules.

The Materials and Articles in Contact with Food (Wales) Regulations 2012

These Regulations implement the following EU Regulations in relation to Wales:

- Regulation (EU) No 10/2011 providing rules on plastic materials and articles intended to come into contact with food.
- Regulation (EC) No 1935/2004 providing rules on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC.
- Regulation (EC) No 1895/2005 providing rules on restrictions of use of certain epoxy derivatives in materials and articles intended to come into contact with food.
- Regulation (EC) No 2023/2006 establishing good manufacturing practices for materials and articles intended to come into contact with food.
- Regulation (EC) No 450/2009 providing rules on active and intelligent materials and articles intended to come into contact with food.

The EU Regulations, as implemented by the 2012 Regulations, provide for the protection of food from hazards that may arise from materials and articles with which they may come into contact throughout the food chain.

The Food Additives, Flavourings, Enzymes and Extraction Solvents (Wales) Regulations 2013

These Regulations implement the following EU Regulations in relation to Wales:

- Regulation (EC) No. 2065/2003 on smoke flavouring used or intended for use in or on foods).
- Regulation (EC) No. 1332/2008 on food enzymes.
- Regulation (EC) No. 1333/2008 on food additives.
- Commission Regulation EU No. 231/2012 laying down specifications for food additives approved under 1333/2008.
- Regulation (EC) No. 1334/2008 on flavourings and certain food ingredients with flavouring properties for use in and on foods flavourings.

The Regulation also transposes Directive 2009/32/EC on extraction solvents used in the production of foodstuffs and food ingredients.

Food improvement agents are used in or on food for a technological purpose during its production or storage. They are also used to improve the taste, texture, and appearance of food. In general, the harmonised EU legislation governing these substances requires a pre-market risk assessment and authorisation before they may be placed on the market. The legislation provides lists of permitted substances, applicable specifications, conditions of use, as well as categories of foods in which they may be used. The legislation also provides specific labelling requirements for certain food products sold to consumers. This includes a mandatory warning on products containing aspartame as it is a source of phenylalanine, which could be detrimental to those suffering from Phenylketonuria.

The Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) Regulations 2015

These Regulations transpose the following EU Directives in relation to Wales:

- Directive 98/83/EC on the quality of water intended for human consumption.
- Directive 2002/40/EC establishing the list, concentration limits and labelling requirements for the constituents of natural mineral waters and

the conditions for using ozone-enriched air for the treatment of natural mineral waters and spring waters.

- Directive 2009/54/EC of the European Parliament and of the Council on the exploitation and marketing of natural mineral waters.
- Directive 2013/51/EURATOM laying down requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption.

The Regulations also implement the following EU Regulations in relation to Wales:

Regulation (EU) No 115/2010 laying down the conditions for use of activated alumina for the removal of fluoride from natural mineral waters and spring waters.

Of particular relevance to the amendments in this Instrument, Directive 2009/54/EC requires natural mineral waters to go through a process of recognition to prove that they have the necessary composition and characteristics to be sold and marketed as natural mineral waters in all EU member States. Recognition is carried out by individual member States.

The Animal Feed (Composition, Marketing and Use) (Wales) Regulations 2016

These Regulations implement the following EU Regulations in relation to Wales:

- Regulation (EC) No 178/2002 in relation to general safety requirements.
- Regulation (EC) No 1829/2003 on genetically modified food and feed.
- Regulation (EC) No 1831/2003 on additives for use in animal feed.
- Regulation (EC) No 767/2009 on placing on the market and use of feed.

The Regulations also transpose:

- Directive 2002/32/EC on undesirable substances in animal feed.
- Directive 2008/38/EC to establish a list of intended uses for animal feedingstuffs for particular nutritional uses.

Regulation (EC) No 178/2002, as far as related to feed and implemented in Wales by these Regulations, establishes the responsibility of Feed Business Operators (FBOs) to produce feed with a high level of protection of animal and human life and health and establishes principles of traceability through the food chain.

Together, these regulations lay down the conditions relating to feed hygiene, feed additives, placing on the market of genetically modified food and feed, sampling and marketing and use of feed including labelling (including high-level principles around the placing of safe animal feed on the market).

The Novel Foods (Wales) Regulations 2017

These Regulations implement the following EU Regulations in relation to Wales:

- Regulation (EU) 2015/2283 on novel foods.

Novel Foods are foods or food ingredients that do not have a significant history of consumption within the EU before 15 May 1997. The EU legislation on Novel Foods is harmonised across the EU. In the interests of safeguarding public health, they are required to have a pre-market risk assessment and authorisation before being placed on the market. A recent example of this is chia seeds. The pre-market risk assessment examines a range of issues to establish whether consumers would be at risk if they consumed the novel food, how high the level of risk is likely to be and how, if a risk is established, that risk would be managed.

Why is it being changed?

The Instrument will predominantly make minor and technical changes. They are necessary to ensure that the domestic legislation implementing retained direct EU legislation continues to operate effectively after EU exit.

The amendments to the Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) Regulations 2015 ensure there will continue to be a functioning statute book on exit day and will continue in force existing recognitions of natural mineral waters which obtained their recognitions in other EU/EEA States before exit day. The amendments also provide for an effective mechanism to cease, in appropriate circumstances, this ongoing recognition in order to retain control over the recognition and sale of natural mineral waters in Wales.

The specific changes being proposed to the regulations are detailed below.

General Food Regulations 2004

- Replacing references to 'European Union' in a descriptor of an Article of Regulation 178/2002 that is amended by the General Food Law (Amendment etc.) (EU Exit) Regulations 2019¹.

The Food Hygiene (Wales) Regulations 2006

¹ S.I. 2019/XX.

- Replacing reference to ‘EU legislation or national law’ with ‘UK law’.
- Omitting references to ‘European Union’ in a descriptor of an Article of Regulation 178/2002 that is amended by the Specific Food Hygiene (Amendment etc.) (EU Exit) Regulations 2019² and removing the descriptor of another in consequence of that Article being omitted.
- Ensuring that provision for the use of the Welsh language is included. Previously, documentation accompanying raw sugar had to be accompanied by the words, ‘in one or more Community languages’, ‘This product must be refined before being used for human consumption’. As amended, those words will have to be displayed in English, or in English and Welsh.

The Fishery Products (Official Controls Charges) (Wales) Regulations 2007

- Amending the definition of a ‘third Country’.
- Amending the Euro/Sterling conversion rate for the purposes of the Regulations so as to be consistent with the conversion rate used in the parent retained direct EU legislation (Regulation (EC) No. 882/2004 of the European Parliament and the Council on official controls, as amended by the Official Controls for Feed, Food and Animal Health and Welfare (Amendment etc.) (EU Exit) Regulations 2019³) and to remove the dependency on the Official Journal of the European Union.

The Official Feed and Food Controls (Wales) Regulations 2009

- Amending several cross-references to Articles of Regulation (EC) No 882/2004 to reflect amendments made to the relevant retained direct EU law by the Official Controls for Feed, Food and Animal Health and Welfare (Amendment etc.) (EU Exit) Regulations 2019.
- Amending the descriptor of Article 7 of Regulation (EC) 669/2009 to reflect amendments made to it by the Food and Feed Imports (Amendment) (EU Exit) Regulations 2019⁴. Those amendments provide that information concerning consignments of imported food and feed may now be provided in “English, or in English and Welsh”, rather than in “one or more Community languages”.

The Materials and Articles in Contact with Food (Wales) Regulations 2012.

- Amending descriptors of Articles of relevant EU instruments in light of amendments made by the Materials and Articles in Contact with Food (Amendment) (EU Exit) Regulations 2019⁵.

² S.I. 2019/XX.

³ S.I. 2019/XX.

⁴ S.I. 2019/XX.

⁵ S.I. 2019/XX.

The Food Additives, Flavourings, Enzymes and Extraction Solvents (Wales) Regulations 2013

- Amending several cross-references to, and descriptors of, Articles of retained direct EU legislation as a result of revocations of or amendments to those Articles by the Food Additives, Flavourings, Enzymes and Extraction Solvents (Amendment etc.) (EU Exit) Regulations 2019⁶. The amendments include amending the descriptor of Article 21.1 of Regulation (EC) 1333/2008 to reflect the amendment that food additives not intended for sale to the final consumer must now be labelled in ‘English, or in English and Welsh’ rather than in ‘a language easily understandable to purchasers’.

The Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) Regulations 2015

- Removing various redundant references to Directive 98/83, Directive 2001/83, Directive 2003/40, Directive 2009/54 and Directive 2013/51.
- Inserting a definition of ‘third country’ capturing any country other than the UK (and associated amendments).
- Replacing reference to recognition of natural mineral water ‘in accordance with Directive 2009/54’ with reference to recognition in accordance with the relevant regulations in force in other parts of the UK to ensure that natural mineral waters recognised in other parts of the UK may continue to be sold in Wales.
- Providing that from exit day, water from all third countries must be recognised in Wales by the Food Standards Agency (“FSA”) or by the relevant authority in another part of the UK before it may be placed on the market in Wales.
- Removing reference to publication in the Official Journal of the European Union of lists of recognised natural mineral waters.
- Inserting a transitional provision providing that water recognised before exit day in or by EU/EEA States as natural mineral waters may continue to be sold in Wales post-exit day and conferring a power on the Welsh Ministers to issue a notice to cease that ongoing recognition in specified circumstances. The amendments also impose a duty on the Welsh Ministers to publish a list of the EU/EEA waters that remain recognised natural mineral waters in Wales.
- Providing that fluoride removal treatments and ozone reduction treatments carried out in any third country must have been approved by the relevant authority in that country, and that the approval procedures used in that third country must be approved by the FSA or other responsible UK authority as being equivalent to the ones in force in

⁶ S.I. 2019/XX.

Wales/the UK, before water which has been subjected to such treatment may be sold in Wales.

- Removing an exemption from enforcement action for spring water from EEA countries that does not satisfy specific domestic requirements.

The Animal Feed (Composition, Marketing and Use) (Wales) Regulations 2016

- Amending cross-references to, and descriptors of, Articles 20(6) and 21(3) of retained direct EU legislation Regulation (EC) 1829/2003 to reflect amendments made to that Regulation by the Genetically Modified Food and Feed (Amendment etc.) (EU Exit) Regulations 2019⁷.
- Amending descriptors of Article 12(2) (changing reference from 'Commission' to 'appropriate authority' for reporting purposes) of retained direct EU law Regulation (EC) 1831/2003 and cross-references to, and descriptors of, Articles 13(1)(b) and 26(1)(b) of Regulation 767/2009 to reflect amendments made by the Animal Feed (Amendment) (EU Exit) Regulations 2019⁸.
- Replacing Schedule 1 to the 2016 Regulations on the specified application of Regulation 767/2009. All of the amendments are being made in consequence of amendments made to the relevant Articles by the Animal Feed (Amendment) (EU Exit) Regulations 2019.

The Novel Foods (Wales) Regulations 2017

- Amending references to the 'Commission' and 'Union' in descriptors of Articles 6(2) and 25 of Regulation (EU) 2015/2283 to reflect amendments made to those Articles by the Novel Food (Amendment) (EU Exit) Regulations 2019⁹.

What will it now do?

Principally, this Instrument will make minor technical changes to ensure that the Welsh regulations, which provide for the implementation of retained EU law relating to food and feed hygiene and safety, food compositional standards and labelling and food and feed regulated products, will continue to be operable and enforceable in Wales after the UK leaves the EU. These amendments do not make any changes to the way the Welsh regulations operate.

In relation to the amendments to the Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) Regulations 2015, the amendments also provide that from exit day, waters from the EU/EEA, like waters from other third countries, must be recognised as natural mineral water in Wales/the UK before they may be placed on the market in Wales. This is subject to a transitional

⁷ S.I. 2019/XX.

⁸ S.I. 2019/XX.

⁹ S.I. 2019/XX.

provision which continues in force the existing recognition in Wales of natural mineral waters recognised before exit day in the EU/EEA until such time as the Welsh Ministers issue a notice that such recognition is to cease.

5. Consultation

A four-week consultation was conducted in Wales on the principle of the proposed amendments. The consultation closed on 4 February 2019. We received three responses to the consultation in Wales. We did not receive any comments on the technical amendments to be made by these proposed amendments.

Two of the three responses received commented on the proposed amendments relating to natural mineral water. The responses were identical, sent by representatives of enforcement authorities. They agreed that there ought to be a transitional period post-exit during which EU27/EEA recognised natural mineral waters should continue to be recognised as natural mineral water in Wales.

While the respondents' preference was for a fixed five-year transition period, we consider that the transitional provision proposed in these Regulations, which continues existing EU27/EEA recognitions in force on exit day but enabling the Welsh Ministers to issue a notice to cease those recognitions when certain criteria are met, is preferable. It strikes the appropriate balance between ensuring consumer confidence and continuity of supply immediately after exit but also maintaining the Welsh Ministers' control over the recognition of EU27/EEA natural mineral waters in Wales. It also has the benefit of maintaining consistency with the approach adopted elsewhere in the United Kingdom.

6. Regulatory Impact Assessment (RIA)

No impact assessment has been produced in relation to these Regulations as no impact on the private, voluntary or public sectors is foreseen.

This legislation has no impact on the statutory duties (sections 77-79 of the Government of Wales Act 2006) or statutory partners (sections 72-75 of the Government of Wales Act 2006).

Annex [x] Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required of the Welsh Ministers under the 2018 Act. The table also sets out those statements that may be required of Ministers of the Crown under the 2018 Act, which the Welsh Ministers have committed to also provide when required. The required statements can be found in Part 2 of this annex.

| Statement | Where the requirement sits | To whom it applies | What it requires |
|-----------------|---|--|---|
| Sifting | Paragraphs 3(7) and 4(3), Schedule 7 <i>Paragraph 3(7) (anticipated to be a requirement on Welsh Ministers in Standing Orders)</i> | The Welsh Ministers exercising powers in Part 1 of Schedule 2 to make a Negative SI Paragraph 3(7) applies to Ministers of the Crown, but Welsh Ministers have committed to make the same statement | A statement to explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation of the CLA Committee (as sifting committee) |
| Appropriateness | Sub-paragraph (2) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement that the SI does no more than is appropriate. |
| Good Reasons | Sub-paragraph (3) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. | A statement to explain the good reasons for making the instrument and that what is being done is a reasonable course of action. |

| | | | |
|-------------------|--|--|--|
| | | Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | |
| Equalities | Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | <p>A statement to explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them.</p> <p>A statement that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.</p> |
| Explanations | Sub-paragraph (6) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement to explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g. whether minor or technical changes only are intended to the EU retained law. |
| Criminal offences | Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement setting out the 'good reasons' for creating a criminal offence, and the penalty attached. |
| Sub-delegation | Paragraph 30, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 18(1), 9 and paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved | A statement to explain why it is appropriate to create such a sub-delegated power. |

| | | | |
|---------|--|---|--|
| | | <p>Authority.</p> <p>Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 or paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority</p> | |
| Urgency | Sub-paragraph (2) and (8) of paragraph 7, Schedule 7 | Welsh Ministers exercising powers in Part 1 of Schedule 2 but using the urgent procedure in paragraph 7 of Schedule 7 | A statement that the Welsh Ministers are of the opinion that it is necessary to make the SI using the urgent procedure and the reasons for that opinion. |

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

1. Sifting statement(s)

Not applicable/required.

2. Appropriateness statement

The Minister for Health and Social Services, Vaughan Gething, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Food (Miscellaneous Amendments) (Wales) (EU Exit) (No.2) Regulations 2019 do no more than is appropriate.”

This is the case because the Instrument predominantly corrects technical deficiencies arising from EU exit. In relation to the amendments relating to natural mineral water, in a no deal scenario, the Instrument will continue in force after exit the existing recognition of natural mineral waters which obtained their recognition in or by another member State in the EU/EEA and will introduce a power for the Welsh Ministers to end the recognition on giving notice. This policy will ensure market stability immediately after EU exit, facilitating trade and business confidence, and will protect consumers against price increases as a direct consequence of EU exit, but will also enable the Welsh Ministers to maintain their control over the recognition and sale of EU/EEA natural mineral waters in Wales.

3. Good reasons

The Minister for Health and Social Services, Vaughan Gething, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action.”

These are that failure to make this legislation would result in Welsh legislation relating to feed and food hygiene, food compositional standards and labelling and food and feed regulated products failing to operate effectively after the UK leaves the EU.

4. Equalities

The Minister for Health and Social Services, Vaughan Gething, has made the following statement

“The Instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts.”

The Minister for Health and Social Services, Vaughan Gething, has made the following statement regarding the use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the [draft] instrument, I, Vaughan Gething have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.”.

5. Explanations

The explanations statement has been made in paragraph 4 (Purpose & intended effect of the legislation) of the main body of this Explanatory Memorandum.

6. Criminal offences

Not applicable/required.

7. Legislative sub-delegation

The Minister for Health and Social Services, Vaughan Gething, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view it is appropriate to create a relevant sub-delegated power in the Food (Miscellaneous Amendments) (Wales) (EU Exit) (No.2) Regulations 2019.”.

This is appropriate because it enables the Welsh Ministers to withdraw recognition of natural mineral waters which obtained their recognition in or by another member State in the EU or EEA, giving a period of notice for businesses to adjust, should the need arise, therefore maintaining the Welsh Ministers’ control over the recognition and sale of EU/EEA natural mineral waters in Wales.

8. Urgency

Not applicable/required.

SL(5)368 – The Local Authorities (Capital Finance and Accounting) (Wales) (Amendment) (EU Exit) Regulations 2019

Background and Purpose

These Regulations are proposed to be made by the Welsh Ministers pursuant to section 11 of, and paragraph 1(1) of Schedule 2 to, the European Union (Withdrawal) Act 2018, to correct a deficiency arising from the UK's withdrawal from the European Union.

Regulation 1(4) of the Local Authorities (Capital Finance and Accounting) (Wales) Regulations 2003, as amended by the Local Authorities (Capital Finance and Accounting) (Wales) (Amendment) Regulations 2018 ("the **2003 Regulations**") defines a "money market fund" as including a collective investment scheme in transferable securities subject to Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009. The amendment made by these Regulations limits that definition to a collective investment scheme authorised or recognised under domestic legislation only (specifically, Part XVII of the Financial Services and Markets Act 2000).

Procedure

Affirmative.

Technical Scrutiny

One point is identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation.

Regulation 2 amends Regulation 1(4) of the 2003 Regulations. The Explanatory Memorandum to these Regulations contains inconsistencies (to which, see below) and indicate variously that the amendment amounts to removing reference to "EU regulations" (para 1.2) or the "European Directive and Council meeting" (para 4.4).

However, Regulation 2 omits paragraph (a) of the definition of "money market fund" in its entirety, which has the effect of omitting provision defining such a fund as being an undertaking for collective investment in transferable securities. It is therefore not clear, in light of the content of the Explanatory Memorandum, whether this change is intended.

Merits Scrutiny

Two points are identified for reporting under Standing Order 21.3 in respect of this instrument.

1. Standing Order 21.3(ii) - that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly.



The Explanatory Memorandum to these Regulations, at paragraph 2.1, notes that these Regulations *"would ordinarily have been made through the negative annulment procedure however, to ensure that the instrument is operable after exit day it is proposed that the affirmative procedure is followed"*.

2. Standing Order 21.3(ii) - that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly.

The Explanatory Memorandum to these Regulations appears to contain a number of errors:

1. The title of these Regulations is "The Local Authorities (Capital Finance and Accounting) (Wales) (Amendment) (EU Exit) Regulations 2019 (referred to in the Explanatory Memorandum as "The Local Authorities Capital Finance and Accounting (Wales) (Amendment)(EU Exit) Regulations 2019";
2. Paragraph 1.2,, and a statement made by the Minister at paragraph 3.1 in Part 2 of the Annex, indicate that these Regulations amend the definition of "money market fund" in the 2003 Regulations to "remove reference to EU regulations" (the amendment made in facts omits a reference to Directive 2009/65/EC); and
3. Paragraph 4.4 states that these Regulations "remove reference to the European Directive and Council meeting." (as above, these Regulations omit a reference to Directive 2009/65/EC).

Implications arising from exiting the European Union

No further points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Government Response

A government response is required.

Legal Advisers

Constitutional and Legislative Affairs Committee

14 March 2019



Rheoliadau drafft a osodwyd gerbron Cynulliad Cenedlaethol Cymru o dan baragraff 1(9) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018, i'w cymeradwyo drwy benderfyniad gan Gynulliad Cenedlaethol Cymru.

OFFERYNNAU STATUDOL
CYMRU DRAFFT

2019 Rhif (Cy.)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

**LLYWODRAETH LEOL,
CYMRU**

**Rheoliadau Awdurdodau Lleol
(Cyllid Cyfalaf a Chyfrifyddu)
(Cymru) (Diwygio) (Ymadael â'r
UE) 2019**

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn wedi eu gwneud drwy arfer y pwerau a roddir gan adran 11 o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 a pharagraff 1(1) o Atodlen 2 iddi, er mwyn ymdrin ag unrhyw fethiant yng nghyfraith yr UE a ddargedwir i weithredu'n effeithiol a diffygion eraill sy'n deillio o ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd.

Mae rheoliad 2 yn diwygio'r diffiniad o "money market fund" yn Rheoliadau Awdurdodau Lleol (Cyllid Cyfalaf a Chyfrifyddu) (Cymru) 2003 (O.S. 2003/3239 (Cy. 319)).

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Aseidiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, ystyriwyd nad oedd yn angenrheidiol cynnal asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn.

Rheoliadau drafft a osodwyd gerbron Cynulliad Cenedlaethol Cymru o dan baragraff 1(9) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018, i'w cymeradwyo drwy benderfyniad gan Gynulliad Cenedlaethol Cymru.

OFFERYNNAU STATUDOL
CYMRU DRAFFT

2019 Rhif (Cy.)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

**LLYWODRAETH LEOL,
CYMRU**

**Rheoliadau Awdurdodau Lleol
(Cyllid Cyfalaf a Chyfrifyddu)
(Cymru) (Diwygio) (Ymadael â'r
UE) 2019**

Gwnaed

Yn dod i rym yn unol â rheoliad 1

Mae Gweinidogion Cymru yn gwneud y Rheoliadau hyn drwy arfer y pwerau a roddir gan adran 11 o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018(1) a pharagraff 1(1) o Atodlen 2 iddi.

Yn unol â pharagraff 1(9) o Atodlen 7 i'r Ddeddf honno, gosodwyd drafft o'r offeryn hwn gerbron Cynulliad Cenedlaethol Cymru ac fe'i cymeradwywyd ganddo drwy benderfyniad.

Enwi a chychwyn

1. Enw'r Rheoliadau hyn yw Rheoliadau Awdurdodau Lleol (Cyllid Cyfalaf a Chyfrifyddu) (Cymru) (Diwygio) (Ymadael â'r UE) 2019 a deuant i rym ar y diwrnod ymadael(2).

(1) 2018 p. 16.

(2) Mae "exit day" ("diwrnod ymadael") wedi ei ddiffinio yn adran 20(1) i (5) (dehongli) o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018.

Diwygio Rheoliadau Awdurdodau Lleol (Cyllid Cyfalaf a Chyfrifyddu) (Cymru) 2003

2. Yn rheoliad 1(4) o Reoliadau Awdurdodau Lleol (Cyllid Cyfalaf a Chyfrifyddu) (Cymru) 2003⁽¹⁾, yn y diffiniad o “money market fund”, hepgorer paragraff (a).

Julie James

Y Gweinidog Tai a Llywodraeth Leol, un o
Weinidogion Cymru
Dyddiad

(1) O.S. 2003/3239 (Cy. 319). Gwnaed diwygiadau perthnasol gan O.S. 2018/325 (Cy. 325).

Explanatory Memorandum to: The Local Authorities Capital Finance and Accounting (Wales) (Amendment)(EU Exit) Regulations 2019

This Explanatory Memorandum has been prepared by the Welsh Government's Education and Public Services Group and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Local Authorities Capital Finance and Accounting (Wales) (Amendment)(EU Exit) Regulations 2019.

I have made the Statements required by the European Union (Withdrawal) Act 2018.

Julie James AM
Minister for Housing and Local Government
5 March 2019

PART 1

1. Description

1.1 This instrument makes an amendment to:

- The Local Authorities (Capital Finance and Accounting) (Wales) Regulations 2003.

1.2 Regulation 3 of the Local Authorities (Capital Finance and Accounting) (Wales) (Amendment) Regulations 2018 amended regulation 1 of the 2003 Regulations and introduced a new definition of “money market fund”. The amendments made by this instrument amend the definition of “money market fund” to remove references to EU regulations.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

2.1 This instrument is being made under section 11 of and paragraph 1(1) of Schedule 2 to, the European Union (Withdrawal) Act 2018. The amendments to the instrument would have ordinarily been made through the negative annulment procedure however, to ensure that the instrument is operable after exit day it is proposed that the affirmative resolution procedure is followed.

3. Legislative background

3.1 This instrument is being made using the power in Part 1 of Schedule 2 to the 2018 Act in order to address failures of retained EU law to operate effectively, or other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

3.2 This instrument is also made under paragraph 21 of Schedule 7 of the Act. These Regulations are being under the affirmative resolution procedure.

4. Purpose and intended effect of the legislation

What did any relevant EU law do before exit day?

4.1 The Local Authorities (Capital Finance and Accounting) (Wales) (Amendment) Regulations 2018 set out the definition of “money market fund” as a collective investment scheme in transferable securities subject to Directive 2009/65/EC(2) of the European Parliament and the Council of 13 July 2009, as well as under the Financial Services and Market Act 2000. The European Directive sets out the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities.

Why is it being changed?

4.3 The minor and technical changes made to these instruments address the failure of retained EU law to operate effectively following the withdrawal of the United Kingdom from the European Union.

What will it now do?

4.4 This SI makes amendments to the definitions of “money market fund” to remove references to the European Directive and Council meeting.

5 Consultation

5.1 As there is no policy change, no public consultation was undertaken. The purpose of the instrument is solely to enable the current legislative and policy framework to remain unchanged by the withdrawal of the United Kingdom from the European Union.

6 Regulatory Impact Assessment (RIA)

6.1 A Regulatory Impact Assessment has not been conducted. No policy change is introduced through the amending Regulations. The Regulations are technical in nature and intended solely to enable the current legislative and policy framework to remain unchanged by the withdrawal of the United Kingdom from the European Union.

6.2 These amending Regulations have no impact on the statutory duties as set out in sections 77 to 79 of the Government of Wales Act 2006 or the statutory partners as set out in Sections 72 to 75 of the Government of Wales Act 2006.

Annex

Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required of the Welsh Ministers under the 2018 Act. The table also sets out those statements that may be required of Ministers of the Crown under the 2018 Act, which the Welsh Ministers have committed to also provide when required. The required statements can be found in Part 2 of this annex.

| Statement | Where the requirement sits | To whom it applies | What it requires |
|-----------------|---|--|---|
| Sifting | Paragraphs 3(7) and 4(3), Schedule 7 <i>Paragraph 3(7) (anticipated to be a requirement on Welsh Ministers in Standing Orders)</i> | The Welsh Ministers exercising powers in Part 1 of Schedule 2 to make a Negative SI Paragraph 3(7) applies to Ministers of the Crown, but Welsh Ministers have committed to make the same statement | A statement to explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation of the CLA Committee (as sifting committee) |
| Appropriateness | Sub-paragraph (2) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement that the SI does no more than is appropriate. |
| Good Reasons | Sub-paragraph (3) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement to explain the good reasons for making the instrument and that what is being done is a reasonable course of action. |

| | | | |
|-------------------|--|--|--|
| Equalities | Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | <p>A statement to explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them.</p> <p>A statement that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.</p> |
| Explanations | Sub-paragraph (6) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement to explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g. whether minor or technical changes only are intended to the EU retained law. |
| Criminal offences | Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement setting out the 'good reasons' for creating a criminal offence, and the penalty attached. |
| Sub-delegation | Paragraph 30, Schedule 7 | <p>Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority.</p> <p>Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 or paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved</p> | A statement to explain why it is appropriate to create such a sub-delegated power. |

| | | Authority | |
|---------|--|---|--|
| Urgency | Sub-paragraph (2) and (8) of paragraph 7, Schedule 7 | Welsh Ministers exercising powers in Part 1 of Schedule 2 but using the urgent procedure in paragraph 7 of Schedule 7 | A statement that the Welsh Ministers are of the opinion that it is necessary to make the SI using the urgent procedure and the reasons for that opinion. |

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

1. Sifting statement(s)

6.1 Not applicable.

2. Appropriateness statement

2.1 The Minister for Housing and Local Government, Julie James AM, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Local Authorities Capital Finance and Accounting (Wales) (Amendment)(EU Exit) Regulations 2019 do no more than is appropriate. This is the case because the instrument makes amendments which are technical in nature and designed to address failures of retained EU Law to operative effectively after exit day”.

3. Good reasons

3.1 The Minister for Housing and Local Government, Julie James AM, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action. This is because the instrument makes technical amendments to definition of “money market fund” to remove references to EU regulations”.

4. Equalities

4.1 The Minister for Housing and Local Government, Julie James AM, has made the following statement:

“The instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts”.

4.2 The Minister for Housing and Local Government, Julie James AM, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“I have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010”.

5. Explanations

5.1 The explanations statement has been made in paragraph 4 (Purpose & intended effect of the legislation) of the main body of this Explanatory Memorandum.

6. Criminal offences

6.1 Not applicable.

7. Legislative sub-delegation

7.1 Not applicable.

8. Urgency

8.1 Not applicable.

Eitem 4.22

SL(5)367 – Rheoliadau Deddfau Trethi Cymru (Diwygiadau Amrywiol) (Ymadael â'r UE) 2019

Cefndir a Diben

Mae'r Rheoliadau hyn i'w gwneud gan Weinidogion Cymru yn unol â pharagraff 1(1) o Atodlen 2 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 ac adrannau 18(2), 30(6), 36(8) a 78(1) o Ddeddf Treth Trafodiadau Tir a Gwrthweithio Osgoi Trethi Datganoledig (Cymru) 2017 ("**Deddf TTT**").

Mae'r Rheoliadau yn diwygio'r Ddeddf TTT yn bennaf a Deddf Casglu a Rheoli Trethi (Cymru) 2016 ("**Deddf CRhT**"). Mae'r Rheoliadau:

1. yn diweddarau cyfeiriad anghywir yn Atodlen 6 i'r Ddeddf TTT i egluro nad yw rhwymedigaeth i drosglwyddo hawliau talu o dan y cynllun taliadau sylfaenol o gymorth incwm i ffermwyr, yn unol â Rheoliad (UE) Rhif 1307/2013, wedi'i chynnwys fel cydnabyddiaeth drethadwy ynghylch dyfarnu prydles at ddibenion treth trafodiadau tir (gan ddisodli cyfeiriad at y cynllun "taliad sengl" blaenorol o dan Reoliad y Cyngor (EC) Rhif 73/2009);
2. yn diwygio Atodlen 18 o'r Ddeddf TTT i ddarparu na fydd elusennau cofrestredig yr UE na'r AEE, ar ôl i'r DU ymadael â'r Undeb Ewropeaidd, yn cael hawlio rhyddhad elusennau rhag treth trafodiadau tir o dan Atodlen 18 i'r Ddeddf honno;
3. yn darparu na fydd cynlluniau contractiol awdurdodedig cyfberchnogaeth ("**CCAC**") sydd wedi eu cyfansoddi, eu hawdurdodi a'u rheoli o dan gyfraith gwladwriaeth yr UE neu'r AEE, bellach yn cael yr un driniaeth â CCAC yn y DU ar ôl ymadael â'r UE (ac yn diwygio adran 36(8) o'r Ddeddf TTT o ganlyniad i'r ddarpariaeth hon);
4. yn diwygio'r Ddeddf CRhT i ddileu'r cyfyngiad ar benodi Aelod o Senedd Ewrop yn aelod anweithredol o Awdurdod Cyllid Cymru; a
5. yn gwneud rhagor o ddiwygiadau technegol a mân ddiwygiadau i'r Ddeddf CRhT sy'n deillio yn sgil Ymadael â'r UE.

Gweithdrefn

Cadarnhaol.

Materion technegol: craffu

Nodwyd dau bwynt i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.2 mewn perthynas â'r offeryn hwn.



1. Standing Order 21.2(ii) – ei bod yn ymddangos ei fod yn gwneud defnydd anarferol neu annisgwyl ar y pwerau a roddwyd gan y deddfiad y mae wedi'i wneud neu y mae i'w wneud odano

Mae rheoliad 4 yn darparu bod CCAC fel y'i disgrifir ym mharagraff (2) o'r Rheoliad hwnnw i'w drin fel nad yw'n CCAC at ddibenion y Ddeddf TTT a'r Ddeddf CRhT fel y mae'n gymwys mewn perthynas â threth trafodiadau tir. Effaith y rheoliad yw na fydd CCAC yr UE neu'r AEE, sydd wedi ei gyfansoddi, ei awdurdodi a'i reoli o dan gyfraith gwladwriaeth yr UE neu'r AEE bellach yn cael yr un driniaeth â CCAC yn y DU ar ôl Ymadael â'r UE.

Fodd bynnag, mae'r disgrifiad o'r cynllun a nodir yn Rheoliad 4(2) yn cyfateb yn fras i'r disgrifiad o gynllun o'r fath a nodir yn adran 36(6) o'r Ddeddf TTT, sydd i'w ystyried fel CCAC ar hyn o bryd at ddibenion y Ddeddf TTT a'r Ddeddf CRhT fel y mae'n gymwys mewn perthynas â threth trafodiadau tir. Mae rheoliad 6(2) yn hepgor adran 36(6) o'r Ddeddf TTT o ganlyniad i Reoliad 4 er mwyn datrys y ddarpariaeth groes hon.

Felly, ymddengys fod rheoliadau 4 a 6(2) yn cael yr effaith o wrthdroi'r bwriad a ddatganwyd yn y Ddeddf TTT ynglŷn â thrin math penodol o gynllun buddsoddi torfol yr UE neu'r AEE, na fyddai'n ymddangos i fod yn ymarferiad disgwylidig o'r pwerau galluogi y mae Gweinidogion Cymru yn dibynnu arnynt, sef adrannau 36(8) a 78(1) o'r Ddeddf TTT. Mae'r Memorandwm Esboniadol i'r Rheoliadau yn esbonio, ym mharagraff 2.2:

"The provisions...are necessary to ensure the respective provisions in the LTT Act are compatible with the UK's international obligations following the UK's exit from the EU. Due to the restriction on the use of the Withdrawal Act powers (found in section 8(7)(a) of that Act), it is necessary to make these provisions using the powers conferred by the LTT Act because they may have the effect of imposing or increasing a tax liability."

2. Rheol Sefydlog 21.2 (vi) – ei bod yn ymddangos bod gwaith drafftio'r offeryn neu'r drafft yn ddiffygiol neu ei fod yn methu â bodloni gofynion statudol

Mae adran 36(12) o'r Ddeddf TTT yn cynnwys diffiniad o "[g]ynllun buddsoddi torfol", a fydd yn dod yn ddiangen o ganlyniad i'r diwygiadau a wneir gan y Rheoliadau hyn.

Rhinweddau: craffu

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.

Y goblygiadau yn sgil gadael yr Undeb Ewropeaidd

Ni nodwyd unrhyw bwyntiau pellach i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.

Ymateb y Llywodraeth

Mae angen ymateb gan y Llywodraeth.

Cynghorwyr Cyfreithiol



Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol
13 Mawrth 2019



Rheoliadau drafft a osodwyd gerbron Cynulliad Cenedlaethol Cymru o dan adran 79(2) o Ddeddf Treth Trafodiadau Tir a Gwrthweithio Osgoi Trethi Datganoledig (Cymru) 2017 a pharagraff 1(9) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018, i'w cymeradwyo drwy benderfyniad gan Gynulliad Cenedlaethol Cymru.

OFFERYNNAU STATUDOL
CYMRU DRAFFT

2019 Rhif (Cy.)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

**TRETH TRAFODIADAU TIR,
CYMRU**

TRETHI, CYMRU

**Rheoliadau Deddfau Trethi Cymru
(Diwygiadau Amrywiol) (Ymadael
â'r UE) 2019**

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn wedi eu gwneud drwy arfer y pwerau a roddir gan baragraff 1(1) o Atodlen 2 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 (p. 16) ac adrannau 18(2), 30(6), 36(8) a 78(1) o Ddeddf Treth Trafodiadau Tir a Gwrthweithio Osgoi Trethi Datganoledig (Cymru) 2017 (dccc 1) ("DTTT").

Mae Rhan 2 yn diweddarau cyfeiriad at ddeddfwriaeth yr UE mewn darpariaeth yn DTTT ynghylch trin cydnabyddiaeth mewn perthynas â lesioedd.

Mae Rhan 3 yn diwygio'r diffiniad o elusennau yn Atodlen 18 i DTTT.

Mae Rhan 4 yn pennu bod cynllun contractiol awdurdodedig cyfberchnogaeth o'r disgrifiad a gynhwysir yn rheoliad 4(2) i'w drin fel pe na bai'n

gynllun contractiol awdurdodedig cyfberchnogaeth at ddiben treth trafodiadau tir.

Mae Rhan 5 yn gwneud diwygiadau amrywiol i Ddeddf Casglu a Rheoli Trethi (Cymru) 2016 (dccc 6) (“DCRhT”) er mwyn ymdrin ag unrhyw fethiant yng nghyfraith yr UE a ddargedwir i weithredu’n effeithiol a diffygion eraill sy’n deillio o ymadawiad y Deyrnas Unedig â’r Undeb Ewropeaidd.

Mae Rhan 6 yn gwneud diwygiadau i DCRhT a DTTT o ganlyniad i’r ddarpariaeth a wneir gan reoliadau 3 a 4.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â’r Rheoliadau hyn. O ganlyniad, lluniwyd Asesiad Effaith Rheoleiddiol o’r costau a’r manteision sy’n debygol o ddeillio o gydymffurfio â’r Rheoliadau hyn. Gellir cael copi oddi wrth: Llywodraeth Cymru, Parc Cathays, Caerdydd CF10 3NQ ac ar wefan Llywodraeth Cymru yn www.llyw.cymru.

Rheoliadau drafft a osodwyd gerbron Cynulliad Cenedlaethol Cymru o dan adran 79(2) o Ddeddf Treth Trafodiadau Tir a Gwrthweithio Osgoi Trethi Datganoledig (Cymru) 2017 a pharagraff 1(9) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018, i'w cymeradwyo drwy benderfyniad gan Gynulliad Cenedlaethol Cymru.

OFFERYNNAU STATUDOL
CYMRU DRAFFT

2019 Rhif (Cy.)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

**TRETH TRAFODIADAU TIR,
CYMRU**

TRETHI, CYMRU

**Rheoliadau Deddfau Trethi Cymru
(Diwygiadau Amrywiol) (Ymadael
â'r UE) 2019**

Gwnaed

Yn dod i rym yn unol â rheoliad 1(2) a (3)

Mae Gweinidogion Cymru yn gwneud y Rheoliadau hyn drwy arfer y pwerau a roddir gan—

- (a) mewn perthynas â Rhan 1, y darpariaethau a grybwyllir ym mharagraffau (b) i (f);
- (b) mewn perthynas â Rhan 2, adran 18(2) o Ddeddf Treth Trafodiadau Tir a Gwrthweithio Osgoi Trethi Datganoledig (Cymru) 2017(1) (“DTTT”);
- (c) mewn perthynas â Rhan 3, adran 30(6) o DTTT;
- (d) mewn perthynas â Rhan 4, adran 36(8) o DTTT;

(1) 2017 dccc 1.

- (e) mewn perthynas â Rhan 5, paragraff 1(1) o Atodlen 2 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018(1);
- (f) mewn perthynas â Rhan 6, adran 78(1) o DTTT.

Yn unol ag adran 79(2) o DTTT a pharagraff 1(9) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018, gosodwyd drafft o'r Rheoliadau hyn gerbron Cynulliad Cenedlaethol Cymru ac fe'i cymeradwywyd ganddo drwy benderfyniad.

RHAN 1

Rhagarweiniol

Enwi, cychwyn a dehongli

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Deddfau Trethi Cymru (Diwygiadau Amrywiol) (Ymadael â'r UE) 2019.

(2) Yn ddarostyngedig i baragraff (3), daw'r Rheoliadau hyn i rym ar y diwrnod ymadael.

(3) Daw Rhan 2 a'r rheoliad hwn i rym drannoeth y diwrnod y gwneir y Rheoliadau hyn.

(4) Yn y Rheoliadau hyn—

ystyr “DCRHT” (“TCMA”) yw Deddf Casglu a Rheoli Trethi (Cymru) 2016(2);

ystyr “DTTT” (“LTTA”) yw Deddf Treth Trafodiadau Tir a Gwrthweithio Osgoi Trethi Datganoledig (Cymru) 2017.

RHAN 2

Lesoedd

Diwygio Atodlen 6 i DTTT

2. Ym mharagraff 16(1)(h) o Atodlen 6 i DTTT (rhwymedigaethau etc. tenantiaid nad ydynt yn cyfrif fel cydnabyddiaeth drethadwy), yn lle “gynllun y taliad sengl (hynny yw, y cynllun cymorthdal incwm i ffermwyr yn unol â Theitl III o Reoliad y Cyngor (EC) Rhif 73/2009)” rhodder “gynllun y taliad sylfaenol (hynny yw, y cynllun cymorthdal incwm i ffermwyr yn unol â Rheoliad (EU) Rhif 1307/2013)”.

(1) 2018 p. 16.
(2) 2016 dccc 6.

RHAN 3

Elusennau

Diwygio Atodlen 18 i DTTT

3.—(1) Mae Atodlen 18 i DTTT wedi ei diwygio fel a ganlyn.

(2) Ar ôl paragraff 1(a) mewnosoder—

“(aa)mae paragraffau 2A i 2D yn gwneud darpariaeth ynglŷn ag ystyr “elusen”,”.

(3) Ym mharagraff 2(3)(a), yn lle “Ran 1 o Atodlen 6 i Ddeddf Cyllid 2010 (p. 13)” rhodder “baragraff 2A”.

(4) Ar ôl paragraff 2 mewnosoder—

“Ystyr “elusen”

2A At ddibenion yr Atodlen hon, ystyr “elusen” yw corff o bersonau neu ymddiriedolaeth—

- (a) sydd wedi ei sefydlu at ddibenion elusennol yn unig,
- (b) sy'n bodloni'r amod awdurdodaeth (gweler paragraff 2B),
- (c) sy'n bodloni'r amod cofrestru (gweler paragraff 2C), a
- (d) sy'n bodloni'r amod rheoli (gweler paragraff 2D).

Ystyr “elusen”: yr amod awdurdodaeth

2B (1) Mae corff o bersonau neu ymddiriedolaeth yn bodloni'r amod awdurdodaeth os yw'n dod yn ddarostyngedig i reolaeth llys perthnasol yn y DU wrth arfer ei awdurdodaeth mewn cysylltiad ag elusennau.

(2) Ystyr “llys perthnasol yn y DU” yw—

- (a) yr Uchel Lys,
- (b) y Llys Sesiwn, neu
- (c) yr Uchel Lys yng Ngogledd Iwerddon.

Ystyr “elusen”: yr amod cofrestru

2C (1) Mae corff o bersonau neu ymddiriedolaeth yn bodloni'r amod cofrestru—

- (a) yn achos corff o bersonau neu ymddiriedolaeth sy'n elusen o fewn ystyr adran 10 o Ddeddf Elusennau 2011 (p. 25), os yw amod A wedi ei fodloni, a

(b) yn achos unrhyw gorff o bersonau neu ymddiriedolaeth arall, os yw amod B wedi ei fodloni.

(2) Amod A yw bod y corff o bersonau neu'r ymddiriedolaeth wedi cydymffurfio ag unrhyw ofyniad i fod wedi ei gofrestru neu wedi ei chofrestru yn y gofrestr o elusennau a gedwir o dan adran 29 o Ddeddf Elusennau 2011.

(3) Amod B yw bod y corff o bersonau neu'r ymddiriedolaeth wedi cydymffurfio ag unrhyw ofyniad i fod wedi ei gofrestru neu wedi ei chofrestru mewn cofrestr sy'n cyfateb i'r hyn a grybwyllir yn amod A a gedwir o dan gyfraith yr Alban neu Ogledd Iwerddon.

Ystyr "elusen": yr amod rheoli

2D (1) Mae corff o bersonau neu ymddiriedolaeth yn bodloni'r amod rheoli os yw ei reolwyr neu ei rheolwyr yn bersonau addas a phriodol i fod yn rheolwyr y corff neu'r ymddiriedolaeth.

(2) Yn y paragraff hwn ystyr "rheolwyr", mewn perthynas â chorff o bersonau neu ymddiriedolaeth, yw'r personau sydd â rheolaeth gyffredinol dros weinyddiaeth y corff neu'r ymddiriedolaeth, ac sy'n rheoli gweinyddiaeth y corff neu'r ymddiriedolaeth yn gyffredinol.

(3) Mae is-baragraff (4) yn gymwys mewn perthynas ag unrhyw gyfnod nad yw'r amod rheoli yn cael ei fodloni ar ei hyd.

(4) Mae'r amod rheoli yn cael ei drin fel pe bai wedi ei fodloni os yw ACC yn ystyried—

(a) nad yw'r methiant i fodloni'r amod wedi niweidio dibenion elusennol y corff neu'r ymddiriedolaeth, neu

(b) ei bod yn deg ac yn rhesymol o dan yr holl amgylchiadau i'r amod gael ei drin fel pe bai wedi ei fodloni ar hyd y cyfnod."

(5) Mae'r diwygiadau a wneir gan y rheoliad hwn yn cael effaith mewn perthynas â thrafodiadau tir y mae eu dyddiad cael effaith ar y diwrnod ymadael neu ar ôl hynny.

RHAN 4

Cynlluniau contractiol awdurdodedig cyfberchnogaeth

Disgrifiad o gynllun contractiol awdurdodedig cyfberchnogaeth o dan adran 36(8) o DTTT

4.—(1) Mae cynllun contractiol awdurdodedig cyfberchnogaeth o'r disgrifiad ym mharagraff (2) i'w drin fel pe na bai'n gynllun contractiol awdurdodedig cyfberchnogaeth at ddibenion DTTT a DCRhT fel y mae'n gymwys mewn perthynas â threth trafodiadau tir.

(2) Y disgrifiad yw bod y cynllun—

- (a) wedi ei gyfansoddi o dan gyfraith Gwladwriaeth AEE drwy gontract,
- (b) wedi ei reoli gan gorff corfforaethol a ymgorfforir o dan gyfraith Gwladwriaeth AEE, ac
- (c) wedi ei awdurdodi o dan gyfraith y Wladwriaeth AEE a grybwyllir yn is-baragraff (a) mewn ffordd sy'n golygu ei fod, o dan y gyfraith honno, yn cyfateb i gynllun contractiol awdurdodedig cyfberchnogaeth a ddiffinnir yn adran 36(7) o DTTT.

(3) Mae'r rheoliad hwn yn cael effaith mewn perthynas ag unrhyw drafodiad tir y mae ei ddyddiad cael effaith ar y diwrnod ymadael neu ar ôl hynny.

RHAN 5

Diwygio DCRhT

Diwygio DCRhT yn deillio o ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd

5.—(1) Mae DCRhT wedi ei diwygio fel a ganlyn.

(2) Yn adran 4 (anghymhwysio rhag penodiad fel aelod anweithredol), hepgorer paragraff (c).

(3) Yn adran 65(4)(a) (cyfoethogi anghyfiawn: darpariaeth bellach), yn lle “ddeddfwriaeth yr UE” rhodder “ddeddfwriaeth uniongyrchol yr UE a ddargedwir”.

(4) Yn adran 67(11) (achosion pan na fo angen i ACC roi effaith i hawliad)—

- (a) hepgorer y geiriau o “os yw'r dreth ddatganoledig” hyd at “yn groes i”;
- (b) ym mharagraff (a), yn lle “y darpariaethau” rhodder “os yw'r dreth ddatganoledig a godir, yn yr amgylchiadau o dan sylw, yn groes i'r darpariaethau”;
- (c) ar ôl paragraff (a), yn lle “neu” rhodder “a”;

(d) yn lle paragraff (b) rhodder—

“(b) os yw’r hawliau a roddir gan y darpariaethau hynny, ar yr adeg y codir y dreth, yn cael eu cydnabod ac ar gael mewn cyfraith ddomestig yn rhinwedd Deddf yr Undeb Ewropeaidd (Ymadael) 2018 (p. 16) neu unrhyw ddarpariaeth a wneir o dan y Ddeddf honno.”

RHAN 6

Diwygiadau canlyniadol

Diwygiadau canlyniadol

6.—(1) Yn adran 85(3) o DCRhT (ystyr “rhedeg busnes”), yn lle “Ran 1 o Atodlen 6 i Ddeddf Cyllid 2010 (p. 13)” rhodder “baragraff 2A o Atodlen 18 i DTTT”.

(2) Yn adran 36 o DTTT (cynlluniau contractiol awdurdodedig cyfberchnogaeth)—

(a) hepgorer is-adran (6);

(b) yn is-adran (12), yn y diffiniad o “gweithredwr”—

(i) hepgorer yr “, a” ar ôl paragraff (a);

(ii) hepgorer paragraff (b) (ac mae gweddill y testun yn peidio â bod yn baragraff (a)).

(3) Mae’r diwygiadau a wneir gan y rheoliad hwn yn cael effaith mewn perthynas â thrafodiadau tir y mae eu dyddiad cael effaith ar y diwrnod ymadael neu ar ôl hynny.

Enw

Y Gweinidog Cyllid a’r Trefnydd, un o Weinidogion

Cymru

Dyddiad

Explanatory Memorandum to The Welsh Tax Acts (Miscellaneous Amendments) (EU Exit) Regulations 2019

This Explanatory Memorandum has been prepared by Office of the First Minister and Cabinet Office of the Welsh Government and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Welsh Tax Acts (Miscellaneous Amendments) (EU Exit) Regulations 2019.

I have made the statements required by the European Union (Withdrawal) Act 2018. These statements can be found in Part 2 of the Annex to this memorandum.

I am satisfied that the benefits justify the likely costs.

Rebecca Evans
Minister for Finance and Trefnydd
5 March 2019

PART 1

1. Description

- 1.1. The Regulations make a number of changes to the Welsh Tax Acts arising from the UK's departure from the European Union.
- 1.2. Part 2 of these Regulations will come into force on the day after the Regulations are made. The remaining parts of these Regulations will come into force on "exit day", which section 20(1) of the European Union (Withdrawal) Act 2018 ("the Withdrawal Act") defines as 29 March 2019 at 11.00pm.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

- 2.1. This instrument is being made using the powers conferred by paragraph 1(1) of Schedule 2 to the Withdrawal Act and a selection of powers conferred by the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 ("the LTT Act").
- 2.2. The provisions contained in Parts 3, 4 and 6 are necessary to ensure the respective provisions in the LTT Act are compatible with the UK's international obligations following the UK's exit from the EU. Due to the restriction on the use of the Withdrawal Act powers (found in section 8(7)(a) of that Act), it is necessary to make these provisions using the powers conferred by the LTT Act because they may have the effect of imposing or increasing a tax liability.
- 2.3. Accordingly, this instrument is being laid in draft for approval by a resolution of the Assembly.

3. Legislative background

- 3.1. This instrument relates to the withdrawal of the United Kingdom from the European Union and is being made under paragraph 1 of Schedule 2 to the Withdrawal Act. The Minister has made any relevant statements in Part 2 of the Annex to this Explanatory Memorandum.
- 3.2. Alongside the Withdrawal Act powers the instrument is also being made under sections 18(2), 30(6), 36(8) and 78(1) of the LTT Act.
- 3.3. In accordance with section 79(2) of the LTT Act, an instrument containing regulations made under sections 18(2), 30(6) and 36(8) is subject to the affirmative procedure.

4. Purpose and intended effect of the legislation

- 4.1. **Regulation 2** – this regulation is made using the power in section 18(2) of the LTT Act. The purpose of this regulation is to update a reference in the LTT Act in relation to what is to be considered to be consideration given for a land transaction.
- 4.2. The change will ensure that the legislation is clear as to its intention not to include any obligation to transfer payment entitlements under the basic payment scheme as chargeable consideration for the grant of a lease.
- 4.3. **Regulation 3** – this regulation is made using the power in section 30(6) of the LTT Act. The purpose of this regulation is to ensure that, following the UK's exit from the European Union, all charities registered outside the United Kingdom are treated in the same manner in relation to relief from LTT under Schedule 18 to the LTT Act.
- 4.4. The effect of the amendment will mean that EU and EEA registered charities will no longer be able to claim relief from land transaction tax under Schedule 18 to the LTT Act. This will bring the treatment of EU and EEA charities in line with charities registered in other countries, therefore ensuring these provisions are compatible with the UK's international obligations, as required by section 116A(3) of the Government of Wales Act 2006.
- 4.5. It is considered that the regulation of the charities permitted to claim relief from LTT should be of a standard similar to that in the UK. Had the rules been extended to all charities wherever located in the world there would be a risk that charities established in less regulated countries and territories would be used to exploit the relief available. The relief provided to charities will therefore continue only to be available to UK-registered charities.
- 4.6. **Regulation 4** – this regulation is made using the power in section 36(8) of the LTT Act. The purpose of this regulation is to ensure that, following the UK's exit from the European Union, the LTT Act is applied in the same manner to all collective investment schemes constituted, managed and authorised outside the United Kingdom.
- 4.7. The effect of the regulation will mean that EU or EEA co-ownership authorised contractual schemes ("CoACS") which are constituted, authorised and managed under the law of an EU or EEA State will no longer receive the same treatment as a UK-based CoACS. Following the UK's exit from the European Union, only a co-ownership scheme authorised by the Financial Conduct Authority under section 261D of the Financial Services and Markets Act 2000 will receive the treatment set out in section 36 of the LTT Act.

4.8. **Regulation 5** – this regulation is made using powers in the Withdrawal Act.

Regulation 5(2)

What did any relevant EU Law do before Exit Day?

4.9. Section 4 Tax Collection and Management (Wales) Act 2016 ('TCMA') prohibits a Member of the European Parliament ('MEP') from becoming a non-executive director of the Welsh Revenue Authority ('WRA').

Why is it being changed?

4.10. As the United Kingdom will no longer be a member of the European Union on exit day, the United Kingdom will have no MEPs. It is considered highly unlikely that MEPs of other member states will apply to be members of the WRA, and as such provision is no longer required. No provision is made in relation to members of legislatures of other states.

What will it do now?

4.11. Members of the European Parliament may be appointed as non-executive members of the WRA.

Regulation 5(3)

What did any relevant EU Law do before Exit Day?

4.12. Section 65 TCMA contains a reference to EU legislation which is taken into consideration when determining the application of the unjustified enrichment rules.

Why is it being changed?

4.13. The amendment made by regulation 5(3) ensures the unjustified enrichment rules operate, in relation to EU legislation, only to the extent that the EU legislation is retained direct EU legislation (as defined by section 20 of the Withdrawal Act).

What will it do now?

4.14. The amendment ensures the unjustified enrichment rules refer to the correct body of law that will exist and have effect in the United Kingdom after exit day.

Regulation 5(4)

What did any relevant EU Law do before Exit Day?

4.15. Section 67 TCMA contains rules that permit WRA to not make a repayment of tax to a taxpayer in 8 specified situations. Case 7 is where the tax was calculated using practice generally prevailing at the time the assessment of liability was made. However, the 'practice generally prevailing' rule does not apply in cases where the tax was charged contrary to EU law, (specifically where the charge is contrary to the provisions in the Treaty on the Functioning of the European Union

which give effect to fundamental freedoms of free movement of goods, services, people and capital).

Why is it being changed?

- 4.16. Whilst the UK remains a member of the EU the Case 7 exclusion must be retained to be compatible with EU law. However, following exit day it will no longer be appropriate to provide an exclusion from the rules that permit the WRA to not make a repayment that is based in EU law.

What will it do now?

- 4.17. The amendment to the rules will ensure that the application of the Case 7 exclusion will only apply to tax charged after exit day in respect of those rights which are recognised and available in domestic law under the European Union (Withdrawal) Act 2018 and any regulations made under that Act.

- 4.18. **Regulation 6** – this regulation is made using the power in section 78(1) of the LTT Act and makes consequential amendments as a result of regulations 3 and 4.

5. Consultation

5.1. A short period of informal consultation was held with a limited number of tax experts in the charity and land transaction taxes sectors with whom a draft of the relevant regulations was shared. This informal consultation was to explore whether the changes proposed through these regulations would meet the policy intentions set out in Section 4 above (purpose and intended effect of the legislation), and to familiarise them with the intended legislation ahead of laying. As the changes are minor and technical and will impact few, if any, individuals, charities or corporate entities a wider public consultation was not considered necessary.

5.2. A minor change was considered necessary to regulation 3 as a result of the informal consultation.

PART 2 – REGULATORY IMPACT ASSESSMENT

This Regulatory Impact Assessment will address only Regulations 3 (meaning of charity), and 4 (description of a co-ownership authorised contractual scheme). The other regulations are minor or technical amendments (regulations 2 and 5), or are consequential to regulations 3 and 4 (regulation 6).

The impact of the changes effected by regulations 3 and 4 are limited. This regulatory impact assessment is therefore provided in an abridged form.

Options

The LTT Act contains rules that provide specific treatment in relation to UK charities and co-ownership authorised contractual schemes (“CoACS”). In relation to charities entering into land transactions UK, EU and EEA charities can, subject to conditions, claim relief from land transaction tax. In relation to CoACS, section 36(6) of the LTT Act affords the same treatment to EU and EEA CoACS as the provision does to UK CoACS. However, once the UK leaves the EU, it will be necessary to ensure that more favourable tax treatment is not given to entities in certain countries and not to others.

Therefore, not making regulations 3 and 4 (and therefore continuing to offer preferential treatment to EU and EEA entities) was not a realistic option as the devolved tax system must operate in a way which is compatible with the UK’s international obligations. However, two options were possible; the first to limit the treatment to UK entities alone, or the alternative to extend the treatment to entities wherever located in the world.

The first option is preferred because of the importance of regulation of the entities being given the favourable tax treatment. Had the alternative option been pursued then, by extending the rules to all such entities wherever located in the world, there would be a risk to land transaction tax revenues. That risk would come from entities established in less regulated countries and territories seeking to exploit the tax treatment when that treatment should only be available only to those regulated to the standard required in the UK.

Impact of the preferred option

The effect of these regulations will mean EU and EEA charities and CoACS will be treated in the same manner as charities and CoACS established and registered elsewhere (those established and registered in the UK will continue to benefit from the favourable tax treatment).

As a result, the regulations may have the effect of increasing or imposing tax where it previously was not imposed.

Following the UK leaving the EU, EU and EEA registered charities will no longer be able to claim relief from land transaction tax when they buy property in Wales for charitable purposes. The number of land transactions entered into by

charities from outside the UK will be very small, with potentially no such land transactions in Wales. Therefore, the consequences of this amendment are unlikely to impact on EU and EEA charities. The amendments in these regulations will have no impact on a UK charity being able to claim relief from land transaction tax where that UK charity meets the relevant conditions.

In relation to EU and EEA CoACS the position is similar to that for EU and EEA charities. Under section 36 of the LTT Act, a CoACS is treated (for LTT purposes) as though it is a company, and the rights of the participants in the CoACS as though they were shares in that company. Absent this rule the obligation to make the land transaction return and pay the tax will fall on the individual participants in the scheme. Although the effect of this regulation will not result in any additional tax being payable on the transaction, liability to pay the tax and submit the return will shift from the operator of the scheme to the individual participants. This may result in increased costs for the scheme as making land transaction tax returns may become more complex and, potentially, more expensive.

Following the UK leaving the EU those non-UK entities will no longer benefit from the treatment accorded to similar UK entities. As the EU and EEA CoACS will no longer be treated as though they are a company (and the interests of the participants treated as though they were shares in that company) this may lead to liability to land transaction tax being incurred when an interest in land owned by the participants is sold. As a result of the changes made the participants in the CoACS will be treated as holding undivided shares in the properties that are part of the scheme. Therefore, when a participant sells an interest in the scheme they will be selling the interest they own in each and every property owned within the scheme and each such land transaction will, subject to notification rules, need to be notified to the Welsh Revenue Authority.

An example is helpful to illustrate this change of treatment. An EU CoACS with 100 participants owns 10 non-residential properties (4 within Wales) worth £50 million (and each individual property is worth £5 million). One of the participants with an interest of 1% in the scheme sells their interest to another person (be they already a participant in the scheme or not). For land transaction tax purposes, the former participant is treated as selling their interest in each of the separate Welsh properties. That is, that they have entered into a land transaction to sell the 4 separate interests in the Welsh property to the new participant. The new participant will need to make a land transaction return showing the details of the 4 properties and the consideration given for the land transaction $((4 \times £5 \text{million}) \times 1\% = £200,000)$, as the sale of the interests in the individual properties form a linked transaction.

If the CoACS was a UK scheme then the continued deemed treatment of the scheme as a company, and the interests of the participants as shares, there would be no land transaction to report to the Welsh Revenue Authority.

As noted in the Explanatory Memorandum the actual effect of these changes will be small or non-existent given that there will be few if any charities registered outside the UK acquiring land and buildings in Wales. UK, EU and EEA CoACS

were only given the deemed company tax treatment under stamp duty land tax when the Finance Act 2016 came into force on 15 September 2016. This change in the rules was also associated with the introduction at the same time with a 'seeding relief' that has not been introduced in Wales in land transaction tax. It is, again, considered unlikely that there have been, or will be in the near future, many, or any, CoACS, or their participants that will be affected by these changes.

The informal consultation held with a limited number of tax experts in the charity and land transaction taxes sectors explored whether the changes proposed through these regulations would meet the policy intentions set out in Section 4 above (purpose and intended effect of the legislation). As the changes are minor and technical and will impact few, if any, individuals, charities or corporate entities a wider public consultation was not considered necessary.

Specific Impact Assessments

Equality Impact Assessment: The regulations are considered to comply with the requirements of the Equality Act 2010.

Protected Groups: The regulations are considered not to have a differential impact in relation to any of the protected groups (age, disability, gender, transgender, marriage and civil partnership, pregnancy and maternity, race, religion and belief or non-belief, sexual orientation).

Human Rights: The regulations are considered to be compatible with the Human Rights Act 1998.

United Nations Conventions on the Rights of the Child: The regulations are not considered to directly impact on children.

Impact on the Welsh Language: The regulations are considered to comply with the Welsh Language Standards.

Sustainable Development: The regulations are considered not to have a detrimental impact on sustainable development objectives.

Health and Wellbeing: The regulations are considered not to have a detrimental impact on health and wellbeing objectives.

Rural Proofing: The regulations are considered not to have a detrimental impact on rural communities.

Impact on Privacy: The regulations are considered protect individuals, companies and organisations rights

Impact on the Voluntary Sector: The UK voluntary sector will not be detrimentally impacted by these regulations. EU and EEA charities where they meet the necessary conditions, however, will no longer be in a position to claim relief from land transaction tax.

Impact on Small Business: The regulations are considered not to have a detrimental impact on small businesses.

Competition Assessment

The competition assessment does not consider the impact of these regulations on charities.

In relation to the changes made to limit tax favourable treatment to UK CoACS, competition issues will potentially arise where EU and EEA entities will no longer be afforded the same treatment as UK CoACS. The changes essentially place the EU and EEA entities in the same position as similar entities elsewhere in the world. Any competition issues that arise are therefore not between UK entities, but rather between the UK and the rest of the world, now to also include the EU and EEA as a result of the UK leaving the EU.

Post Implementation Review

The LTT Act places a statutory obligation on the Welsh Minsters to make arrangements that an independent review of LTT is conducted before the end of 6 years following the date on which the Act received Royal Assent. That review must therefore be completed by 25 May 2023.

However, no specific requirements are considered necessary to specifically conduct a post implementation review for the changes made through these regulations.

Annex A

Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required of the Welsh Ministers under the 2018 Act. The table also sets out those statements that may be required of Ministers of the Crown under the 2018 Act, which the Welsh Ministers have committed to also provide when required. The required statements can be found in Part 2 of this annex.

| Statement | Where the requirement sits | To whom it applies | What it requires |
|------------------|---|--|---|
| Sifting | Paragraphs 3(7) and 4(3), Schedule 7 <i>Paragraph 3(7) (anticipated to be a requirement on Welsh Ministers in Standing Orders)</i> | The Welsh Ministers exercising powers in Part 1 of Schedule 2 to make a Negative SI Paragraph 3(7) applies to Ministers of the Crown, but Welsh Ministers have committed to make the same statement | A statement to explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation of the CLA Committee (as sifting committee) |
| Appropriate-ness | Sub-paragraph (2) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement that the SI does no more than is appropriate. |
| Good Reasons | Sub-paragraph (3) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have | A statement to explain the good reasons for making the instrument and that what is being done is a reasonable course of action. |

| | | | |
|-------------------|--|--|--|
| | | committed to make the same statement when exercising powers in Schedule 2 | |
| Equalities | Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | <p>A statement to explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them.</p> <p>A statement that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.</p> |
| Explanations | Sub-paragraph (6) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement to explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g. whether minor or technical changes only are intended to the EU retained law. |
| Criminal offences | Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement setting out the 'good reasons' for creating a criminal offence, and the penalty attached. |
| Sub-delegation | Paragraph 30, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority. | A statement to explain why it is appropriate to create such a sub-delegated power. |

| | | | |
|---------|--|--|--|
| | | Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 or paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority | |
| Urgency | Sub-paragraph (2) and (8) of paragraph 7, Schedule 7 | Welsh Ministers exercising powers in Part 1 of Schedule 2 but using the urgent procedure in paragraph 7 of Schedule 7 | A statement that the Welsh Ministers are of the opinion that it is necessary to make the SI using the urgent procedure and the reasons for that opinion. |

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

The statements below apply to the changes made using the powers under the European Union (Withdrawal) Act 2018, namely Part 5 of the regulations. The other regulations are made using powers within the Welsh Tax Acts and such statements in relation to those regulations are not required.

1. Sifting statement(s)

Not applicable.

2. Appropriateness statement

The Minister for Finance and Trefnydd, Rebecca Evans has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view The Welsh Tax Acts (Miscellaneous Amendments) (EU Exit) Regulations 2019 does no more than is appropriate.

This is the case because the regulations are technical in nature and designed to address failures of retained EU law to operate effectively after exit day.”

3. Good reasons

The Minister for Finance and Trefnydd, Rebecca Evans has made the following statement regarding use of legislative powers in the European Union (Withdrawal) 2018 Act:

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action. This is because the instrument makes a number of minor technical changes to the Welsh Tax Acts to reflect the UK’s departure from the EU.”

4. Equalities

The Minister for Finance and Trefnydd, Rebecca Evans has made the following statement:

“The draft instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts.”

The Minister for Finance and Trefnydd, Rebecca Evans, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the draft instrument, I, Rebecca Evans, have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.”

5. Explanations

The explanations statement has been made in paragraph 4 (Purpose & intended effect of the legislation) of the main body of this explanatory memorandum.

6. Criminal offences

Not applicable.

7. Legislative sub-delegation

Not applicable.

8. Urgency

Not applicable.

SL(5)370 - Rheoliadau Tatws Hadyd (Cymru) (Diwygio) (Ymadael â'r UE) 2019

Cefndir a Diben

Mae'r Rheoliadau hyn wedi eu gwneud drwy arfer y pwerau a roddir gan baragraff 1(1) o Atodlen 2 a pharagraff 21 o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 er mwyn ymdrin ag unrhyw fethiant yng nghyfraith yr UE a ddargedwir i weithredu'n effeithiol a diffygion eraill sy'n deillio o ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd.

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Tatws Hadyd (Cymru) 2016 (O.S. 2016/106 Cy.52). Mae'r Rheoliadau hynny'n rheoli'r cynhyrchiad gyda golwg ar farchnata, ardystio a marchnata tatws hadyd yng Nghymru, heblaw'r rhai y bwriedir eu hallforio y tu allan i'r Undeb Ewropeaidd.

Gweithdrefn

Cadarnhaol

Gwaith craffu technegol

Nodwyd y pwyntiau a ganlyn i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.2 mewn perthynas â'r offeryn hwn.

1. Mae Rheoliad 2(12) yn cyfnewid cyfeiriadau at y DU am gyfeiriadau at yr Undeb [Ewropeaidd] yn Atodlen 1 i Reoliadau 2016. Mae testun Cymraeg 2(12) yn adlewyrchu'r Saesneg yn gywir. Fodd bynnag, ymddengys bod camgymeriad yn nhestun Cymraeg paragraff 8 o Atodlen 1 i Reoliadau 2016, fel nad yw'r geiriau 'yr Undeb' yn ymddangos mewn gwirionedd. O ganlyniad, ni ellir ei ddisodli gan 'y DU' yn unol â rheoliad 2(12). Felly, dylai 'Y DU' fod yn fewnosodiad ym mharagraff 8, ac nid yn gyfnewidiad. [Rheol Sefydlog 21.2(vi) - drafftio diffygiol]
2. Mae Rheoliad 2(15) yn nodi bod Atodlen 4 yn cael ei diwygio yn unol â pharagraffau 15 i 17. Byddai'r croesgyfeiriad cywir at baragraffau (16) i (18). [Rheol Sefydlog 21.2(vi) - drafftio diffygiol]
3. Mae'r diwygiadau a wneir gan baragraffau (16) i (18) o reoliad 2 yn ychwanegu cyfeiriadau at raddau'r DU o datws hadyd at gyfeiriadau presennol at raddau'r UE. Mae'r newidiadau yn y testun Cymraeg wedi'u mynegi fel cyfnewidiadau o raddau'r DU a'r UE am raddau'r UE. Fodd bynnag, mae'r ffordd y mae wedi'i wneud yn rheoliad 2(17)(b)(iii) wedi arwain at golli gradd S yr Undeb. [Rheol Sefydlog 21.2(vi) - drafftio diffygiol]

Craffu ar rinweddau

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.



Y goblygiadau yn sgil gadael yr Undeb Ewropeaidd

Nodir y pwynt a ganlyn i gyflwyno adroddiad arno o dan Reol Sefydlog 21.3(ii) mewn perthynas â'r offeryn hwn - ei fod o bwysigrwydd gwleidyddol neu gyfreithiol neu ei fod yn codi materion polisi cyhoeddus sy'n debygol o fod o ddiddordeb i'r Cynulliad

Fel yr eglurir ym mharagraff 4.5 o'r Memorandwm Esboniadol, mae'r Rheoliadau hyn yn cynnwys darpariaethau trosiannol sy'n caniatáu i datws hadyd o'r UE a'r Swistir barhau i gael eu marchnata ac ati am ddeuddeng mis ar ôl i'r diwygiadau ddod i rym ar y diwrnod ymadael. Caiff y darpariaethau trosiannol hynny eu dileu gan reoliad 3 ar ddiwedd y cyfnod hwnnw.

Ymateb y Llywodraeth

Mae Llywodraeth Cymru yn nodi pwyntiau 1 a 3 a wneir gan y Pwyllgor. Derbynnir bod camgymeriad yn nhestun Cymraeg paragraff 8 o Atodlen 1 i Reoliadau 2016, a hefyd bod camgymeriad yn rheoliad 2(17)(b)(iii) sydd wedi arwain at golli "gradd S yr Undeb" yn y testun Cymraeg. Gan fod angen i'r offeryn statudol hwn ddod i rym ar y diwrnod ymadael, ac mai prin yw'r amser sydd ar gael, bwriedir cyflwyno OS arall cyn gynted ag y bo'n ymarferol i ddiwygio'r testun Cymraeg er mwyn ymdrin â'r materion hyn.

Mae Llywodraeth Cymru yn nodi pwynt 2 a wneir gan y Pwyllgor. Derbynnir bod y croesgyfeiriadau yn anghywir yn rheoliad 2(15). Caiff y cyfeiriadau hyn eu diweddarau drwy slip cywiro ar ôl cyhoeddi'r offeryn.

Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

11 Mawrth 2019



Rheoliadau drafft a osodwyd gerbron Cynulliad Cenedlaethol Cymru o dan baragraff 1(9) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018, i'w cymeradwyo drwy benderfyniad gan Gynulliad Cenedlaethol Cymru.

OFFERYNNAU STATUDOL
CYMRU

2019 Rhif (Cy.)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

HADAU, CYMRU

**Rheoliadau Tatws Hadyd (Cymru)
(Diwygio) (Ymadael â'r UE) 2019**

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn wedi eu gwneud drwy arfer y pwerau a roddir gan baragraff 1(1) o Atodlen 2 a pharagraff 21 o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 (p. 16) er mwyn ymdrin ag unrhyw fethiant yng nghyfraith yr UE a ddargedwir i weithredu'n effeithiol a diffygion eraill sy'n deillio o ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd.

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Tatws Hadyd (Cymru) 2016 (O.S. 2016/106 Cy. 52).

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Aseidiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, ystyriwyd nad oedd yn angenrheidiol cynnal aseiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn.

Rheoliadau drafft a osodwyd gerbron Cynulliad Cenedlaethol Cymru o dan baragraff 1(9) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018, i'w cymeradwyo drwy benderfyniad gan Gynulliad Cenedlaethol Cymru.

OFFERYNNAU STATUDOL
CYMRU

2019 Rhif (Cy.)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

HADAU, CYMRU

**Rheoliadau Tatws Hadyd (Cymru)
(Diwygio) (Ymadael â'r UE) 2019**

Gwnaed

Yn dod i rym yn unol â rheoliad 1(2) a (3)

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir gan baragraff 1(1) o Atodlen 2 a pharagraff 21 o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018(1), yn gwneud y Rheoliadau a ganlyn.

Yn unol â pharagraff 1(9) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 gosodwyd drafft o'r offeryn hwn gerbron Cynulliad Cenedlaethol Cymru ac fe'i cymeradwywyd drwy benderfyniad gan Gynulliad Cenedlaethol Cymru.

Enwi, cychwyn a chymhwysu

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Tatws Hadyd (Cymru) (Diwygio) (Ymadael â'r UE) 2019.

(2) Daw'r Rheoliadau hyn, ac eithrio rheoliadau 3 a 4, i rym ar y diwrnod ymadael.

(3) Daw rheoliadau 3 a 4 i rym ar y diwrnod sydd flwyddyn ar ôl y diwrnod y mae'r diwrnod ymadael yn digwydd.

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

(1) 2018 p. 16. Gweler adran 20(1) o'r Ddeddf honno i gael y diffiniad o "devolved authority".

Diwygio Rheoliadau Tatws Hadyd (Cymru) 2016 o ganlyniad i ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd

2.—(1) Mae Rheoliadau Tatws Hadyd (Cymru) 2016 wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 2—

- (a) yn y diffiniad o “tatws hadyd sylfaenol”, ym mharagraff (b), yn lle'r geiriau o “yn unol” hyd at y diwedd rhodder—

“, yn datgan bod y tatws wedi eu hardystio'n datws hadyd sylfaenol a'r radd, yn unol ag—

- (i) yn achos tatws hadyd a gynhyrchir yn y Deyrnas Unedig, y rheoliadau tatws hadyd perthnasol;
- (ii) yn achos tatws hadyd a gynhyrchir mewn Tiriogaeth Ddibynnol y Goron, ddeddfwriaeth y mae Gweinidogion Cymru yn cydnabod bod ei heffaith yn cyfateb i effaith paragraffau 2, 5, 7, 9, 10 ac 11 o Ran 1 o Atodlen 2;
- (iii) yn achos tatws hadyd a gynhyrchir mewn Aelod-wladwriaeth neu yn y Swistir, Erthygl 13(1)(a) o'r Gyfarwyddeb;”;

- (b) yn y diffiniad o “categori” hepgorer y geiriau “yn unol â chytundeb masnach y Swistir”;

- (c) yn y diffiniad o “ardystio” ym mharagraff (b), yn lle'r geiriau o “yn unol” hyd at y diwedd rhodder—

“yn unol ag—

- (i) yn achos tatws hadyd a gynhyrchir yn y Deyrnas Unedig, y rheoliadau tatws hadyd perthnasol;
- (ii) yn achos tatws hadyd a gynhyrchir mewn Tiriogaeth Ddibynnol y Goron, ddeddfwriaeth y mae Gweinidogion Cymru yn cydnabod bod ei heffaith yn cyfateb i effaith rheoliad 10(2) a (3);
- (iii) yn achos tatws hadyd a gynhyrchir mewn Aelod-wladwriaeth neu yn y Swistir, y Gyfarwyddeb;”;

- (d) yn y diffiniad o “tatws hadyd ardystiedig” ym mharagraff (b), yn lle'r geiriau o “yn unol” hyd at y diwedd rhodder—

“, yn datgan bod y tatws wedi eu hardystio'n datws hadyd ardystiedig a'r radd, yn unol ag—

- (i) yn achos tatws hadyd a gynhyrchir yn y Deyrnas Unedig, y rheoliadau tatws hadyd perthnasol;
 - (ii) yn achos tatws hadyd a gynhyrchir mewn Tiriogaeth Ddibynnol y Goron, ddeddfwriaeth y mae Gweinidogion Cymru yn cydnabod bod ei heffaith yn cyfateb i effaith paragraffau 3, 5, 7, 9, 10 ac 11 o Atodlen 2;
 - (iii) yn achos tatws hadyd a gynhyrchir mewn Aelod-wladwriaeth neu yn y Swistir, Erthygl 13(1)(a) o'r Gyfarwyddeb;"
- (e) ar ôl y diffiniad o "tatws hadyd sylfaenol" mewnosoder—
- "ystyr "Tiriogaeth Ddibynnol y Goron" ("*Crown Dependency*") yw Ynys Manaw ac unrhyw un o Ynsoedd y Sianel;
- (f) ar ôl y diffiniad o "pecyn neu gynhwysydd" mewnosoder—
- "ystyr "y Rheoliadau GMO" ("*the GMO Regulations*") yw—
- (a) o ran Lloegr, Reoliadau Organeddau a Addaswyd yn Enetig (Eu Gollwng yn Fwriadol) 2002(1);
 - (b) o ran Cymru, Reoliadau Organeddau a Addaswyd yn Enetig (Eu Gollwng yn Fwriadol) (Cymru) 2002(2);
 - (c) o ran yr Alban, Reoliadau Organeddau a Addaswyd yn Enetig (Eu Gollwng yn Fwriadol) (Yr Alban) 2002(3);
 - (d) o ran Gogledd Iwerddon, Reoliadau Organeddau a Addaswyd yn Enetig (Eu Gollwng yn Fwriadol) (Gogledd Iwerddon) 2003(4);"
- (g) yn lle'r diffiniad o "gradd" rhodder—
- "mae "gradd" ("*grade*") yn cynnwys gradd y Deyrnas Unedig;"
- (h) yn lle'r diffiniad o "Rhestr Genedlaethol" rhodder—
- "ystyr "Rhestr Genedlaethol" ("*National List*") yw rhestr o amrywogaethau o rywogaethau tatws sydd wedi ei llunio a'i

(1) O.S. 2002/2443, a ddiwygiwyd gan O.S. 2004/2411, 2018/575.

(2) O.S. 2002/3188 (Cy. 304), a ddiwygiwyd gan O.S. 2005/2759, 2013/755 (Cy. 90).

(3) O.S.A. 2002/541, a ddiwygiwyd gan O.S.A. 2004/439, 2015/100.

(4) Rh. St. 2003 Rhif 167.

chyhoeddi yn unol â rheoliad 3 o'r Rheoliadau Rhestrau Cenedlaethol;”;

- (i) yn y diffiniad o “dogfen swyddogol” ym mharagraff (b), yn lle'r geiriau o “gofynion” hyd at y diwedd rhodder—

“gofynion—

- (i) yn achos tatws hadyd a gynhyrchir yn y Deyrnas Unedig, y rheoliadau tatws hadyd perthnasol;
- (ii) yn achos tatws hadyd a gynhyrchir mewn Tiriogaeth Ddibynnol y Goron, ddeddfwriaeth y mae Gweinidogion Cymru yn cydnabod bod ei heffaith yn cyfateb i effaith gofynion Rhan 2 o Atodlen 2;
- (iii) yn achos tatws hadyd a gynhyrchir mewn Aelod-wladwriaeth neu yn y Swistir, Erthygl 13(1)(b) o'r Gyfarwyddeb;”;

- (j) yn y diffiniad o “label swyddogol” ym mharagraff (b), hepgorer “gofynion” ac yn lle'r geiriau o “Erthygl 13(1)(a)” hyd at y diwedd rhodder—

“ofynion—

- (i) yn achos tatws hadyd a gynhyrchir yn y Deyrnas Unedig, y rheoliadau tatws hadyd perthnasol;
- (ii) yn achos tatws hadyd a gynhyrchir mewn Tiriogaeth Ddibynnol y Goron, ddeddfwriaeth y mae Gweinidogion Cymru yn cydnabod bod ei heffaith yn cyfateb i effaith gofynion Rhan 1 o Atodlen 2;
- (iii) yn achos tatws hadyd a gynhyrchir mewn Aelod-wladwriaeth neu yn y Swistir, Erthygl 13(1)(a) neu 18(f) o'r Gyfarwyddeb neu Erthygl 9 o'r Penderfyniad;”;

- (k) yn y diffiniad o “tatws hadyd cyn-sylfaenol”, ym mharagraff (b), yn lle'r geiriau o “yn unol” hyd at y diwedd rhodder—

“, yn datgan bod y tatws wedi eu hardystio'n datws hadyd cyn-sylfaenol a'r radd, yn unol ag—

- (i) yn achos tatws hadyd a gynhyrchir yn y Deyrnas Unedig, y rheoliadau tatws hadyd perthnasol;
- (ii) yn achos tatws hadyd a gynhyrchir mewn Tiriogaeth Ddibynnol y Goron, ddeddfwriaeth y mae Gweinidogion Cymru yn

cydnabod bod ei heffaith yn cyfateb i effaith paragraffau 1, 5, 6, 9, 10 ac 11 o Ran 1 o Atodlen 2;

- (iii) yn achos tatws hadyd a gynhyrchir mewn Aelod-wladwriaeth neu yn y Swistir, Erthygl 18(f) o'r Gyfarwyddeb;"

- (l) yn lle'r diffiniad o "tatws hadyd o amrywogaeth gadwraeth" rhodder—

"ystyr "tatws hadyd o amrywogaeth gadwraeth" ("*seed potatoes of a conservation variety*") yw unrhyw amrywogaeth o datws hadyd a restrir fel amrywogaeth gadwraeth yn y Rhestr Genedlaethol;"

- (m) yn y diffiniad o "tatws hadyd a gynhyrchir y tu allan i Gymru", ym mharagraff (b) hepgorer "ac eithrio'r Deyrnas Unedig";

- (n) ar ôl y diffiniad o "y Rheoliadau Rhestrau Cenedlaethol" mewnosoder—

"ystyr "y rheoliadau tatws hadyd" ("*the seed potatoes regulations*") yw—

- (a) o ran Lloegr, Reoliadau Tatws Hadyd (Lloegr) 2015;

- (b) o ran yr Alban, Reoliadau Tatws Hadyd (Yr Alban) 2015(1);

- (c) o ran Gogledd Iwerddon, Reoliadau Tatws Hadyd (Gogledd Iwerddon) 2016(2);

ac ystyr "y rheoliadau tatws hadyd perthnasol" ("*the relevant seed potatoes regulations*"), o ran unrhyw ran gyfansoddol o'r Deyrnas Unedig, yw'r rheoliadau tatws hadyd sy'n gymwys o ran y rhan honno;"

- (o) yn y diffiniad o "tatws hadyd sydd i'w profi a'u treialu", ym mharagraff (b), yn lle'r geiriau o "yn unol" hyd at y diwedd rhodder—

" yn unol ag—

- (i) yn achos tatws hadyd a gynhyrchir yn y Deyrnas Unedig, y rheoliadau tatws hadyd perthnasol;

- (ii) yn achos tatws hadyd a gynhyrchir mewn Tiriogaeth Ddibynnol y Goron, ddeddfwriaeth y mae Gweinidogion Cymru yn cydnabod bod ei heffaith yn

(1) O.S.A. 2015/395, a ddiwygiwyd gan O.S.A. 2016/68, 434.

(2) Rh. St. 2016 Rhif 190, a ddiwygiwyd gan Rh. St. 2017 Rhif 155.

cyfateb i effaith paragraffau 4, 5, 8, 9, 10 ac 11(c) o Ran 1 o Atodlen 2;

(iii) yn achos tatws hadyd a gynhyrchir mewn Aelod-wladwriaeth neu yn y Swistir, Erthygl 9 o'r Penderfyniad”;

(p) yn lle'r diffiniad o “gradd yr Undeb” rhodder—

“ystyr “gradd yr Undeb” (*Union grade*), mewn perthynas â thatws hadyd a gynhyrchir mewn Aelod-wladwriaeth neu yn y Swistir, yw—

(a) yn achos tatws hadyd cyn-sylfaenol, gradd PBTC yr Undeb neu radd PB yr Undeb, y nodir yr amodau gofynnol ar eu cyfer yn Erthyglau 2 a 3 o Gyfarwyddeb 2014/21/EU(1) ac Atodiad 1 iddi;

(b) yn achos tatws hadyd sylfaenol, gradd S yr Undeb, gradd SE yr Undeb neu radd E yr Undeb, y nodir yr amodau gofynnol ar eu cyfer yn Erthygl 1 o Gyfarwyddeb 2014/20/EU(2) ac Atodiad 1 iddi;

(c) yn achos tatws hadyd ardystiedig, gradd A yr Undeb neu radd B yr Undeb, y nodir yr amodau gofynnol ar eu cyfer yn Erthygl 2 o Gyfarwyddeb 2014/20/EU ac Atodiad 2 iddi;”;

(q) ar ôl y diffiniad o “gradd” mewnosoder—

“ystyr “gradd y Deyrnas Unedig” (*United Kingdom grade*)” yw—

(a) o ran tatws hadyd a gynhyrchir yng Nghymru, gradd y Deyrnas Unedig a bennir yn unol ag Atodlen 4 wrth ardystio, sef—

(i) yn achos tatws hadyd cyn-sylfaenol, gradd PBTC y DU neu radd PB y DU;

(ii) yn achos tatws hadyd sylfaenol, gradd S y DU, gradd SE y DU neu radd E y DU;

(iii) yn achos tatws hadyd ardystiedig, gradd A y DU neu radd B y DU;

(b) o ran tatws hadyd a gynhyrchir yn y Deyrnas Unedig ac eithrio yng Nghymru, gradd y Deyrnas Unedig a

(1) OJ Rhif L 38, 7.2.2014, t. 39.

(2) OJ Rhif L 38, 7.2.2014, t. 32.

bennir yn unol â'r rheoliadau tatws hadyd perthnasol;”;

(r) ym mharagraff 2, hepgorer y geiriau o “yn unol” hyd at y diwedd;

(s) hepgorer paragraff (4).

(3) Yn rheoliad 4, yn lle “Undeb Ewropeaidd” rhodder “Deyrnas Unedig”.

(4) Yn rheoliad 5, ym mharagraff 3(b), yn lle'r geiriau o “yn unol” hyd at y diwedd rhodder—

“yn unol ag—

(i) yn achos tatws hadyd a gynhyrchir yn y Deyrnas Unedig, y rheoliadau tatws hadyd perthnasol;

(ii) yn achos tatws hadyd a gynhyrchir mewn Tiriogaeth Ddibynnol y Goron, ddeddfwriaeth y mae Gweinidogion Cymru yn cydnabod bod ei heffaith yn cyfateb i effaith rheoliad 8;

(iii) yn achos tatws hadyd a gynhyrchir mewn Aelod-wladwriaeth neu yn y Swistir, Erthygl 6(1)(a) o'r Gyfarwyddeb;”;

(5) Yn rheoliad 6—

(a) ym mharagraff (3), yn lle'r geiriau o'r dechrau hyd at “Gyfarwyddeb 2008/62/EC” rhodder “Pan fyddai'r symiau yn debygol o fod yn fwy na'r symiau a bennir yn Erthygl 14 o Gyfarwyddeb 2008/62/EC(1) fel arall”;

(b) ar ôl paragraff (3) mewnosoder—

“(3A) At ddibenion paragraff (3), mae Erthygl 14 o Gyfarwyddeb 2008/62/EC i'w darllen fel pe bai—

(a) yn y paragraff cyntaf, yn y frawddeg gyntaf—

(i) y geiriau “Each Member State shall ensure that” wedi eu hepgor;

(ii) y geiriau “may not exceed” wedi eu rhoi yn lle “does not exceed”;

(iii) cyfeiriad at “the United Kingdom” yn cael ei roi yn lle'r cyfeiriad at “that Member State”;

(b) yn yr ail baragraff—

(i) yn y frawddeg gyntaf, cyfeiriad at “the United Kingdom” yn cael ei roi yn lle'r cyfeiriad at “each Member State”;

(1) OJ Rhif L 162, 21.6.2008, t. 13.

- (ii) cyfeiriadau at “the United Kingdom” yn cael eu rhoi yn lle’r cyfeiriadau at “the Member State”, yn y ddau le y maent yn digwydd”.”.

(6) Yn rheoliad 8(2), yn lle’r geiriau o “y Rheoliad Bwyd a Bwyd Anifeiliaid” hyd at y diwedd rhodder—

“—

- (a) y Rheoliad Bwyd a Bwyd Anifeiliaid;
- (b) y rheoliadau GMO; neu
- (c) cyn y diwrnod ymadael, Ran C o’r Gyfarwyddeb Gollyngiadau Bwriadol”.

(7) Yn rheoliad 9—

(a) ym mharagraff (2)—

- (i) yn is-baragraff (a), yn lle “sy’n fwy nag a ganiateir gan Erthygl 7 o’r Penderfyniad” rhodder “sy’n fwy na pha un bynnag sydd fwyaf o 0.1% o nifer blynyddol y tatws hadyd a ddefnyddir yn y Deyrnas Unedig neu unrhyw swm y mae Gweinidogion Cymru yn ystyried ei fod yn ddigonol er mwyn hau 10 hectar”;
- (ii) yn is-baragraff (b), yn lle’r geiriau o “y Rheoliad Bwyd a Bwyd Anifeiliaid” hyd at y diwedd rhodder—

“—

- (i) y Rheoliad Bwyd a Bwyd Anifeiliaid;
 - (ii) y rheoliadau GMO; neu
 - (iii) cyn y diwrnod ymadael, Ran C o’r Gyfarwyddeb Gollyngiadau Bwriadol”;
- (b) ym mharagraff (6)(b), hepgorer “neu yn y Catalog Cyffredin”;
- (c) ym mharagraff (8)(b), yn lle “Aelod-wladwriaeth” rhodder “wlad”.

(8) Yn rheoliad 11(3)(b), yn lle’r geiriau o “yn unol â’r Gyfarwyddeb” hyd at y diwedd rhodder—

“, mewn cysylltiad â marchnata tatws o’r categori hwnnw, yn unol ag—

- (i) yn achos tatws hadyd a gynhyrchir yn y Deyrnas Unedig, y rheoliadau tatws hadyd perthnasol;
- (ii) yn achos tatws hadyd a gynhyrchir mewn Tiriogaeth Ddibynnol y Goron, ddeddfwriaeth y mae Gweinidogion Cymru yn cydnabod bod ei heffaith yn cyfateb i effaith is-baragraff (a);

- (iii) yn achos tatws hadyd a gynhyrchir mewn Aelod-wladwriaeth neu yn y Swistir, y Gyfarwydddeb”.

(9) Yn rheoliad 14(2)(b), yn lle’r geiriau o “yn unol ag” hyd at y diwedd rhodder—

“yn unol ag—

- (i) yn achos tatws hadyd a gynhyrchir yn y Deyrnas Unedig, y rheoliadau tatws hadyd perthnasol;
- (ii) yn achos tatws hadyd a gynhyrchir mewn Tiriogaeth Ddibynnol y Goron, ddeddfwriaeth y mae Gweinidogion Cymru yn cydnabod bod ei heffaith yn cyfateb i effaith is-baragraff (a);
- (iii) yn achos tatws hadyd a gynhyrchir mewn Aelod-wladwriaeth neu yn y Swistir, Erthygl 11(1) o’r Gyfarwydddeb”.

(10) Yn rheoliad 16—

- (a) yn y pennawd, yn lle “o’r tu allan i’r Undeb Ewropeaidd” rhodder “a fewnforir i Gymru”;
- (b) ailrifer y testun presennol yn baragraff (1);
- (c) ym mharagraff (1)—
 - (i) ar y dechrau mewnosoder y geiriau “Yn ddarostyngedig i baragraff (2),”;
 - (ii) hepgorer y geiriau “o wlad y tu allan i’r Undeb Ewropeaidd”;
- (d) ar ôl paragraff (1), mewnosoder—

“(2) Nid yw paragraff (1) yn gymwys i unrhyw berson sy’n marchnata mwy na 2 gilogram o datws hadyd sydd wedi eu mewnforio i Gymru o—

 - (a) lle sydd o fewn Ynysoedd Prydain;
 - (b) Aelod-wladwriaeth neu’r Swistir.”

(11) Ar ôl rheoliad 23 mewnosoder—

“Darpariaeth drosiannol ar gyfer labeli swyddogol ar y diwrnod ymadael

23A. Mae label a ragargraffwyd cyn y diwrnod ymadael a oedd yn label swyddogol at ddibenion y Rheoliadau hyn ar y dyddiad y’i hargraffwyd i’w drin fel label swyddogol at ddibenion unrhyw ddefnydd o’r label hwnnw cyn diwedd y cyfnod o flwyddyn sy’n dechrau â’r diwrnod ar ôl y diwrnod y mae’r diwrnod ymadael yn digwydd.”

(12) Yn Atodlen 1 ym mharagraffau 5, 6, 8 a 10, yn lle “yr Undeb”, ym mhob lle y mae’n digwydd, rhodder “y DU”.

(13) Yn Atodlen 2—

- (a) ym mharagraff 6(a), yn lle “Aelod-wladwriaeth” rhodder “wlad”;
- (b) ym mharagraff 7—
 - (i) yn is-baragraff (a), yn lle “EU” rhodder “UK”;
 - (ii) yn is-baragraff (b)(i), yn lle “Aelod-wladwriaeth” rhodder “wlad”;
- (c) ym mharagraff 8(b)(i), yn lle “Aelod-wladwriaeth” rhodder “wlad”;
- (d) ym mharagraff 9—
 - (i) yn lle “sy’n ofynnol gan” rhodder “a bennir yn”;
 - (ii) ar y diwedd, mewnosoder “sydd i’w ddarllen fel pe bai, ym mhwynt (a), “UK” wedi ei roi yn lle “EC””;
- (e) ym mharagraff 11, yn lle “yr Undeb”, ym mhob lle y mae’n digwydd, rhodder “y DU”.

(14) Yn Atodlen 3—

- (a) ym mhenawdau Rhannau 1 a 2, yn lle “yr Undeb” rhodder “y DU”;
- (b) yn y tabl yn Rhan 3, yng ngholofn 2, yn lle “yr Undeb”, ym mhob lle y mae’n digwydd, rhodder “y DU”.

(15) Mae Atodlen 4 wedi ei diwygio yn unol â pharagraffau 15 i 17.

(16) Yn Rhan 1—

- (a) yn y paragraff sy’n dod o flaen Tabl 1, yn lle “Undeb” rhodder “Deyrnas Unedig”;
- (b) yn Nhabl 1—
 - (i) ym mhennawd colofn 1, yn lle “yr Undeb” rhodder “y DU”;
 - (ii) yn y rhes sy’n ymwneud â gradd “PB”, yng ngholofn 2, ym mharagraff (1)(b), yn lle “gradd PB yr Undeb” rhodder “gradd PB y DU neu radd PB yr Undeb”.

(17) Yn Rhan 2—

- (a) yn y paragraff sy’n dod o flaen Tabl 2, yn lle “Undeb” rhodder “Deyrnas Unedig”;
- (b) yn Nhabl 2—
 - (i) ym mhennawd colofn 1, yn lle “yr Undeb” rhodder “y DU”;
 - (ii) yn y rhes sy’n ymwneud â gradd “S”, yng ngholofn 2, yn lle “radd S yr Undeb” rhodder “radd S y DU neu radd S yr Undeb”;
 - (iii) yn y rhes sy’n ymwneud â gradd “SE”, yng ngholofn 2, yn lle “radd S yr Undeb neu’n radd SE yr Undeb” rhodder “radd

S y DU, gradd SE y DU neu radd SE yr Undeb”;

(iv) yn y rhes sy'n ymwneud â gradd “E”, yng ngholofn 2—

(aa) ym mharagraff (1)(a), yn lle “radd S yr Undeb, gradd SE yr Undeb neu radd E yr Undeb” rhodder “radd S y DU, gradd SE y DU, gradd S yr Undeb neu radd SE yr Undeb”;

(bb) ym mharagraff (1)(b), yn lle “radd S yr Undeb, gradd SE yr Undeb neu radd E yr Undeb” rhodder “radd S y DU, gradd SE y DU, gradd E y DU, gradd S yr Undeb, gradd SE yr Undeb neu radd E yr Undeb”.

(18) Yn Rhan 3 yn Nhabl 3—

(a) ym mhennawd colofn 1, yn lle “yr Undeb” rhodder “y DU”;

(b) yn y rhes sy'n ymwneud â gradd “A”, yng ngholofn 2

yn lle “radd A yr Undeb” rhodder “radd A y DU neu radd A yr Undeb”;

(c) yn y rhes sy'n ymwneud â gradd “B”, yng ngholofn 2—

(i) yn lle “radd A yr Undeb” rhodder “radd A y DU neu radd A yr Undeb”;

(ii) yn lle “radd B yr Undeb” rhodder “radd B y DU neu radd B yr Undeb”.

(19) Ym mhennawd Atodlen 6, yn lle “ac eithrio Aelod-wladwriaeth” rhodder “y tu allan i Ynysoedd Prydain”.

Marchnata tatws hadyd a gynhyrchir mewn Aelod-wladwriaeth neu yn y Swistir

3.—(1) Mae Rheoliadau Tatws Hadyd (Cymru) 2016 fel y'u diwygir gan reoliad 2 wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 2—

(a) yn y diffiniad o “tatws hadyd sylfaenol”, ym mharagraff (b) hepgorer is-baragraff (iii);

(b) yn y diffiniad o “ardystio”, ym mharagraff (b) hepgorer is-baragraff (iii);

(c) yn y diffiniad o “tatws hadyd ardystiedig”, ym mharagraff (b) hepgorer is-baragraff (iii);

(d) yn y diffiniad o “dogfen swyddogol”, ym mharagraff (b) hepgorer is-baragraff (iii);

(e) yn y diffiniad o “label swyddogol”, ym mharagraff (b) hepgorer is-baragraff (iii);

- (f) yn y diffiniad o “tatws hadyd cyn-sylfaenol”, ym mharagraff (b) hepgorer is-baragraff (iii);
 - (g) yn y diffiniad o “tatws hadyd a gynhyrchir y tu allan i Gymru”, hepgorer paragraffau (b) ac (c);
 - (h) yn y diffiniad o “tatws hadyd sydd i’w profi a’u treialu”, ym mharagraff (b) hepgorer is-baragraff (iii);
- (3) Yn rheoliad 11(3)(b), hepgorer is-baragraff (iii);
- (4) Yn rheoliad 14(2)(b), hepgorer is-baragraff (iii);
- (5) Yn rheoliad 16, hepgorer paragraff (2)(b).
- (6) Yn Atodlen 1, ym mharagraff 3(a) hepgorer “neu yn y Catalog Cyffredin”.

Marchnata tatws hadyd a gynhyrchir mewn Aelod-wladwriaeth neu yn y Swistir: darpariaeth arbed

4.—(1) Yn achos tatws hadyd—

- (a) a gynhyrchir mewn Aelod-wladwriaeth neu yn y Swistir, a
 - (b) a fewnforir i Gymru cyn i reoliad 3 ddod i rym,
- mae Rheoliadau Tatws Hadyd (Cymru) 2016 yn parhau i gael effaith fel pe na bai’r diwygiadau a wneir gan reoliad 3 mewn grym.

Lesley Griffiths

Gweinidog yr Amgylchedd, Ynni a Materion Gwledig,
un o Weinidogion Cymru
5 Mawth 2019

Explanatory Memorandum to the Seed Potatoes (Wales) (Amendment) (EU Exit) Regulations 2019.

This Explanatory Memorandum has been prepared by the Department for Environment and Rural Affairs and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of Seed Potatoes (Wales) (Amendment) (EU Exit) Regulations 2019.

I have made the statements required by the European Union (Withdrawal) Act 2018. These statements can be found in Part 2 of the annex to this memorandum.

Lesley Griffiths

Minister for Environment, Energy and Rural Affairs

5 March 2019

1 PART 1

1. Description

- 1.1 The Seed Potatoes (Wales) (Amendment) (EU Exit) Regulations 2019 amend the Seed Potatoes (Wales) Regulations 2016. They address deficiencies in domestic legislation on seed potatoes arising from the withdrawal of the United Kingdom from the European Union to make them operable after EU exit.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

- 2.1 This instrument is being made using the powers conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018 (c.16) (the “2018 Act”) in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union and to make associated provision.
- 2.2 This instrument is subject to the affirmative procedure in accordance with paragraph 1(9) of Schedule 7 to the 2018 Act.
- 2.3 Aside from regulations 3 and 4, this instrument comes into force on “exit day”. Section 20(1) of the European Union (Withdrawal) Act 2018 defines “exit day” as 29 March 2019 at 11.00pm. Regulations 3 and 4 come into force on the day one year after the day on which exit day falls.

3 Legislative background

- 3.1 This instrument is being made using the power in paragraph 1(1) of Schedule 2 to and paragraph 21 of Schedule 7 to the 2018 Act in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the European Union. In accordance with the requirements of that Act the Minister for Environment, Energy and Rural Affairs, Lesley Griffiths has made the relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.

4 Purpose and intended effect of the legislation

What did any relevant EU law do before exit day?

- 4.1 Council Directive 2002/56/EC prescribes marketing standards for seed potatoes to ensure minimum quality standards and traceability for marketed seed and propagating material.
- 4.2 Directive 2002/56/EC is implemented in Wales by The Seed Potatoes (Wales) Regulations 2016 (S.I. 2016/106 (W. 52)), which have been amended. Those Regulations control the production with a view to

marketing, the certification and the marketing of seed potatoes in Wales, other than those intended for export outside the European Union.

Why is it being changed?

- 4.3 The technical changes made by the instrument are necessary to ensure that the Seed Potatoes (Wales) Regulations 2016 continue to operate effectively and to ensure continuity of supply and marketing of seed potatoes from the EU and Switzerland for an interim period of one year after that withdrawal.

What will it now do?

- 4.4 This instrument will ensure that the Seed Potatoes (Wales) Regulations 2016 continue to operate effectively after we leave the EU. The instrument makes no policy changes other than those necessary to ensure such continued operation.
- 4.5 In the fields of the marketing of seed potatoes the changes made by this instrument include removing references to the Commission, Community and Member States, replacing references to “third countries” and removing reporting obligations to the Commission. To assure continuity in supplies of seed potatoes this instrument provides for a one year transitional period during which time EU seed potatoes and seed potatoes from Switzerland will continue to be recognised for production and marketing in Wales and, to avoid financial loss, permit a one year period for existing stocks of pre-printed official EU certification labels to be used up.
- 4.6 In the field of seed potatoes, further changes made by this instrument include a definition for Crown Dependencies (CDs) and a provision allowing the Welsh Ministers to recognise CDs legislation, where appropriate, as having equivalent effect to Wales marketing legislation to allow CDs access to the UK internal market.

5 Consultation

- 5.1 As there is no substantive policy change, no public consultation was undertaken. The purpose of the instrument is solely to enable the current legislative and policy framework to continue to operate effectively after the withdrawal of the United Kingdom from the European Union.

6 Regulatory Impact Assessment (RIA)

- 6.1 An RIA has not been conducted as these are technical changes necessary as a result of the UK’s withdrawal from the EU. A public consultation was not required because no substantive policy changes are being made via this statutory instrument. As this instrument relates to maintaining the substance of existing legislation after the withdrawal of the

UK from the EU, there is no, or no significant, impact on business, charities or voluntary bodies. There is no, or no significant, impact on the public sector.

- 6.2 The temporary period for accepting EU seed potatoes will constrain the impact on small businesses (employing up to 50 people). This instrument largely maintains the status quo insofar as that is possible after the UK's withdrawal from the EU and therefore does not introduce new duties or burdens on business.

7 Annex 1

Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required of the Welsh Ministers under the 2018 Act. The table also sets out those statements that may be required of Ministers of the Crown under the 2018 Act, which the Welsh Ministers have committed to also provide when required. The required statements can be found in Part 2 of this annex.

| Statement | Where the requirement sits | To whom it applies | What it requires |
|-----------------|---|--|---|
| Sifting | Paragraphs 3(7) and 4(3), Schedule 7 <i>Paragraph 3(7) (anticipated to be a requirement on Welsh Ministers in Standing Orders)</i> | The Welsh Ministers exercising powers in Part 1 of Schedule 2 to make a Negative SI Paragraph 3(7) applies to Ministers of the Crown, but Welsh Ministers have committed to make the same statement | A statement to explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation of the CLA Committee (as sifting committee) |
| Appropriateness | Sub-paragraph (2) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement that the SI does no more than is appropriate. |
| Good Reasons | Sub-paragraph (3) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have | A statement to explain the good reasons for making the instrument and that what is being done is a reasonable course of action. |

| | | | |
|-------------------|--|--|--|
| | | committed to make the same statement when exercising powers in Schedule 2 | |
| Equalities | Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | <p>A statement to explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them.</p> <p>A statement that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.</p> |
| Explanations | Sub-paragraph (6) of paragraph 28, Schedule 77 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement to explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g. whether minor or technical changes only are intended to the EU retained law. |
| Criminal offences | Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement setting out the 'good reasons' for creating a criminal offence, and the penalty attached. |
| Sub-delegation | Paragraph 30, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 18(1), 9 and paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority. | A statement to explain why it is appropriate to create such a sub-delegated power. |

| | | | |
|---------|--|--|--|
| | | Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 or paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority | |
| Urgency | Sub-paragraph (2) and (8) of paragraph 7, Schedule 7 | Welsh Ministers exercising powers in Part 1 of Schedule 2 but using the urgent procedure in paragraph 7 of Schedule 7 | A statement that the Welsh Ministers are of the opinion that it is necessary to make the SI using the urgent procedure and the reasons for that opinion. |

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

1. Appropriateness statement

The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Seed Potatoes (Wales) (Amendment) (EU Exit) Regulations 2019 does no more than is appropriate. This is the case because all changes being made are technical and do no more than is strictly necessary to ensure that the Regulations function correctly once the UK has left the EU.”

2. Good reasons

The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action”. This is because the provisions ensure that protections provided by Seed Potatoes (Wales) (Amendment) (EU Exit) Regulations 2019 continue to be operable after the UK leaves the European Union.”

3. Equalities

- 3.1 The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement(s):

“The instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts.

- 3.2 The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the instrument, I, Lesley Griffiths, have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010”.

3.3 Little or no impact on equalities is expected.

4. Explanations

The explanations statement has been made in paragraph 4 (Purpose & intended effect of the legislation) of the main body of this explanatory memorandum.

5. Criminal offences

Not applicable / required.

6. Legislative sub-delegation

Not applicable / required.

7. Urgency

Not applicable / required.

SI(5)374 - Rheoliadau Iechyd Planhigion (Coedwigaeth) (Diwygiadau Amrywiol) (Cymru) (Ymadael â'r UE) 2019

Cefndir a Diben

Mae Cyfarwyddeb 2000/29/EC y Cyngor ("y Gyfarwyddeb Iechyd Planhigion") yn sefydlu cyfundrefn iechyd planhigion yr UE. Mae'r Gyfarwyddeb Iechyd Planhigion yn cynnwys mesurau i'w cymryd er mwyn atal plâu difrifol a chlefydau planhigion a chynnyrch planhigion rhag cael eu cyflwyno i'r UE a'u lledaenu ynddi.

Mae'r Rheoliadau hyn yn cywiro diffygion yn y ddeddfwriaeth ddomestig a ganlyn, sy'n gweithredu Cyfarwyddeb yr UE 2000/29/EC ar fesurau i amddiffyn iechyd planhigion (coedwigaeth) sy'n codi o ganlyniad i'r DU yn ymadael â'r UE mewn senario 'dim cytundeb':

- Gorchymyn Iechyd Planhigion (Coedwigaeth) 2005
- Rheoliadau Deunyddiau Atgenhedlol y Goedwig (Prydain Fawr) 2002
- Rheoliadau Iechyd Planhigion (Ffioedd) (Coedwigaeth) (Cymru) 2019

Gweithdrefn

Cadarnhaol.

Materion technegol: craffu

Nodwyd y pwyntiau a ganlyn i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.2 mewn perthynas â'r offeryn hwn:

1. Rheol Sefydlog 21.2 (vi) – ei bod yn ymddangos bod gwaith drafftio'r offeryn neu'r drafft yn ddiffygiol neu ei fod yn methu â bodloni gofynion statudol

- Nid yw'r rhagarweiniad i'r Rheoliadau hyn yn dyfynnu'r pwerau galluogi yn gywir. Mae'r pŵer cyntaf a ddyfynnir yn Adran 8(1) o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 yn bŵer Ysgrifennydd Gwladol, felly mae'r dyfyniad yn anghywir. Yr ail bŵer a ddyfynnir yw Atodlen 2 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018, fodd bynnag er mwyn eglurder dylai'r dyfyniad hwn fod yn fwy manwl gywir wrth gyfeirio at y pŵer penodol yn yr Atodlen honno.

2. Rheol Sefydlog 21.2 (vi) – ei bod yn ymddangos bod gwaith drafftio'r offeryn neu'r drafft yn ddiffygiol neu ei fod yn methu â bodloni gofynion statudol

- Yn y geiriau cyn Rheoliad 2, mae "Material" wedi cael ei adael allan o'r cyfeiriad at Reoliadau Deunyddiau Atgenhedlol y Goedwig (Prydain Fawr) 2002 [*pwyslais wedi'i ychwanegu*].

3. Rheol Sefydlog 21.2 (vi) – ei bod yn ymddangos bod gwaith drafftio'r offeryn neu'r drafft yn ddiffygiol neu ei fod yn methu â bodloni gofynion statudol

- Mae rheoliad 4(a) o'r Rheoliadau hyn yn dirymu'r diffiniadau o "solid fuel wood" ac "OPM protected zone" o Erthygl 2(1) Gorchymyn Iechyd Planhigion (Coedwigaeth) 2005. Fodd bynnag, dim ond mewn perthynas â Lloegr a'r Alban y mae'r termau hyn yn berthnasol (cafodd ei



fewnosod yng Ngorchymyn 2005 gan Orchymyn Iechyd Planhigion (Coedwigaeth) (Diwygio) (Lloegr a'r Alban) 2016 a Gorchymyn Iechyd Planhigion (Coedwigaeth) (Diwygio) (Lloegr a'r Alban) 2018 yn y drefn honno).

4. Rheol Sefydlog 21.2 (vi) – ei bod yn ymddangos bod gwaith drafftio'r offeryn neu'r drafft yn ddiffygiol neu ei fod yn methu â bodloni gofynion statudol

- Mae rheoliad 4(e) o'r Rheoliadau hyn yn dirymu Erthygl 2(5) o Orchymyn Iechyd Planhigion (Coedwigaeth) 2005. Fodd bynnag, dim ond mewn perthynas â Lloegr a'r Alban y mae paragraff (5) yn gymwys (cafodd ei fewnosod yng Ngorchymyn 2005 gan Orchymyn Iechyd Planhigion (Coedwigaeth) (Diwygio) (Lloegr a'r Alban) 2016).

5. Rheol Sefydlog 21.2 (vi) – ei bod yn ymddangos bod gwaith drafftio'r offeryn neu'r drafft yn ddiffygiol neu ei fod yn methu â bodloni gofynion statudol

- Yn Rheoliad 18(c) dylid cynnwys "or" fel rhan o'r geiriau sy'n cael eu mewnosod. Dylai geiriad y Rheoliad ddarllen "in paragraph (B1)(a) or" [*pwyslais wedi'i ychwanegu*].

6. Rheol Sefydlog 21.2 (vi) – ei bod yn ymddangos bod gwaith drafftio'r offeryn neu'r drafft yn ddiffygiol neu ei fod yn methu â bodloni gofynion statudol

- Mae rheoliad 30 yn cynnwys dau gyfeiriad at Erthygl 6(1) o Orchymyn Iechyd Planhigion (Coedwigaeth) 2005. Fodd bynnag, caiff Erthygl 6(1) ei dirymu gan Reoliad 10(c) o'r Rheoliadau hyn. Felly nid yw'n glir pa ddarpariaeth y cyfeirir ati.

7. Rheol Sefydlog 21.2 (vi) – ei bod yn ymddangos bod gwaith drafftio'r offeryn neu'r drafft yn ddiffygiol neu ei fod yn methu â bodloni gofynion statudol

- Mae rheoliad 30 yn cynnwys dau gyfeiriad at Erthygl 12(1) o Orchymyn Iechyd Planhigion (Coedwigaeth) 2005. Fodd bynnag, caiff Erthygl 12(1) ei dirymu gan Reoliad 18(b) o'r Rheoliadau hyn. Felly nid yw'n glir pa ddarpariaeth y cyfeirir ati.

8. Rheol Sefydlog 21.2 (vi) – ei bod yn ymddangos bod gwaith drafftio'r offeryn neu'r drafft yn ddiffygiol neu ei fod yn methu â bodloni gofynion statudol

- Mae Rheoliad 50(b) yn cynnwys gwall teipograffyddol. Dylai'r ail linell ddechrau gyda "place" yn hytrach na "pace".

Rhinweddau: craffu

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.

Y goblygiadau yn sgil ymadael â'r Undeb Ewropeaidd

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.

Ymateb y Llywodraeth

Mae angen ymateb gan y Llywodraeth.

Cynghorwyr Cyfreithiol



Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol
13 Mawrth 2019



Rheoliadau drafft a osodwyd gerbron Cynulliad Cenedlaethol Cymru o dan baragraff 1(8) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018, i'w cymeradwyo drwy benderfyniad gan Gynulliad Cenedlaethol Cymru.

OFFERYNNAU STATUDOL
CYMRU DRAFFT

2019 Rhif (Cy.)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

**IECHYD PLANHIGION,
CYMRU**

Rheoliadau Iechyd Planhigion
(Coedwigaeth) (Diwygiadau
Amrywiol) (Cymru) (Ymadael â'r
UE) 2019

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn wedi eu gwneud drwy arfer y pwerau a roddir yn adran 8(1) o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 (p. 16), ac Atodlen 2 iddi, er mwyn ymdrin ag unrhyw fethiant yng nghyfraith yr UE a ddargedwir i weithredu'n effeithiol a diffygion eraill sy'n deillio o ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd.

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Deunyddiau Atgenhedlol y Goedwig (Prydain Fawr) 2002, Gorchymyn Iechyd Planhigion (Coedwigaeth) 2005 a Rheoliadau Iechyd Planhigion (Ffioedd) (Coedwigaeth) (Cymru) 2019.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal asesiadau effaith rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, ystyriwyd nad oedd yn angenrheidiol cynnal asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn.

Rheoliadau drafft a osodwyd gerbron Cynulliad Cenedlaethol Cymru o dan baragraff 1(8) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018, i'w cymeradwyo drwy benderfyniad gan Gynulliad Cenedlaethol Cymru.

OFFERYNNAU STATUDOL
CYMRU DRAFFT

2019 Rhif (Cy.)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

**IECHYD PLANHIGION,
CYMRU**

Rheoliadau Iechyd Planhigion
(Coedwigaeth) (Diwygiadau
Amrywiol) (Cymru) (Ymadael â'r
UE) 2019

Gwnaed

Yn dod i rym yn unol â rheoliad 1(2)

Mae Gweinidogion Cymru yn gwneud y Rheoliadau hyn drwy arfer y pwerau a roddir gan adran 8(1) o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018(1), ac Atodlen 2 iddi.

Yn unol â pharagraff 1(8) o Atodlen 7 i'r Ddeddf honno, gosodwyd drafft o'r offeryn hwn gerbron Cynulliad Cenedlaethol Cymru ac fe'i cymeradwywyd ganddo drwy benderfyniad.

RHAN 1

Rhagarweiniol

Enwi, cychwyn a chymhwyso

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Iechyd Planhigion (Coedwigaeth) (Diwygiadau Amrywiol) (Cymru) (Ymadael â'r UE) 2019.

(2) Daw'r Rheoliadau hyn i rym ar y diwrnod ymadael.

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

RHAN 2

Diwygio Rheoliadau Deunyddiau Atgenhedlol y Goedwig (Prydain Fawr) 2002

2.—(1) Mae Rheoliadau Deunyddiau Atgenhedlol y Goedwig (Prydain Fawr) 2002(1) wedi eu diwygio fel a ganlyn.

(2) Mae rheoliad 2 wedi ei ddiwygio yn unol â pharagraffau (3) a (4).

(3) Ym mharagraff (2)—

(a) ar ôl y diffiniad o “approved basic material” mewnosoder—

““approved non-EU third country” means a country listed in Part 1A of Schedule 13;”;

(b) hepgorer y diffiniad o “Council Decision 2008/971/EC”;

(c) ar ôl y diffiniad o “crossing design” mewnosoder—

““the Department” has the meaning given in the NI Regulations;”;

(d) hepgorer y diffiniad o “EC classification”;

(e) hepgorer y diffiniad o “EU-approved third countries”;

(f) yn y diffiniad o “genetically modified organism”, yn lle'r geiriau o “Article 2(1)” hyd at y diwedd rhodder “section 106 of the Environmental Protection Act 1990(2)”;

(g) yn y diffiniad o “Master Certificate”—

(i) ym mharagraff (b), yn lle'r geiriau o “official body for Northern Ireland” hyd at y diwedd rhodder “Department in

(1) O.S. 2002/3026, yr offerynnau diwygio perthnasol yw O.S. 2006/2530, 2011/1043, 2013/755 (Cy. 90) ac O.S. 2019/XXX (Cy. XX).

(2) 1990 p. 43; diwygiwyd adran 106 o ran Lloegr gan Ddeddf Ffrwythloni Dynol ac Embryoleg 2008 (p. 22), adran 60 a chan O.S. 2002/2443 a 2009/2232.

accordance with regulation 13 of the NI Regulations”;

(ii) ym mharagraff (d)—

(aa) yn lle “EU-approved” rhodder “approved non-EU”;

(bb) yn lle’r geiriau o “a relevant” hyd at y diwedd rhodder “the Department in accordance with the NI Regulations”;

(iii) ym mharagraff (e), yn lle “an official body of a member State” rhodder “the Department”;

(h) hepgorer y diffiniad o “the Mediterranean climatic region”;

(i) ar ôl y diffiniad o “National Register” mewnosoder—

““the NI Regulations” means the Forest Reproductive Material Regulations (Northern Ireland) 2002(1);”;

(j) yn y diffiniad o “official body”—

(i) hepgorer paragraff (b);

(ii) ym mharagraff (c), ar ôl “in relation to” mewnosoder “an approved non-EU third country or”;

(k) hepgorer y diffiniad o “plant passport”;

(l) yn y diffiniad o “region of provenance”, yn lle “in accordance with Article 9 of the Directive by another official body” rhodder “pursuant to regulation 5 of the NI Regulations by the Department”;

(m) yn lle’r diffiniad o “third countries” rhodder—

““third country” means a country or territory outside the United Kingdom;”.

(4) Hefgorer paragraffau (4A) i (6).

(5) Yn rheoliad 4—

(a) ym mharagraff (1)(c), hepgorer “subject to paragraph (1A)”;

(b) hepgorer paragraff 1(A).

(6) Yn rheoliad 7(4)—

(a) hepgorer is-baragraff (b);

(b) ar ôl is-baragraff (b) mewnosoder—

“(c) as regards Wales, consent to the marketing of the basic material has been given by the Welsh Ministers in accordance with the Genetically Modified Organisms (Deliberate

(1) Rh. St. 2002 Rhif 404.

Release) (Wales) Regulations 2002⁽¹⁾.

”

(7) Yn rheoliad 14(4)—

(a) yn is-baragraff (a)—

(i) ym mharagraff (ii)—

(aa) yn lle “any other official body of a member State” rhodder “the Department”;

(bb) yn lle “the official body in accordance with Article 10 of the Directive” rhodder “the Department in accordance with regulation 7 of the NI Regulations”;

(ii) ym mharagraff (iii), yn lle “an EU-approved” rhodder “a member State, an approved non-EU”;

(b) yn is-baragraff (b), ar ôl paragraff (i) mewnosoder—

“(ia) in the case of forest reproductive material derived from basic material approved by the Department, has the meaning given in regulation 7(5) of the NI Regulations;”.

(8) Yn rheoliad 17—

(a) ym mharagraff (1)—

(i) yn is-baragraff (b)—

(aa) hepgorer “or another member State”;

(bb) yn lle “Article 14 of the Directive” rhodder “regulation 19 of the NI Regulations”;

(ii) ar ôl is-baragraff (b) mewnosoder—

“(ba) in the case of forest reproductive material produced in a member State and imported into Wales, it has met the requirements as to entry into Wales set out in regulation 25;”;

(iii) yn is-baragraff (c), yn lle “EU-approved” rhodder “approved non-EU”;

(iv) hepgorer is-baragraff (d);

(v) ar ôl is-baragraff (e) mewnosoder—

“(ea) in the case of forest reproductive material imported into Northern

(1) 2002/3188 (Cy. 304), a ddiwygiwyd gan O.S. 2005/1913 (Cy. 156); mae offerynnau diwygio eraill ond nid oes yr un ohonynt yn berthnasol. Breinir swyddogaethau Cynulliad Cenedlaethol Cymru o dan y Rheoliadau hyn yng Ngweinidogion Cymru yn rhinwedd adran 162 o Ddeddf Llywodraeth Cymru 2006 (p. 32), a pharagraff 30 o Atodlen 11 iddi.

Ireland, it met the requirements set out in the NI Regulations as to entry into Northern Ireland and was accompanied on its entry into Wales by the supplier's label or document required by regulation 19 of the NI Regulations;

”;

(vi) hepgorer is-baragraff (f);

(b) hepgorer paragraff (12).

(9) Yn rheoliad 18(3), yn is-baragraff (c), yn lle “the Directive” rhodder “any provision made under retained EU law relating to forest reproductive material or under the Plant Varieties and Seeds Act 1964⁽¹⁾”.

(10) Yn rheoliad 19—

(a) ym mharagraff (1)—

(i) yn is-baragraff (e), hepgorer “, another member State”;

(ii) hepgorer is-baragraff (h) a'r “and” sy'n dod o'i flaen;

(iii) hepgorer is-baragraff (i);

(b) ym mharagraff (3), yn lle “EU-approved” rhodder “approved non-EU”.

(11) Ym mhennawd Rhan 6, yn lle “Between Great Britain and elsewhere in the European Union” rhodder “within the United Kingdom”.

(12) Yn rheoliad 21, yn lle “Northern Ireland”, ym mhob lle y mae'n digwydd (gan gynnwys yn y pennawd), rhodder “another part of the United Kingdom”.

(13) Hepgorer rheoliad 22.

(14) Yn rheoliad 23—

(a) yn y pennawd, ar y diwedd, mewnosoder “or within Great Britain”;

(b) yn lle “Northern Ireland” rhodder “another part of the United Kingdom”;

(c) yn lle “required by Article 14 of the Directive” rhodder “setting out the particulars required under regulation 19 of these Regulations or regulation 19 of the NI Regulations”.

(15) Hepgorer rheoliad 24.

(16) Yn rheoliad 25—

(a) ym mharagraffau (1) a (2), yn lle “an EU-approved” rhodder “a member State, an approved non-EU”;

(b) ym mharagraff (6), yn lle “an EU-approved” rhodder “a member State or an approved non-EU”.

(1) 1964 p. 14.

(17) Yn rheoliad 26(3)(a)(vii), ar y dechrau mewnosoder “UK”.

(18) Yn rheoliad 27—

(a) ym mharagraff (2)—

(i) hepgorer “, including representatives of the Commission of the European Union”;

(ii) hepgorer “, or for facilitating the checks required under Article 16(6) of the Directive”;

(b) ym mharagraff (3), hepgorer “the Commission of the European Union or”.

(19) Yn rheoliad 34(2), hepgorer “or European Community”.

(20) Yn y dystysgrif enghreifftiol yn Atodlen 6—

(a) yn lle “ISSUED IN ACCORDANCE WITH DIRECTIVE 1999/105/EC” rhodder—

“ISSUED IN ACCORDANCE WITH THE OECD FOREST AND PLANT SCHEME AND THE FOREST REPRODUCTIVE MATERIAL (GREAT BRITAIN) REGULATIONS 2002”;

(b) yn lle “**MEMBER STATE:**” rhodder “**UNITED KINGDOM**”;

(c) yn lle “**No EC:/(MEMBER STATE CODE)/ (No.)**” rhodder “**UK (No.)**”;

(d) yn lle “EC Directive” rhodder “OECD Forest Seed and Plant Scheme moving in International Trade and the Forest Reproductive Material (Great Britain) Regulations 2002”;

(e) yn lle “**EC Certificate**” rhodder “**UK or OECD Certificate**”.

(21) Yn y dystysgrif enghreifftiol yn Atodlen 7—

(a) yn lle “ISSUED IN ACCORDANCE WITH DIRECTIVE 1999/105/EC” rhodder—

“ISSUED IN ACCORDANCE WITH THE OECD FOREST AND PLANT SCHEME AND THE FOREST REPRODUCTIVE MATERIAL (GREAT BRITAIN) REGULATIONS 2002”;

(b) yn lle “**MEMBER STATE:**” rhodder “**UNITED KINGDOM**”;

(c) yn lle “**No EC:/(MEMBER STATE CODE)/ (No.)**” rhodder “**UK (No.)**”;

(d) yn lle “EC Directive” rhodder “OECD Forest Seed and Plant Scheme and the Forest Reproductive Material (Great Britain) Regulations 2002”;

(e) yn lle “**EC Certificate**” rhodder “**UK or OECD Certificate**”.

(22) Yn y dystysgrif enghreifftiol yn Atodlen 8—

- (a) yn lle “ISSUED IN ACCORDANCE WITH DIRECTIVE 1999/105/EC” rhodder—

“ISSUED IN ACCORDANCE WITH THE OECD FOREST AND PLANT SCHEME AND THE FOREST REPRODUCTIVE MATERIAL (GREAT BRITAIN) REGULATIONS 2002”;

- (b) yn lle “**MEMBER STATE:**” rhodder “**UNITED KINGDOM**”;
- (c) yn lle “**No EC/(MEMBER STATE CODE)/ (No)**” rhodder “**UK (No.)**”;
- (d) yn lle “EC Directive” rhodder “OECD Forest Seed and Plant Scheme and the Forest Reproductive Material (Great Britain) Regulations 2002”;
- (e) yn lle “**EC Certificate**” rhodder “**UK or OECD Certificate**”.

(23) Yn Atodlen 9—

- (a) ym mharagraff 1(b), hepgorer “EC”, yn y ddau le y mae’n digwydd;
- (b) yn y tabl ym mharagraff 2(b), hepgorer y rhes gyntaf a’r tair rhes olaf.

(24) Hepgorer Atodlen 10.

(25) Yn Atodlen 13—

- (a) ym mharagraff 1, yn lle “an EU-approved” rhodder “a member State, an approved non-EU”;

(b) ym mharagraff 2—

- (i) o flaen y diffiniad o “OECD Certificate of Provenance” mewnosoder—

““OECD Certificate of Identity” means a certificate of identity issued in accordance with the rules of the OECD Scheme;”;

- (ii) yn y diffiniad o “permitted material”—

- (aa) o flaen paragraff (a) mewnosoder—

“(za)in the case of forest reproductive material produced in a member State, forest reproductive material which has been certified by the relevant official body in accordance with Article 12 of the Directive or the OECD Scheme;”;

- (bb) ym mharagraff (a), yn lle “EU-approved” rhodder “approved non-EU”;

- (c) ar ôl Rhan 1 mewnosoder—

“PART 1A

Approved non-EU third countries

1. Canada
2. Norway
3. Serbia
4. Switzerland
5. Turkey
6. United States

PART 1B

Scope of Part 1B

2A. This Part applies to consignments of permitted material produced in a member State.

General requirements

2B. A consignment of permitted material must be accompanied by—

- (a) a copy of the Master Certificate issued by the relevant official body under Article 12 of the Directive;
- (b) a label or document which complies with the requirements in Article 14 of the Directive;
- (c) an OECD Certificate of Provenance or OECD Certificate of Identity issued in relation to the permitted material; or
- (d) a label or document completed by the supplier of the consignment containing—
 - (i) the supplier’s name;
 - (ii) all of the information contained in the OECD Certificate of Provenance or OECD Certificate of Identity; and
 - (iii) in relation to any seed lot which is accompanied by an OECD Certificate of Provenance or an OECD Certificate of Identity, the information specified in paragraph 2D.

2C. Where the permitted material is accompanied by an OECD Certificate of Provenance or OECD Certificate of Identity, or

a label or document referred to in paragraph 2B(d), an OECD label must be attached to each seed lot and to each consignment of planting stock.

2D. The OECD label attached to the seed lot and any supplier's document accompanying the seed lot must contain the following additional information in relation to the seed lot assessed, so far as is practicable in all the circumstances, using internationally accepted techniques—

- (a) the percentage by weight of pure seed, other seed and inert matter;
- (b) the germination percentage of pure seed or, where it is impossible or impracticable to assess the germination percentage, the viability percentage assessed by reference to a method which must be described;
- (c) the weight of 1000 pure seeds;
- (d) the number of germinable seeds per kilogram of the seed, or where it is impossible or impracticable to assess the number of germinable seeds, the number of viable seeds per kilogram;
- (e) in the case of a seed lot of closely related species which does not reach a minimum species purity of 99%, the species purity.

2E. But the OECD label and supplier's document may omit the following information—

- (a) any information mentioned in paragraph 2D(a) to (e) which is yet to be ascertained by testing the seed using internationally accepted techniques;
- (b) in the case of a seed lot containing seed which has been harvested from the current season's crop, any information mentioned in paragraph 2D(b) or (d) which is not yet available;
- (c) in the case of seed which is to be marketed in quantities no greater than those specified for the species or artificial hybrid of the seed in Schedule 11, the information mentioned in paragraph 2D(b) or (d).

2F. All seed must be consigned in sealed packages.”

RHAN 3

Diwygio Gorchymyn Iechyd Planhigion (Coedwigaeth) 2005

3. Mae Gorchymyn Iechyd Planhigion (Coedwigaeth) 2005(1) wedi ei ddiwygio fel a ganlyn.

4. Yn erthygl 2—

(a) ym mharagraff (1)—

(i) yn y lleoedd priodol mewnoder—

““appropriate UK plant health authority” means—

(a) in relation to timber and forest pests in England, the Forestry Commissioners;

(b) otherwise in relation to England, the Secretary of State;

(c) in relation to Wales, the Welsh Ministers;

(d) in relation to Scotland, the Scottish Ministers;

(e) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;

(f) in relation to the Bailiwick of Guernsey, the States of Guernsey;

(g) in relation to the Bailiwick of Jersey, the Department of Environment of the Bailiwick of Jersey;

(h) in relation to the Isle of Man, the Department of Environment, Food and Agriculture of the Isle of Man;”;

““CD territory” means the Bailiwick of Guernsey, the Bailiwick of Jersey or the Isle of Man;”;

““the list of controlled material” means Schedule 6 to the Plant Health Regulations;”;

““the list of pest free area controlled material” means Schedule 7 to the Plant Health Regulations;”;

““the list of prohibited infested material” means Schedule 2 to the Plant Health Regulations;”;

““the list of prohibited material” means Schedule 3 to the Plant Health Regulations;”;

(1) O.S. 2005/2517, a ddiwygiwyd gan O.S. 2006/2696, 2008/644, 2009/594, 2009/3020, 2012/2707, 2013/755 (Cy. 90), 2013/2691, 2014/2420, 2016/1167, 2017/1178 a 2018/1048.

“the list of prohibited plant pests” means Schedule 1 to the Plant Health Regulations;”;

“the list of regulated material” means Schedule 4 to the Plant Health Regulations;”;

“NI Order” means the Plant Health Order (Northern Ireland) 2018(1);”;

“NI (Wood and Bark) Order” means the Plant Health (Wood and Bark) Order (Northern Ireland) 2006(2);”;

“pest free area” means that part of a UK pest free area that is in Wales or, where the UK pest free area includes two or more separate parts of Wales, each such part;”;

“the Plant Health Regulations” means the Plant Health (EU Exit) Regulations 2019(3);”;

“regulated tree pest” means—

- (a) a tree pest of a description specified in Part A, B or D of the list of prohibited plant pests;
- (b) a tree pest of a description specified in Part C of the list of prohibited plant pests which relates to a pest free area;
- (c) a tree pest of a description specified in column 2 of Part A, B or D of the list of prohibited infested material;
- (d) a tree pest of a description specified in column 2 of Part C of the list of prohibited infested material which relates to a pest free area;”;

“UK pest free area” means an area in the United Kingdom which has been established as a pest free area in accordance with ISPM No. 4;”;

“UK plant passport” means a label and, where appropriate, an accompanying document that meets the relevant requirements set out in Schedule 9, issued by or with the authority of the appropriate UK plant health authority, and includes any replacement of such a passport;”;

“UK territory” means England, Wales, Scotland or Northern Ireland;”;

- (ii) hepgorer y diffiniadau o “area of plant health control” ac “associated controlled dunnage”;

(1) Rh. St. G.I. 2018/184.
(2) Rh. St. G.I. 2006/66.
(3) O.S. 2019/XXX.

- (iii) yn y diffiniad o “authorised officer”, yn lle paragraffau (a) i (c) rhodder—
 - “(a) in relation to a UK plant passport, an inspector acting under the authority of the appropriate UK plant health authority; or
 - (b) in relation to a phytosanitary certificate or phytosanitary certificate for re-export, an authorised representative of, or a public officer acting under, the national plant protection organisation of the country in which a phytosanitary certificate or phytosanitary certificate for re-export or a translation of a phytosanitary certificate or phytosanitary certificate for re-export is issued;”;
- (iv) hepgorer y diffiniad o “bark-free”;
- (v) yn lle’r diffiniad o “consignment” rhodder—
 - ““consignment” means a quantity of goods covered by a single document required for customs or other formalities;”;
- (vi) hepgorer y diffiniad o “debarked”;
- (vii) hepgorer y diffiniadau o “Decision 2002/757/EC” hyd at “Decision (EU) 2015/893”;
- (viii) hepgorer y diffiniadau o “the Directive”, “dunnage”, “EC transit goods”, “Euro-Mediterranean area” ac “Europe”;
- (ix) yn y diffiniad o “European Union”, hepgorer “including the Isle of Man and the Channel Islands”;
- (x) hepgorer y diffiniad o “fruit”;
- (xi) yn y diffiniad o “importer”, yn lle “landing” rhodder “consignment”;
- (xii) hepgorer y diffiniadau o “isolated bark” a “landed”;
- (xiii) yn lle’r diffiniad o “lot” rhodder—
 - ““lot” means a number of units of a single commodity, identifiable by its homogeneity of composition and origin, which form part of a consignment;”;
- (xiv) yn y diffiniad o “national plant protection organisation”, yn lle “European Commission” rhodder “national plant protection organisation of the United Kingdom”;
- (xv) hepgorer y diffiniad o “North America”;
- (xvi) yn y diffiniad o “official”, yn lle “responsible official body” rhodder “appropriate UK plant health authority”;

- (xvii) hepgorer y diffiniadau o “official body of destination”, “official body of point of entry” ac “official documentation”;
 - (xviii) yn y diffiniad o “official label”, yn lle’r geiriau o “responsible” hyd at y diwedd rhodder “appropriate UK plant health authority”;
 - (xix) yn y diffiniad o “official statement”, yn lle “plant passport” rhodder “UK plant passport”;
 - (xx) hepgorer y diffiniad o “OPM protected zone”;
 - (xxi) yn y diffiniadau o “phytosanitary certificate” a “phytosanitary certificate for reexport”, yn lle “articles 7 and” rhodder “article”;
 - (xxii) hepgorer y diffiniadau o “plant health check”, “plant health movement document” a “plant passport”;
 - (xxiii) yn lle’r diffiniad o “planting” rhodder—
““planting” means any operation for the placing of plants to ensure their subsequent growth, reproduction or propagation;”;
 - (xxiv) hepgorer y diffiniad o “protected zone”;
 - (xxv) hepgorer y diffiniad o “Regulation (EC) No 690/2008”;
 - (xxvi) hepgorer y diffiniadau o “responsible official body” a “round wood”;
 - (xxvii) hepgorer y diffiniadau o “solid fuel wood” a “Swiss plant passport”;
 - (xxviii) yn lle’r diffiniad o “third country” rhodder—
““third country” means—
(a) a country or territory outside the European Union, other than a territory within the British Islands; or
(b) the European Union;”;
 - (xxix) hepgorer y diffiniad o “tree or shrub in tissue culture”;
 - (xxx) hepgorer y diffiniad o “the USA”;
- (b) hepgorer paragraff (2);
 - (c) hepgorer paragraff (3A);
 - (d) hepgorer paragraff (5);
 - (e) ar ôl paragraff (5) mewnosoder—
“(6) As regards Wales, words and expressions which are not defined in this Order and which appear in the Plant Health Regulations have the same meaning in this Order as they have in the Plant Health Regulations.”

5. Yn erthygl 2A—

- (a) ym mharagraff (1)(a), hepgorer “England or”;
- (b) ar ôl paragraff (1) mewnosoder—

“(1A) The functions of an inspector under articles 9, 10A, 12, 12A, 13, 23 and 31(1) to (3) are exercisable in relation to tree pests and relevant material which are brought into a point of entry that is located in Wales, by an inspector authorised by the Welsh Ministers.”;

- (c) ym mharagraff (3)(a), hepgorer “England or”;
- (d) ar ôl paragraff (3) mewnosoder—

“(3A) The functions of an inspector under articles 31(4) to (7), 32, 40 and 41A are exercisable in relation to premises or a free zone in Wales, by an inspector authorised by the Welsh Ministers.”

6. Yn erthygl 3—

- (a) yn y lleoedd priodol mewnosoder—

““correct phytosanitary certificate”, in relation to notifiable relevant material, means a phytosanitary certificate or phytosanitary certificate for re-export which has been issued—

- (a) in the manner specified in article 7(2) to (5); and
- (b) in respect of the relevant prescribed requirements;”;

““designated area of plant health control”, in relation to notifiable relevant material, means a place close to a point of entry which has been designated as an area of plant health control by the Welsh Ministers and the Commissioners for Her Majesty’s Revenue and Customs;”;

““EU transit material” means any notifiable relevant material from a third country, other than a country or territory in the European Union, which is consigned to the United Kingdom via the European Union and which was not, on its entry into the European Union, subject to—

- (a) the formalities described in Article 13a of Directive 2000/29/EC(1); or
- (b) to other similar official controls under Regulation (EU) 2017/625 of the European Parliament and of the Council, as it has effect in EU law(2);”;

(1) OJ Rhif L 169, 10.7.2000, t. 1, fel y’i diwygiwyd ddiwethaf gan Gyfarwydddeb Weithredu’r Comisiwn (EU) 2017/1920 (OJ Rhif L 271, 20.10.2017, t. 34).

(2) OJ Rhif L 095, 7.4.2017, t. 1.

““notifiable relevant material” means any relevant material—

- (a) of a description specified in Schedule 5 to the Plant Health Regulations;
- (b) of a description specified in Schedule 7 to the Plant Health Regulations, originating in a third country;”;

““notified EU material” means any notifiable relevant material originating in the European Union or Switzerland which is intended to be, or has been, consigned to the United Kingdom from the European Union or Switzerland via a point of entry in Wales and whose arrival in Wales has been notified to the Welsh Ministers in accordance with article 6(A1);”;

““point of entry” means—

- (a) in the case of relevant material which arrives by air, the airport at which the material first arrives in the United Kingdom;
- (b) in the case of relevant material which arrives by maritime or fluvial transport, the port at which the material first arrives in the United Kingdom;
- (c) in the case of relevant material which arrives by rail, the rail freight terminal at which the material first arrives in the United Kingdom;
- (d) in the case of relevant material which arrives by road, the initial destination of the material after its arrival in the United Kingdom;”;

““prescribed requirements”, in relation to any notifiable relevant material, means—

- (a) the requirements specified in respect of the material in article 5; or
- (b) in the case of any material which is destined for a UK pest free area which includes Northern Ireland, but not England or Wales, the requirements specified in respect of that material in article 4 of the Plant Health (Wood and Bark) Order (Northern Ireland) 2006(1) or article 5 of the Plant Health Order (Northern Ireland) 2018(2);”;

““relevant Plant Health Order” means—

(1) Rh. St. 2006 Rhif 66, a ddiwygiwyd gan Rh. St. 2009 Rhif 340, Rh. St. 2010 Rhif 48, Rh. St. 2012 Rhif 400, Rh. St. 2015 Rhif 129.

(2) Rh. St. 2018 Rhif 184.

- (a) in relation to relevant material destined for England, the Plant Health (England) Order 2015 and the Plant Health (Forestry) (England) Order 2005 in its application to England;
- (b) in relation to relevant material destined for Wales, the Plant Health (Wales) Order 2018(1) and the Plant Health (Forestry) Order 2005 in its application to Wales;
- (c) in relation to relevant material destined for Scotland, the Plant Health (Scotland) Order 2005(2) and the Plant Health (Forestry) Order 2005 in its application to Scotland;
- (d) in relation to relevant material destined for Northern Ireland, the Plant Health (Wood and Bark) (Phytophthora ramorum) Order (Northern Ireland) 2005(3), the Plant Health (Wood and Bark) Order (Northern Ireland) 2006 or the Plant Health Order (Northern Ireland) 2018;”;

““trade documents” in relation to a consignment of notifiable relevant material, means the invoice, delivery note, consignment note or other similar document;”;

- (b) yn lle “approved place of inspection” rhodder—

““approved place of inspection”, as regards Wales, means a place which has been approved by the Welsh Ministers under article 17A or, in relation to other UK territories, by the appropriate UK plant health authority under equivalent provisions of the relevant Plant Health Order;”;

- (c) hepgorer y diffiniadau o “Customs Code” a “customs document”;
- (d) hepgorer y diffiniadau o “identity check” ac “industry certificate”.

7. Hepgorer erthygl 4.

8. Ar ôl erthygl 4 mewnosoder—

(1) O.S. 2018/1064 (Cy. 223).
 (2) O.S.A. 2005/613, a ddiwygiwyd gan O.S.A. 2006/474, 2007/415, 498, 2008/300, 350, 2009/153, 2010/206, 342, 2012/266, 326, 2013/5, 187, 366, 2014/140, 2015/10, 2016/83, 2018/112, 283.
 (3) Rh. St. 2005 Rhif 252.

“Application of Part 2: Wales

4A. This Part applies to plant pests and relevant material which are brought into Wales from a third country, whether directly or via another UK territory.”

9. Yn erthygl 5—

- (a) yn y pennawd, yn lle “landing” rhodder “bringing in”;
- (b) ar y dechrau mewnosoder—
 - “(A1) No person may bring any of the following into Wales—
 - (a) any tree pest of a description specified in Part A, B or D of the list of prohibited plant pests;
 - (b) any relevant material of a description specified in column 2 of Part A, B or D of the list of prohibited infested material which is carrying or infected with a tree pest of a description specified in the corresponding entry in respect of that description of relevant material in column 3;
 - (c) any tree pest which, although not specified in Part A, B or D of the list of prohibited plant pests, or in column 3 of Part A, B or D of the list of prohibited infested material, is not normally present in Great Britain and which is likely to be injurious to trees in Great Britain;
 - (d) any relevant material of a description specified in column 2 of Part A or B of the list of prohibited material which originates in a third country specified in the corresponding entry in respect of that description of relevant material in column 3;
 - (e) any relevant material of a description specified in column 2 of Part A or D of the list of regulated material, unless the requirements specified in the corresponding entries in respect of that description of relevant material in column 3 are complied with;
 - (f) in the case of any relevant material which is destined for a pest free area, any tree pest of a description specified in column 2 of Part C of the list of prohibited plant pests which relates to that pest free area;
 - (g) in the case of any relevant material which is destined for a pest free area specified in column 4 of Part C of the

list of prohibited infested material, any relevant material of a description specified in the corresponding entry in column 2 of Part C of that list which is carrying or infested with a tree pest of a description specified in the corresponding entry in column 3;

(h) in the case of any relevant material which is destined for a pest free area specified in column 4 of Part C of the list of regulated material, any relevant material of a description specified in the corresponding entry in column 2 of that Part, unless the requirements specified in the corresponding entries in respect of that relevant material in column 3 are complied with.”;

(c) hepgorer paragraffau (1) ac (1A);

(d) ym mharagraff (2), ar ôl “paragraph” mewnosoder “(A1)(d) or”;

(e) ar ôl paragraff (2) mewnosoder—

“(3) The prohibitions in paragraph (A1)(b) to (h) do not apply to relevant material which enters a point of entry that is located in another UK territory and is discharged in that territory in accordance with article 11 of the NI (Wood and Bark) Order or article 12 of any other relevant Plant Health Order.”

10. Yn erthygl 6—

(a) yn y pennawd, yn lle “landing” rhodder “arrival”;

(b) ar y dechrau mewnosoder—

“(A1) No person may bring any notifiable relevant material into a point of entry that is located in Wales, unless notice is given in accordance with this article.”;

(c) hepgorer paragraffau (1) a (2);

(d) ym mharagraff (3)—

(i) yn y geiriau o flaen is-baragraff (a), ar ôl “paragraph” mewnosoder “(A1) or”;

(ii) yn y geiriau ar ôl is-baragraff (b), yn lle “the relevant material is landed” rhodder “its arrival”;

(e) ym mharagraff (4), ar ôl “paragraph” mewnosoder “(A1) or”;

(f) ym mharagraff (5)—

(i) ar ôl “paragraph”, yn y lle cyntaf y mae’n digwydd, mewnosoder “(A1) or”;

(ii) yn lle “landing” rhodder “arrival”.

11. Ar ôl erthygl 6 mewnosoder—

“EU transit material: Wales

6A.—(1) No person may bring any EU transit material into a RoRo port that is located in Wales, unless that material is destined for a single approved place of inspection.

(2) Paragraph (1) is subject to article 8(A1).

(3) In this article, “RoRo port” means—

- (a) a RoRo listed location within the meaning of regulation 130 of the Customs (Import Duty) (EU Exit) Regulations 2018⁽¹⁾; or
- (b) if a notice has not been published pursuant to regulation 130(1) of those Regulations, a point of entry that—
 - (i) predominantly services roll-on/roll-off ferries operating between Wales and a member State; and
 - (ii) is listed in a notice published by the Welsh Ministers from time to time.”

12. Yn erthygl 7—

(a) ar y dechrau mewnosoder—

“(A1) Subject to article 8 and to paragraph (6), no person may bring any notifiable relevant material into a point of entry that is located in Wales unless the material is accompanied by one of following certificates which certifies that the material meets the prescribed requirements—

- (a) a phytosanitary certificate issued in the country in which that material originates or in the country from which it was consigned;
- (b) where paragraph (2) applies, by a phytosanitary certificate for re-export.”
;

(b) hepgorer paragraff (1);

(c) hepgorer paragraff (4);

(d) ym mharagraff (6)—

- (i) yn y geiriau o flaen is-baragraff (a), yn lle “paragraph (1) does” rhodder “paragraph (A1) and paragraph (1) do”;
- (ii) yn is-baragraff (a), yn lle “landed in” rhodder “brought into”;
- (iii) yn is-baragraff (b)—

(1) O.S. 2018/1248.

- (aa) yn lle “landed in” rhodder “brought into”;
- (bb) yn lle “European Union” rhodder “United Kingdom”;

(e) hepgorer paragraff (7).

13. Yn erthygl 8—

(a) ar y dechrau mewnosoder—

“(A1) The provisions referred to in paragraph (A2) do not apply to—

- (a) any tree or wood described in paragraph (2) originating in any third country, other than the European Union or Switzerland, which is brought into England in the baggage of a passenger or other traveller coming from any such third country and meets the conditions in paragraph (A3); or
- (b) any small quantity of relevant material originating in the European Union or Switzerland which is brought into England in the baggage of a passenger or other traveller coming from the European Union or Switzerland and meets the conditions in paragraph (A3).

(A2) The provisions are—

- (a) article 5(A1)(e) and (h);
- (b) article 6(A1);
- (c) article 6A(1);
- (d) article 7(A1);
- (e) article 10A;
- (f) article 12A.

(A3) The conditions are that the relevant material—

- (a) does not show any signs of the presence of a tree pest;
- (b) is not intended for use in the course of a trade or business;
- (c) is intended for household use; and
- (d) in the case of any tree or wood originating in a third country, other than the European Union or Switzerland, has been grown in or consigned from the Euro-Mediterranean area.”;

(b) hepgorer paragraff (1);

(c) ym mharagraff (2), yn y geiriau o flaen is-baragraff (a), ar ôl “to in” mewnosoder “paragraph (A1) or”.

14. Yn erthygl 9—

(a) ar y dechrau mewnosoder—

“(A1) The following documents must be delivered to an inspector by the importer of a consignment of notifiable relevant material within three days of the date of its arrival in Wales—

(a) any phytosanitary certificate or phytosanitary certificate for re-export which is required under article 7(A1) to accompany the consignment of notifiable relevant material; and

(b) in the case of notified EU material, the trade documents which accompany the consignment.

(B1) The importer of a consignment of notifiable relevant material must include in a customs document relating to the consignment—

(a) a statement that “this consignment contains produce of phytosanitary relevance”;

(b) the reference number of the phytosanitary certificate or phytosanitary certificate for re-export which is required under article 7(A1) to accompany the consignment; and

(c) the registration number of the importer.”;

(b) hepgorer paragraffau (1) a (2);

(c) ar ôl paragraff (3) mewnosoder—

“(4) Paragraph (A1) does not apply to any notifiable relevant material which is in the course of its consignment to an approved place of inspection in another UK territory.

(5) In paragraph (B1), “customs document” means a document required by the Commissioners for Her Majesty’s Revenue and Customs for placing relevant material under a Customs procedure within the meaning of section 3(3) of the Taxation (Cross-border Trade) Act 2018(1).”

15. Hefgorer erthygl 10.

16. Ar ôl erthygl 10 mewnosoder—

“Prohibitions applying to notifiable relevant material on entry: Wales

10A.—(1) This article applies to notifiable relevant material, other than notified EU

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material, which is brought into a point of entry that is located in Wales.

(2) No person may move any notifiable relevant material or cause any notifiable relevant material to be moved from its point of entry unless the material is being moved to a designated area of plant health control or an approved place of inspection.

(3) No person may remove or cause any notifiable relevant material to be removed from its point of entry, or where the material is moved to a designated area of plant health control or an approved place of inspection in Wales, the designated area of plant health control or approved place of inspection, unless an inspector has discharged the material under article 12 or the removal of the material is permitted under Part 6.

(4) Any notifiable relevant material which is being held at a point of entry or a designated area of plant health control under paragraph (3) must be stored by the importer under the supervision and in accordance with the instructions of an inspector.

(5) The importer is liable for the costs of storing the notifiable relevant material pending its release.”.

17. Yn erthygl 11—

- (a) yn y geiriau o flaen paragraff (a), ar ôl “article 10(1)” mewnosoder “and the prohibition imposed by article 10A(3)”;
- (b) ym mharagraff (c), yn lle “European Union” rhodder “United Kingdom”.

18. Yn erthygl 12—

- (a) ar y dechrau mewnosoder—

“(A1) Paragraph (B1) applies to any notifiable relevant material, other than notified EU material, which is brought into a point of entry that it is located in Wales and is not in the course of its consignment to an approved place of inspection in another UK territory.

(B1) An inspector may discharge notifiable relevant material from its point of entry, designated area of plant health control or approved place of inspection in Wales if the inspector is satisfied that—

- (a) the material meets the prescribed requirements;
- (b) the relevant material corresponds with the description given to it in the phytosanitary certificate or phytosanitary certificate for re-export

which accompanied the material on entry; and

- (c) the relevant material is accompanied by the correct phytosanitary certificate.”;
- (b) hepgorer paragraffau (1) a (2);
- (c) ym mharagraff (3), ar ôl “the matters” mewnosoder “in paragraph (B1)(a)”;
- (d) hepgorer paragraff (4);
- (e) ar ôl paragraff (4) mewnosoder—
“(4A) An inspector may, for the purpose of being satisfied as to matters in paragraph (B1)(b), carry out an examination of a consignment of relevant material to determine whether it corresponds to its description in the documents that accompany it.”;
- (f) hepgorer paragraffau (5) a (6);
- (g) ym mharagraff (7)—
 - (i) yn y geiriau o flaen is-baragraff (a), ar ôl “referred to” mewnosoder “in paragraph (B1)(c) or”;
 - (ii) yn is-baragraff (a), ar ôl “article” mewnosoder “9(A1) or”;
 - (iii) hepgorer is-baragraff (b) a’r “; and” sy’n dod o’i flaen;
- (h) ym mharagraff (8)—
 - (i) yn lle “a plant health check” rhodder “an examination under paragraph (3)”;
 - (ii) yn lle “checks” rhodder “examination”.

19. Ar ôl erthygl 12 mewnosoder—

“Requirements applicable to notified EU material: Wales

12A.—(1) This article applies to notified EU material which is brought into a point of entry that is located in Wales.

(2) An inspector must carry out an examination of—

- (a) the phytosanitary certificate or phytosanitary certificate for re-export accompanying a consignment of notified EU material to confirm that the consignment is accompanied by the correct phytosanitary certificate; and
- (b) the trade documents that accompany the consignment to confirm that those documents correspond to the description of the relevant material in the phytosanitary certificate or phytosanitary certificate for re-export.”

20. Yn erthygl 14(1), yn lle'r geiriau o "under" hyd at y diwedd rhodder "subject to the control of an officer of Revenue and Customs within the meaning of Schedule 1 to the Taxation (Cross-border Trade) Act 2018".

21. Yn erthygl 15—

- (a) hepgorer paragraff (2);
- (b) ym mharagraff (3)—
 - (i) yn is-baragraff (a), hepgorer "the responsible official body or";
 - (ii) yn is-baragraff (b), yn lle "one of the official languages of the European Union" rhodder "English or Welsh";
 - (iii) hepgorer is-baragraff (c);
 - (iv) yn is-baragraff (d), yn lle "Plant Protection Organisations of the Member States of the European Union" rhodder "the Plant Protection Organisation of the United Kingdom";
- (c) hepgorer paragraff (4);
- (d) ar ôl paragraff (4) mewnosoder—

"(4A) Where in relation to any relevant material of a description specified in column 2 of Part A, C or D of the list of regulated material, more than one set of entry requirements is specified in the corresponding entry in column 3 of Part A, C or D of that list, the phytosanitary certificate or phytosanitary certificate for re-export issued in respect of any relevant material of that description must specify under the heading "Additional declaration" which particular requirement has been complied with."

22. Hepgorer erthygl 16.

23. Ar ôl erthygl 16 mewnosoder—

"Requirements to be met by relevant material destined for an approved place of inspection: Wales

16A.—(1) This article applies to notifiable relevant material, other than notified EU material, which is destined for an approved place of inspection.

(2) Any relevant material to which this article applies may not be moved within Wales unless—

- (a) it is accompanied by a copy of the phytosanitary certificate or phytosanitary certificate for re-export which accompanied the material on its entry into the United Kingdom;

(b) its packaging and the vehicle in which it is transported is sealed in such a way that there is no risk of the relevant material causing infestation, infection or contamination or a change occurring in the identity of the material or, where the material is destined for an approved place of inspection in Wales, its movement has been otherwise authorised by the Welsh Ministers.

(3) The importer of any relevant material which is destined for an approved place of inspection in Wales must give the Welsh Ministers notice of the following particulars no later than three working days before the material is brought into the United Kingdom—

- (a) the name, address and location of the approved place of inspection to which the relevant material is destined;
- (b) the scheduled date and time of arrival of the relevant material at the approved place of inspection;
- (c) the name, address and registration number of the importer;
- (d) the reference number of the phytosanitary certificate or phytosanitary certificate for re-export required under article 7 to accompany the relevant material.

(4) The importer must notify the Welsh Ministers immediately of any changes to the particulars which the importer has given under paragraph (3).

(5) The notice must be given to the Welsh Ministers at the address given by the Welsh Ministers for the purposes of this article.”

24. Hepgorer erthygl 17.

25. Ar ôl erthygl 17 mewnosoder—

“Approved places of inspection: Wales

“17A.—(1) The Welsh Ministers may approve premises which are not located at a point of entry or are not part of a designated area of plant health control as a place at which appropriate checks may be carried out by an inspector in respect of notifiable relevant material, other than notified EU material.

(2) An application for approval under paragraph (1) may be made to the Welsh Ministers by an importer or other person responsible for those premises in such form and

containing such information as the Welsh Ministers may specify.

(3) An approval may be granted subject to conditions, including conditions relating to the storage of the relevant material and may be withdrawn at any time if the Welsh Ministers no longer consider that the premises to which the approval relates are suitable for the purpose for which the approval was given.

(4) The Welsh Ministers may only approve premises as an approved place of inspection in respect of notifiable relevant material, other than EU transit material, if the premises have been designated or approved by the Commissioners for Her Majesty's Revenue and Customs for that purpose.

(5) In the case of any other premises, the Welsh Ministers may only approve those premises as an approved place of inspection for the purpose of carrying out appropriate checks in respect of EU transit material.

(6) In this article, "appropriate checks", in relation to a consignment of notifiable relevant material, means—

- (a) an examination of the phytosanitary certificate or phytosanitary certificate for re-export accompanying the consignment to determine whether it is the correct phytosanitary certificate;
- (b) an examination of the consignment to determine whether it corresponds to its description in the trade documents that accompany it;
- (c) an examination of the consignment and its packaging, and where necessary, the vehicle transporting the consignment to determine whether it meets the prescribed requirements."

26. Yn Rhan 3, yn y pennawd, hepgorer "Community".

27. Hepgorer erthyglau 18 a 19.

28. Ar ôl erthygl 19 mewnosoder—

**"Prevention of the spread of tree pests:
Wales**

19A.—(1) This article applies to Wales.

(2) No person may knowingly keep, store, sell, plant or move or knowingly cause or permit to be kept, stored, planted, sold or moved—

- (a) any tree pest of a description specified in Part A, B or D of the list of prohibited plant pests;
- (b) any relevant material of a description specified in column 2 of Part A, B or D of the list of prohibited infested material which is carrying or infected with a plant pest of a description specified in the corresponding entry in column 3;
- (c) any tree pest which, although not specified in Part A, B or D of the list of prohibited plant pests, or in column 3 of Part A, B or D of the list of prohibited infested material, is not normally present in Great Britain and which is likely to be injurious to trees in Great Britain;
- (d) any relevant material of a description specified in column 2 of Part E of the list of regulated material which originates in the United Kingdom or a CD territory unless the requirements specified in the corresponding entries in respect of that description of relevant material in column 3 are complied with;
- (e) any relevant material originating in a third country which is brought into Wales in contravention of article 5(A1)(d) or (e).

(3) No person may knowingly keep, store, plant, sell or move within a pest free area or knowingly cause or permit to be kept, stored, planted, sold or moved within such an area—

- (a) any tree pest of a description specified in column 2 of Part C of the list of prohibited plant pests which relates to the pest free area;
- (b) in the case of any pest free area which is, or is included in, a UK pest free area specified in column 4 of Part C of the list of prohibited infested material, any relevant material of a description specified in the corresponding entry in column 2 of that Part which is carrying or infested with a tree pest of a description specified in the corresponding entry in column 3;
- (c) any relevant material originating in a third country which is brought into a pest free area in contravention of article 5(A1)(h);

- (d) in the case of any pest free area which is, or is included in, a UK pest free area specified in column 4 of Part C of the list of regulated material, any relevant material of a description specified in the corresponding entry in column 2 of that Part which originates in the United Kingdom or a CD territory, unless the requirements specified in the corresponding entries in respect of that relevant material in column 3 are complied with.

(4) The prohibitions in paragraphs (2) and (3) do not apply to any tree pest or relevant material which is required to be kept, stored or moved in compliance with a requirement imposed by an inspector under Part 6 or 7.

(5) In this article, “move” means “move or otherwise dispose of”, and “moved” is to be construed accordingly.”

29. Hepgorer erthygl 20.

30. Ar ôl erthygl 20 mewnosoder—

**“Requirements for UK plant passports:
Wales**

20A.—(1) No person may move any of the following relevant material into or within Wales unless it is accompanied by a UK plant passport—

- (a) any relevant material of a description specified in the list of controlled material which originates in the United Kingdom or a CD territory;
- (b) any relevant material that has been discharged by the Commissioners under article 12(1) or by another appropriate UK plant health authority in an equivalent manner;
- (c) in the case of any notifiable relevant material originating in the European Union or Switzerland which was brought into a point of entry in the United Kingdom, any relevant material specified in the list of controlled material which originates in the European Union or Switzerland and was notified to the Commissioners in accordance with article 6(1), or to the appropriate UK plant health authority in accordance with equivalent requirements under the relevant Plant Health Order.

(2) No person may move any of the following relevant material into or within a pest free area unless it is accompanied by a UK plant passport which is valid for that pest free area or the UK pest free area of which it is a part—

- (a) any relevant material of a description, specified in the list of pest free area controlled material in respect of the relevant UK pest free area, which originates in the United Kingdom or a CD territory;
- (b) any relevant material of a description specified in the list of pest free area controlled material in respect of the relevant UK pest free area that has been discharged by the Commissioners under article 12(1) or by another appropriate UK plant health authority in an equivalent manner;
- (c) in the case of any notifiable relevant material originating in the European Union or Switzerland which was brought into a point of entry in the United Kingdom, any relevant material specified in the list of pest free area controlled material in respect of the relevant UK pest free area which—
 - (i) originates in the European Union or Switzerland; and
 - (ii) was notified to the Commissioners in accordance with article 6(1), or to the appropriate UK plant health authority in accordance with equivalent requirements under the relevant Plant Health Order.

(3) No person may consign from Wales to another UK territory or a CD territory any of the following relevant material originating in Wales unless it is accompanied by a UK plant passport—

- (a) in the case of relevant material destined for Northern Ireland or England, any relevant material of a description specified in the list of controlled material;
- (b) in the case of relevant material destined for a place in Northern Ireland or England which is within a UK pest free area, any relevant material of a description, specified in the list of pest free area controlled material in respect of that UK pest free area;
- (c) in the case of relevant material destined for Scotland, any relevant material of a

description specified in Part A of Schedule 6 to the Plant Health (Forestry) Order 2005;

- (d) in the case of relevant material destined for a place in Scotland which is within a UK pest free area, any relevant material of a description specified in Part B of Schedule 6 to the Plant Health (Forestry) Order 2005 in respect of that UK pest free area;
- (e) in the case of relevant material destined for a CD territory, any relevant material of a description specified for the purposes of this paragraph in the applicable plant health legislation of that CD territory.

(4) In the case of any relevant material originating in a place of production in Wales, a UK plant passport may only be issued in respect of that material if the material has been subjected to a satisfactory inspection at the place of production.

(5) The requirements in paragraphs (1)(b) and (2)(b) do not apply to any notified EU material moving from its point of entry to its first destination in the United Kingdom if it is accompanied by a copy of the phytosanitary certificate or phytosanitary certificate for re-export which accompanied the material on its entry into the United Kingdom.

(6) In paragraphs (1) and (2), “relevant Plant Health Order” has the same meaning as in Part 2 (see article 3).”

31. Yn erthygl 21—

- (a) ym mharagraff (1)—
 - (i) hepgorer “prohibitions on landing in article 18(1)(e), (f) and (g) and (3) and the”;
 - (ii) ar ôl “plant passport” mewnosoder “or, as regards Wales, article 20A(1)(a), (2)(a) and (3)”;
- (b) hepgorer paragraff (2A).

32. Hepgorer erthygl 22.

33. Ar ôl erthygl 22 mewnosoder—

“Validity of UK plant passports: Wales

22A.—(1) This article applies to relevant material of a description specified in the list of pest free area controlled material which relates to a pest free area and which is moved through a

pest free area to a destination outside the relevant UK pest free area.

(2) The requirements in article 20A(2) do not apply if the relevant material—

- (a) originates outside the relevant UK pest free area;
- (b) is accompanied during its transit through the pest free area by a document of a type normally used for trade purposes which certifies that the material originates outside the relevant UK pest free area and is in transit to a final destination outside the relevant UK pest free area and the conditions in paragraph (3) are met.

(3) The conditions are that—

- (a) the packaging in which the relevant material is transported and any vehicle which is used to transport the material is free from soil and plant debris and any relevant tree pest;
- (b) the material was sealed immediately after packaging or, where appropriate, after loading, and remains sealed during its journey through the relevant UK pest free area;
- (c) the nature or construction of the packaging in which the material is transported and any vehicle which is used to transport the material are sufficient to ensure that there is no risk of any relevant tree pest which may be present in or on the relevant material escaping.

(4) In this article—

- (a) “relevant UK pest free area”, in relation to any relevant material of a description specified in the list of pest free area controlled material, means the pest free area which is, or is part of, the UK pest free area that has been designated in respect of that material;
- (b) “relevant tree pest”, in relation to a UK pest free area, means the tree pest in respect of which the UK pest free area has been designated.”

34. Yn erthygl 23—

- (a) yn y pennawd, yn lle “plant passports” rhodder “UK plant passports”;
- (b) ym mharagraffau (1) i (4), yn lle “plant passport”, ym mhob lle y mae’n digwydd, rhodder “UK plant passport”;

- (c) ym mharagraff (4)(b)(ii), ar y diwedd mewnosoder “or, as regards Wales, a regulated tree pest”.

35. Yn Rhan 4, yn y pennawd, yn lle “PLANT PASSPORTS” rhodder “UK PLANT PASSPORTS”.

36. Yn erthygl 24, hepgorer paragraff (4).

37. Yn erthygl 28—

- (a) yn y pennawd ac ym mharagraffau (1), (4), (5) a (6), yn lle “plant passports”, ym mhob lle y mae’n digwydd, rhodder “UK plant passports”;
- (b) ym mharagraff (7), hepgorer “or” ar ôl is-baragraff (a) ac ar ôl is-baragraff (b) mewnosoder—
“(c) as regards Wales, a regulated tree pest.”

38. Hepgorer Rhan 5.

39. Yn erthygl 30—

- (a) ym mharagraff (1)(b), yn lle “plant passport” rhodder “UK plant passport”;
- (b) ym mharagraff (7), hepgorer “, including representatives of the European Commission,”.

40. Ar ôl erthygl 30 mewnosoder—

“Emergency measures: Wales

30A.—(1) Where a regulated tree pest is found to be present in Wales, the Welsh Ministers may by notice—

- (a) demarcate an area in relation to that infestation for the purpose of eradicating or containing that tree pest; and
 - (b) specify the prohibitions and restrictions which are to apply in the demarcated area for that purpose.
- (2) A notice under paragraph (1)—
- (a) must be in writing,
 - (b) must describe the extent of the demarcated area,
 - (c) must specify the date on which any such prohibitions or restrictions are to commence,
 - (d) must be published in a manner appropriate to bring it to the attention of the public, and
 - (e) may be amended or revoked, in whole or in part, by further notice.”

41. Yn erthygl 31—

- (a) ym mharagraff (1), yn lle “landed” rhodder “brought into a point of entry located”;
- (b) ym mharagraff (2)—
 - (i) yn is-baragraff (a), yn lle “landed” rhodder “brought into the point of entry”;
 - (ii) yn is-baragraff (b), yn lle “landed” rhodder “brought in”;
- (c) ym mharagraff (3)—
 - (i) yn is-baragraff (a), yn lle “landing” rhodder “bringing in”;
 - (ii) yn is-baragraff (b)—
 - (aa) yn lle “the landing is to be carried out” rhodder “any tree pest or relevant material is to be brought in”;
 - (bb) yn lle “to the landing” rhodder “to its entry”;
- (d) ym mharagraff (5)—
 - (i) yn is-baragraff (a), ar y diwedd mewnosoder “or, as regards Wales, a regulated plant pest”;
 - (ii) hepgorer is-baragraff (c) a’r “and” sy’n dod o’i flaen;
- (e) ym mharagraff (6)(b)—
 - (i) hepgorer “or 18”;
 - (ii) ar y diwedd mewnosoder “or, as regards Wales, article 19A”.

42. Yn erthygl 32—

- (a) ym mharagraff (2)(a), ar y diwedd mewnosoder “or, as regards Wales, a regulated tree pest”;
- (b) ym mharagraff (4), hepgorer “, including representatives of the European Commission,”.

43. Yn erthygl 36(2), hepgorer “, including representatives of the European Commission,”.

44. Yn erthygl 38—

- (a) ym mharagraff (1)—
 - (i) yn lle “landed,” rhodder “imported into or”;
 - (ii) cyn is-baragraff (a) mewnosoder—
 - “(za) in the case of any licence granted by the Welsh Ministers, in exercise of any derogation permitted by Schedule 8 to the Plant Health Regulations;”;
 - (iii) hepgorer is-baragraffau (a) a (b);

- (b) ym mharagraff (2), yn lle “(1)(b)” rhodder “(1)”;
- (c) hepgorer paragraff (3).

45. Yn erthygl 39—

- (a) yn y pennawd, hepgorer “permitted by Directive 2008/61/EC”;
- (b) ar y dechrau mewnosoder—

“(A1) The Welsh Ministers must by licence authorise the importation, movement or keeping of any tree pest or relevant material for any activity for trial or scientific purposes or for work on varietal selections in Wales, where the importation, movement or keeping of the tree pest or relevant material for any such purpose would otherwise be prohibited by this Order, if the Welsh Ministers—

- (a) have received an application for a licence containing the information set out in Part A of Schedule 13A; and
- (b) are satisfied that the general conditions set out in Part B of Schedule 13A are met in relation to the application.

(B1) A licence granted under paragraph (A1) must be in writing and include—

- (a) the conditions specified in Part C of Schedule 13A which are relevant to any tree pest or relevant material that is the subject of the activities to which the licence relates;
- (b) any other conditions as the Welsh Ministers may determine in relation to licence quarantine measures that are appropriate in respect of those activities.”;

- (c) hepgorer paragraffau (1) a (2);
- (d) ym mharagraff (3), ar ôl “under” mewnosoder “paragraph (B1)(b) or”;
- (e) ym mharagraff (4), ar ôl “under” mewnosoder “paragraph (A1) or”;
- (f) ym mharagraff (5), ar ôl “this Order” mewnosoder “or, as regards Wales, any regulated tree pest”;
- (g) hepgorer paragraff (6);
- (h) ym mharagraff (7)—
 - (i) ar ôl is-baragraff (a) mewnosoder—

“(aa) “licence quarantine measures”, as regards Wales, means the measures specified in Part D of Schedule 13A.”;
 - (ii) hepgorer is-baragraff (b).

46. Yn erthygl 40—

- (a) hepgorer paragraff (2);
- (b) ar ôl paragraff (2) mewnosoder—
“(2A) In paragraph (1), “notifiable tree pest”, as regards Wales, means a regulated tree pest or any other tree pest, which is not normally present in Great Britain and which is likely to be injurious to trees in Great Britain.”

47. Hefgorer erthygl 41.

48. Ar ôl erthygl 41 mewnosoder—

“Notification of the likely entry into, or presence in, a free zone of tree pests or relevant material: Wales

41A.—(1) The responsible authority for a free zone in Wales who knows or suspects that any of the following is likely to be brought into the free zone, or is present in the free zone and has not been cleared out of charge, must immediately give notice of that fact to the Welsh Ministers or an inspector—

- (a) any regulated tree pest;
- (b) any other tree pest which is not normally present in Great Britain and which is likely to be injurious to trees in Great Britain;
- (c) any relevant material of a description specified in column 2 of Part A or B of the list of prohibited material which originates in a third country specified in the corresponding entry in respect of that description of relevant material in column 3.

(2) Where a person gives notice in accordance with paragraph (1) orally, the person must confirm it in writing as soon as reasonably practicable.

(3) In this article, “responsible authority” and “free zone” have the same meaning as in the Customs Act.”

49. Yn erthygl 42—

- (a) ym mharagraff (2)(b)—
 - (i) ym mharagraff (i), ar y diwedd mewnosoder “or, as regards Wales, any regulated tree pest”;
 - (ii) ym mharagraff (ii), ar y diwedd mewnosoder “or, as regards Wales, any tree pest, other than a regulated tree pest, which is not normally present in Great Britain and which is likely to be injurious to trees in Great Britain”;

- (b) ym mharagraff (4), ar ôl “certificates,” mewnosoder “UK”.

50. Yn erthygl 43(1)—

- (a) yn is-baragraff (a), ar ôl paragraff (i) mewnosoder—
 - “(ia)article 6A;”;
- (b) yn is-baragraff (b), yn lle “or”, yn y trydydd lle y mae’n digwydd, rhodder “a prohibition or restriction in a notice published, a provision or condition of a ”.

51. Ar ôl erthygl 45 mewnosoder—

“Transitional provision: UK plant passports

45A.—(1) An authorisation to issue plant passports which has been granted and has effect immediately before exit day in relation to Wales continues to apply on or after exit day as if it were an authorisation to issue UK plant passports.

(2) In the case of any plant passport that has been issued in respect of any relevant material before exit day for the purposes of the movement of that material in Wales which takes place before and after exit day, the plant passport is to be treated as if it were a UK plant passport and references to a UK plant passport are to be construed accordingly.”

52. Hepgorer Atodlenni 1 i 8.

53. Yn Atodlen 9—

- (a) yn y pennawd, yn lle “plant passports” rhodder “UK plant passports”;
- (b) ym mharagraffau 1 a 2, yn lle “plant passport”, yn y ddau le y mae’n digwydd, rhodder “UK plant passport”;
- (c) ym mharagraff 3, yn lle “plant passports”, yn y ddau le y mae’n digwydd, rhodder “UK plant passports”;
- (d) ym mharagraff 4(1)—
 - (i) yn y geiriau cyn is-baragraff (a), yn lle “plant passport” rhodder “UK plant passport”;
 - (ii) yn lle is-baragraff (a) rhodder—
 - “(a) in English and Welsh, and”;
- (e) ym mharagraffau 5 a 6, yn lle “plant passport”, yn y ddau le y mae’n digwydd, rhodder “UK plant passport”;
- (f) ym mharagraff 7—
 - (i) yn lle is-baragraff (a) rhodder—
 - “(a) the title “UK plant passport”;

- (ii) hepgorer is-baragraff (b);
- (iii) yn is-baragraff (c), yn lle'r geiriau o "responsible" hyd at y diwedd rhodder "appropriate UK plant health authority";
- (iv) yn is-baragraffau (d) i (g), yn lle "plant passport", ym mhob lle y mae'n digwydd, rhodder "UK plant passport";
- (v) yn is-baragraff (h)—
 - (aa) yn lle "protected zone", yn y ddau le y mae'n digwydd, rhodder "UK pest free area";
 - (bb) yn lle "ZP" rhodder "PFA";
- (vi) yn is-baragraff (i), yn lle "plant passport", ym mhob lle y mae'n digwydd, rhodder "UK plant passport";
- (vii) yn is-baragraff (j), yn lle "relevant territory" rhodder "United Kingdom or a CD territory".

54. Yn Atodlen 12, yn Rhan A—

- (a) ym mharagraff 1, hepgorer " , other than solid fuel wood,";
- (b) hepgorer paragraff 2;
- (c) hepgorer Rhan C.

55. Hepgorer Atodlen 13.

56. Ar ôl Atodlen 13 mewnosoder—

"SCHEDULE 13A

Article 39(A1), (B1), (7)(aa)

Licences for trial or scientific purposes or for work on varietal selections

1. In this Schedule, "specified activity" means any activity for trial or scientific purposes or for work on varietal selections.

PART A

Information to be included in an application for a scientific licence

2. The name and address of the person responsible for the proposed specified activity.

3. The following details in relation to the relevant material and plant pests to be used in the specified activity—

- (a) their scientific name or names;

- (b) the type of relevant material;
- (c) the quantity of relevant material;
- (d) the place of origin of the relevant material;
- (e) the place at which the relevant material is to be first stored or planted after its official release (where relevant);
- (f) the proposed method of destruction or treatment of the relevant material on completion of the specified activity (where relevant);
- (g) in the case of any relevant material or plant pest which is to be imported from a third country, its proposed point of entry into the United Kingdom.

4. In the case of any relevant material to be used in the specified activity, appropriate documentary evidence to confirm its place of origin.

5. The duration, nature and objectives of the proposed specified activity, including a summary and a specification of the work to be conducted.

6. The address and description of the specific site or sites at which the proposed specified activity is to be carried out.

PART B

General conditions to be met in relation to an application for a scientific licence

7. The nature and objectives of the specified activity comply with the concept of trial or scientific purposes or for work on varietal selections.

8. The premises and the facilities at the site or sites at which the specified activity is to be carried out meet any conditions relating to their quarantine.

9. The personnel carrying out the specified activity have appropriate scientific and technical qualifications.

PART C

Licence conditions relating to any plant pest or relevant material to be used in a specified activity

10. For the purposes of article 39(B1)(a), the conditions are that—

- (a) in the case of any relevant material, the material is accompanied on its entry into the United Kingdom by a letter of authority which has been issued by the relevant national plant protection organisation on the basis of appropriate documentary evidence as regards the place of origin of the material;
- (b) in the case of any relevant material of a description specified in Schedule 5 to the Plant Health Regulations, the material is, wherever possible, accompanied on its entry into the United Kingdom, by a phytosanitary certificate issued in the country of origin which—
 - (i) confirms that the material is free from any regulated plant pest, other than any plant pest whose importation is authorised by the licence;
 - (ii) includes the statement under the heading “Additional declaration”, “This material is imported under article 39 of the Plant Health (Forestry) Order 2005”; and
 - (iii) includes the name of any authorised plant pest; and
- (c) the relevant material is held under quarantine containment conditions and on arrival is directly and immediately moved to the site or sites specified in the licence.

PART D

Licence quarantine measures

11. The licence quarantine measures are—

- (a) in the case of the premises, facilities and working procedures which relate to the specified activity:
 - (i) the physical isolation of any plant pests or relevant material being used in the specified activity from all other plant pest and relevant

- material, including control of vegetation in surrounding areas, where appropriate;
- (ii) the designation of a contact person responsible for the specified activity;
 - (iii) the implementation of restrictions on access to the premises and facilities being used in relation to the specified activity and, where appropriate, to the area surrounding those premises and facilities, to named personnel only;
 - (iv) the appropriate identification of the premises and facilities being used, indicating the type of activities and the personnel responsible;
 - (v) the maintenance of a register of the activities performed and a manual of operating procedures, including procedures in the event of escape of plant pests from containment;
 - (vi) the maintenance of appropriate security and alarm systems; and
 - (vii) the implementation of—
 - (aa) appropriate control measures to prevent the introduction into and the spread of plant pests within the premises being used;
 - (bb) controlled procedures for sampling, and for transfer of any relevant material between premises and facilities being used;
 - (cc) controls for the disposal of waste, soil and water, as appropriate;
 - (dd) appropriate hygiene and disinfection procedures and facilities for personnel, structures and equipment;
 - (ee) appropriate measures and facilities for disposal of experimental material;
 - (ff) appropriate indexing (including testing) facilities and procedures; and
- (b) other appropriate quarantine measures according to the specific biology and

epidemiology of the type of material involved and the activities approved, including—

- (i) the maintenance of facilities accessible to authorised personnel via a separate room with two interlocking doors;
- (ii) the maintenance of facilities under negative air pressure,
- (iii) the use of escape-proof containers with appropriate mesh size and other barriers;
- (iv) the maintenance of the material in isolation from other plant pests and material;
- (v) the maintenance of any material for breeding in breeding cages with manipulation devices;
- (vi) the prohibition on any interbreeding of the plant pest with indigenous strains or species;
- (vii) the implementation of controls on the continuous culture of the plant pest;
- (viii) the maintenance of the plant pest under conditions that strictly control the multiplication of the plant pest;
- (ix) the implementation of procedures to check the purity of cultures of the plant pest for freedom from parasites and other plant pests;
- (x) the implementation of appropriate control programmes for the material to eliminate possible vectors;
- (xi) in the case of *in vitro* activities, the implementation of controls on the handling of the material under sterile conditions;
- (xii) the maintenance of the plant pest in conditions to ensure that it cannot spread via any vector; and
- (xiii) the seasonal isolation of the material to ensure that the activities are done during periods of low plant health risk.”

RHAN 4

Diwygio Rheoliadau Iechyd Planhigion (Ffioedd) (Coedwigaeth) (Cymru) 2019

57.—(1) Mae Rheoliadau Iechyd Planhigion (Ffioedd) (Coedwigaeth) (Cymru) 2019⁽¹⁾ wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 2(1)—

- (a) yn lle'r diffiniad o “llwyth a reolir” rhodder—

“ystyr “llwyth a reolir” (*“controlled consignment”*) yw llwyth sy'n cynnwys, neu y mae arolygydd o'r farn ei fod yn cynnwys—

 - (a) rhisgl wedi ei wahanu o ddisgrifiad a bennir yn Atodlen 5 i Reoliadau Iechyd Planhigion (Ymadael â'r UE) 2019;
 - (b) pren o ddisgrifiad a bennir yn yr Atodlen honno, ac eithrio deunydd pecynnu pren a ddefnyddir mewn gwirionedd wrth gludo gwrthrychau o bob math;”;
- (b) hepgorer y diffiniad o “y Gyfarwyddeb”;
- (c) yn lle'r diffiniad o “gwiriad dogfennol” rhodder—

“ystyr “gwiriad dogfennol” (*“documentary check”*) yw archwiliad at ddibenion erthygl 12(B1)(c) neu 12A(2)(a) o'r Gorchymyn;”;
- (d) yn lle'r diffiniad o “gwiriad adnabod” rhodder—

“ystyr “gwiriad adnabod” (*“identity check”*) yw archwiliad at ddibenion erthygl 12(B1)(b) neu 12A(2)(b) o'r Gorchymyn;”;
- (e) yn lle'r diffiniad o “gwiriad iechyd planhigion” rhodder—

“ystyr “gwiriad iechyd planhigion” (*“plant health check”*) yw archwiliad at ddibenion erthygl 12(B1)(a) o'r Gorchymyn;”;
- (f) yn y diffiniad o “awdurdodiad pasbort planhigion”, ar ôl “ddyroddi pasbortau planhigion” mewnosoder “y DU”.

Enw

Teitl y Gweinidog, un o Weinidogion Cymru
Dyddiad

(1) O.S.2019/xxx (Cy.).

Explanatory Memorandum to Plant Health (Forestry) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019

This Explanatory Memorandum has been prepared by the Forest Resources Policy Branch within the Economy, Skills and Natural Resources Department and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister/Deputy Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Plant Health (Forestry) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019. I have made the statements required by the European Union (Withdrawal) Act 2018. These statements can be found in Part 2 of the Annex to this memorandum.

I am satisfied that the benefits justify the likely costs.

Lesley Griffiths

Minister for Environment, Energy and Rural Affairs

5 March 2019

PART 1

1. Description

- 1.1 Council Directive 2000/29/EC (“the Plant Health Directive”) establishes the EU plant health regime. The Plant Health Directive contains measures to be taken in order to prevent the introduction into, and spread within, the EU of serious pests and diseases of plants and plant produce. The Directive and, therefore, the implementing domestic legislation is updated from time to time to take account of new and revised risk assessments, pest interceptions, changes in distribution of pests and other developments.
- 1.2 The Plant Health Forestry (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (‘the Regulations’) correct deficiencies in domestic legislation which implements EU Directive 2000/29/EC on measures to protect (forestry) plant health arising in consequence of the UKs withdrawal from the EU in a ‘no deal’ scenario.
- 1.3 The Regulations come into force on “exit day”, which section 20(1) of the European Union (Withdrawal) Act 2018 (‘the 2018 Act’) defines as 29 March 2019 at 11.00pm.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

- 2.1 In accordance with paragraph 1(8) of Schedule 7 to the 2018 Act the Regulations are subject to the affirmative procedure as they relate to fees in respect of a function exercisable by a public authority in the UK.

3. Legislative background

- 3.1 The Regulations are being made in exercise of the power in Part 1 of Schedule 2 to the 2018 Act in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the UK from the European Union. In accordance with the requirements of the 2018 Act the Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.

4. Purpose and intended effect of the legislation

What did any relevant EU law do before exit day?

- 4.1 Council Directive 2000/29/EC on protective measures against the introduction into the EU of organisms harmful to plants or plant products and against their spread within the EU (“the Plant Health Directive”) establishes the EU plant health regime. Whilst protecting against plant health risks, the Plant Health Directive also provides for the trade and

movement of plant material within and between EU Member States, thereby creating an internal EU market for this material.

- 4.2 The Plant Health Directive is implemented in Wales, in relation to forestry matters, via the Plant Health (Forestry) Order 2005 whose purpose is to prevent the introduction and spread of harmful plant pests and diseases. It sets out obligations for the control and management of plant health risks from the import of plant material from third countries and the movement of such material within the EU single market, in order to protect biosecurity and the value of plant material to the economy and society.
- 4.3 The Plant Health (Fees) (Forestry) (Wales) Regulations 2019 prescribes the fees relating to forestry activities, such as plant health checks. This enables cost effective implementation of the plant health regime in relation to forestry.
- 4.4 The Forest Reproductive Material (Great Britain) Regulations 2002 implement EU decisions on the equivalence of forest reproductive material produced in countries outside the European Union and sets out the requirements which apply in Great Britain regarding the categorisation of forest reproductive material and approval of basic material for entry in the National Register, collection and production of forest reproductive material, registration of suppliers, marketing of forest reproductive material and the movement of forest reproductive material between Great Britain and elsewhere within the European Community.

Why is it being changed?

4.5 After EU-Exit, without amendment certain provisions will be inoperable and, as a result, existing law will either be unclear or will not function effectively. This instrument amends provisions which are inappropriate or redundant as a result of the withdrawal of the UK from the EU. It makes changes to ensure that the law functions correctly after exit day, for example to remove references to the Commission, Community, Member States and third countries, and to remove reporting obligations to the Commission which will no longer be appropriate.

What will it now do?

4.6 The Regulations will ensure that plant health (forestry) legislation in Wales, which implements current EU protective measures against the introduction and spread of organisms harmful to plants or plant products, remains effective and continue to be operable after the UK leaves the EU in a 'no deal' scenario.

5. Consultation

- 5.1 As there is no policy change, no public consultation was undertaken. The purpose of the instrument is to enable the current legislative and policy framework to remain operable after the withdrawal of the UK from the European Union.

6. Regulatory Impact Assessment (RIA)

6.1 An impact assessment has not been prepared for this instrument because the direct impacts on businesses, charities, voluntary bodies or the public sector are expected to be negligible and not requiring an impact assessment.

6.2 The Regulations largely correct technical deficiencies that will arise from withdrawal and ensure that the existing regimes for safeguarding UK biosecurity will continue to operate effectively.

Annex

Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required of the Welsh Ministers under the 2018 Act. The table also sets out those statements that may be required of Ministers of the Crown under the 2018 Act, which the Welsh Ministers have committed to also provide when required. The required statements can be found in Part 2 of this annex.

| Statement | Where the requirement sits | To whom it applies | What it requires |
|-----------------|---|--|---|
| Sifting | Paragraphs 3(7) and 4(3), Schedule 7 <i>Paragraph 3(7) (anticipated to be a requirement on Welsh Ministers in Standing Orders)</i> | The Welsh Ministers exercising powers in Part 1 of Schedule 2 to make a Negative SI Paragraph 3(7) applies to Ministers of the Crown, but Welsh Ministers have committed to make the same statement | A statement to explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation of the CLA Committee (as sifting committee) |
| Appropriateness | Sub-paragraph (2) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement that the SI does no more than is appropriate. |
| Good Reasons | Sub-paragraph (3) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising | A statement to explain the good reasons for making the instrument and that what is being done is a reasonable course of action. |

| | | | |
|-------------------|--|--|--|
| | | powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | |
| Equalities | Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | <p>A statement to explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them.</p> <p>A statement that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.</p> |
| Explanations | Sub-paragraph (6) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement to explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g. whether minor or technical changes only are intended to the EU retained law. |
| Criminal offences | Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement setting out the 'good reasons' for creating a criminal offence, and the penalty attached. |
| Sub-delegation | Paragraph 30, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 18(1), 9 and paragraph 1 of Schedule 4 to create a legislative power exercisable not by a | A statement to explain why it is appropriate to create such a sub-delegated power. |

| | | | |
|---------|--|---|--|
| | | <p>Minister of the Crown or a Devolved Authority.</p> <p>Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 or paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority</p> | |
| Urgency | Sub-paragraph (2) and (8) of paragraph 7, Schedule 7 | Welsh Ministers exercising powers in Part 1 of Schedule 2 but using the urgent procedure in paragraph 7 of Schedule 7 | A statement that the Welsh Ministers are of the opinion that it is necessary to make the SI using the urgent procedure and the reasons for that opinion. |

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

1. Sifting statement(s)

Not applicable.

2. Appropriateness statement

The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Plant Health (Forestry) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 do no more than is appropriate”. This is the case because the Regulations largely correct technical deficiencies that will arise from withdrawal and ensure that the existing regimes for safeguarding UK biosecurity will continue to operate effectively, in Wales, once we leave the EU. This is in line with Government policy.

3. Good reasons

The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this draft instrument, and I have concluded they are a reasonable course of action”. This is because there is real public concern about biosecurity and that the government should at least maintain the protections that currently exist. The public would also expect us to be able to take enforcement action against those that are in breach of plant health (forestry) legislation. In addition, businesses would expect us to provide conditions within Wales that support the trade and movement of plant material.

4. Equalities

4.1 The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement(s):

“The draft instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts.

4.2 The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the draft instrument, I, Lesley Griffiths, have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010”.

4.3 Little or no impact on equalities is expected.

5. Explanations

The explanations statement has been made in paragraph 4 (Purpose & intended effect of the legislation) of the main body of this explanatory memorandum.

6. Criminal offences

6.1 The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018.

“In my view there are good reasons for the creation of criminal offences and for the penalties in respect of them in the Plant Health (Forestry) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019.”

Amendments to existing offences in the Plant Health Order 2005 will be needed to reflect new requirements introduced through the Plant Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 for regulated third country goods which enter Wales via the EU, which have not been subject to plant health checks in the EU and arrive at fast-moving, high volume Ro-Ro ports. The new requirements will require these goods to be moved inland and held securely until plant health checks have been completed. The new offence will provide the ability to enforce and prosecute serious cases of non-compliance with these new requirements.

In addition, a new criminal offence is also required to enforce any failure to comply with any prohibition or restriction in demarcated areas to prevent the spread of certain harmful plant pests in cases where this is an outbreak involving certain pests.

Offences under the Plant Health (Wales) Order 2018 carry, on summary conviction, a penalty of a fine not exceeding level 5 on the standard scale.

7. Legislative sub-delegation

7.1 Not applicable.

8. Urgency

8.1 Not applicable.

SL(5)375 - Rheoliadau Materion Gwledig (Diwygiadau Amrywiol) (Cymru) (Ymadael â'r UE) 2019

Cefndir a Diben

Gwneir y rheoliadau hyn drwy arfer y pwerau a roddwyd gan baragraff 1(1) o Atodlen 2 a pharagraff 21 o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 er mwyn mynd i'r afael â methiannau cyfraith yr UE a ddargedwir i weithredu'n effeithiol, a diffygion eraill sy'n deillio o ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd.

Mae'r Rheoliadau hyn yn gwneud diwygiadau i is-ddeddfwriaeth, sy'n gymwys o ran Cymru, sy'n berthnasol i adnabod gwartheg; y fasnach mewn anifeiliaid a chynhyrchion perthynol; archwilio am weddillion a therfynau uchaf gweddillion mewn cysylltiad ag anifeiliaid a chynhyrchion anifeiliaid; eneffalopathïau sbyngffurf trosglwyddadwy; marchnata hadau ac iechyd planhigion.

Gweithdrefn

Cadarnhaol.

Craffu ar faterion technegol

Nodwyd y pwyntiau a ganlyn i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.2 mewn perthynas â'r offeryn hwn.

1. Mae Rheoliad 7 yn diwygio "Rheoliadau Anifeiliaid a Chynhyrchion Anifeiliaid (Archwilio am Weddillion a Therfynau Uchaf Gweddillion) (Cymru) 2019". Nid oes Rheoliadau o'r fath yn bodoli. Deallir y bwriedir eu gwneud o dan y weithdrefn negyddol cyn i'r Rheoliadau presennol gael eu gwneud. Os na wneir hynny, ni fydd rheoliad 7 yn cael unrhyw effaith. [Rheol Sefydlog 21.2(vi) – gwaith drafftio diffygiol]
2. Mae Rheoliad 8 yn diwygio "Rheoliadau Iechyd Planhigion (Diwygio) (Cymru) (Ymadael â'r UE) 2019". Nid oes Rheoliadau o'r fath yn bodoli. Deallir y bwriedir eu gwneud o dan y weithdrefn gadarnhaol cyn i'r Rheoliadau presennol gael eu gwneud. Os na wneir hynny, ni fydd rheoliad 8 yn cael unrhyw effaith. [Rheol Sefydlog 21.2(vi) – gwaith drafftio diffygiol]

Rhinweddau: craffu

Ni nodir unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.

Goblygiadau sy'n deillio o adael yr Undeb Ewropeaidd

Nodir y pwynt a ganlyn i gyflwyno adroddiad arno o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn:



Mae'r Rheoliadau hyn yn honni eu bod yn diwygio dwy set o Reoliadau nad oedd wedi'u gwneud eto pan ddrafftiwyd yr adroddiad hwn. Mae hynny'n arwydd clir iawn o'r pwysau y mae swyddogion Llywodraeth Cymru yn gweithio oddi tanynt a'r polisiau a ddatblygir yn gyflym y ceisir eu gweithredu. [Rheol Sefydlog 21.3(ii) – ei fod o bwysigrwydd gwleidyddol neu gyfreithiol neu ei fod yn codi materion polisi cyhoeddus sy'n debyg o fod o ddiddordeb i'r Cynulliad.]

Ymateb y Llywodraeth

Mae'r Pwyllgor wedi codi dau bwynt adrodd o dan Reol Sefydlog 21.2(v).

Amseriad diwygiadau

Gyda golwg ar reoliad 7, sy'n diwygio Rheoliadau Anifeiliaid a Chynhyrchion Anifeiliaid (Archwilio am Weddillion a Therfynau Uchaf Gweddillion) (Cymru) 2019, mae'r pwynt adrodd cyntaf yn awgrymu bod y drafftio yn ddiffygiol am nad yw'r rheoliadau yn bodoli. Nodir bod bwriad i'w gwneud o dan y weithdrefn negyddol cyn i'r Rheoliadau dan sylw gael eu gwneud ac os na wneir hynny, na fydd rheoliad 7 yn cael unrhyw effaith.

Nid yw Llywodraeth Cymru yn cytuno bod y darpariaethau yn y Rheoliadau hyn yn gyfystyr â drafftio diffygiol, a hynny am fod Rheoliadau Anifeiliaid a Chynhyrchion Anifeiliaid (Archwilio am Weddillion a Therfynau Uchaf Gweddillion) (Cymru) 2019 i gael eu gwneud yn ystod yr wythnos sy'n cychwyn ar 11 Mawrth, gan ddod i fodolaeth cyn y Rheoliadau diwygio.

Amseriad diwygiadau

Gyda golwg ar reoliad 8, sy'n diwygio Rheoliadau Iechyd Planhigion (Diwygio) (Cymru) (Ymadael â'r UE) 2019, mae'r ail bwynt adrodd yn awgrymu bod y drafftio yn ddiffygiol am nad yw'r rheoliadau yn bodoli. Nodir bod bwriad i'w gwneud o dan y weithdrefn gadarnhaol cyn i'r Rheoliadau presennol gael eu gwneud ac os na wneir hynny, na fydd rheoliad 8 yn cael unrhyw effaith.

Nid yw Llywodraeth Cymru yn cytuno bod y darpariaethau yn y Rheoliadau hyn yn gyfystyr â drafftio diffygiol, a hynny am fod Rheoliadau Iechyd Planhigion (Diwygio) (Cymru) (Ymadael â'r UE) 2019 i gael eu trafod ar 19 Mawrth a bod Rheoliadau Materion Gwledig (Diwygiadau Amrywiol) (Cymru) (Ymadael â'r UE) 2019 i gael eu trafod ar 26 Mawrth. Mae'n dilyn y bydd cyfnod ar gael pryd y gellir gwneud y Rheoliadau fel eu bod yn dod i fodolaeth cyn y Rheoliadau diwygio hyn.

Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

6 Mawrth 2019



Rheoliadau drafft a osodwyd gerbron Cynulliad Cenedlaethol Cymru o dan baragraff 1(8) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018, i'w cymeradwyo drwy benderfyniad gan Gynulliad Cenedlaethol Cymru.

OFFERYNNAU STATUDOL
CYMRU DRAFFT

2019 Rhif (Cy.)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

ANIFEILIAID, CYMRU

BWYD, CYMRU

HADAU, CYMRU

**IECHYD PLANHIGION,
CYMRU**

**Rheoliadau Materion Gwledig
(Diwygiadau Amrywiol) (Cymru)
(Ymadael â'r UE) 2019**

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn wedi eu gwneud drwy arfer y pwerau a roddir gan baragraff 1(1) o Atodlen 2 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 (p. 16) a pharagraff 21 o Atodlen 7 iddi, er mwyn ymdrin ag unrhyw fethiant yng nghyfraith yr UE a ddargedwir i weithredu'n effeithiol a diffygion eraill sy'n deillio o ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd.

Mae'r Rheoliadau hyn yn diwygio is-ddeddfwriaeth, sy'n gymwys o ran Cymru, sy'n berthnasol i adnabod gwartheg; y fasnach mewn anifeiliaid a chynhyrchion perthynol; archwilio am weddillion a therfynau uchaf gweddillion mewn cysylltiad ag anifeiliaid a chynhyrchion anifeiliaid; eneffalopathïau sbyngffurf

trosglwyddadwy; marchnata hadau ac iechyd planhigion.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, ystyriwyd nad oedd yn angenrheidiol cynnal Asesiad Effaith Rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn.

Rheoliadau drafft a osodwyd gerbron Cynulliad Cenedlaethol Cymru o dan baragraff 1(8) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018, i'w cymeradwyo drwy benderfyniad gan Gynulliad Cenedlaethol Cymru.

OFFERYNNAU STATUDOL
CYMRU DRAFFT

2019 Rhif (Cy.)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

ANIFEILIAID, CYMRU

BWYD, CYMRU

HADAU, CYMRU

**IECHYD PLANHIGION,
CYMRU**

**Rheoliadau Materion Gwledig
(Diwygiadau Amrywiol) (Cymru)
(Ymadael â'r UE) 2019**

Gwnaed

Yn dod i rym yn unol â rheoliad 1

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir gan baragraff 1(1) o Atodlen 2 a pharagraff 21 o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018(1), yn gwneud y Rheoliadau a ganlyn.

Yn unol â pharagraff 1(8) o Atodlen 7 i'r Ddeddf honno, gosodwyd drafft o'r offeryn hwn gerbron Cynulliad Cenedlaethol Cymru ac fe'i cymeradwywyd drwy benderfyniad gan Gynulliad Cenedlaethol Cymru.

Enwi, cychwyn a chymhwyso

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Materion Gwledig (Diwygiadau Amrywiol) (Cymru) (Ymadael â'r UE) 2019.

(2) Daw'r rheoliad hwn a rheoliad 8 i rym yn union cyn y diwrnod ymadael.

(3) Daw gweddill y Rheoliadau hyn i rym ar y diwrnod ymadael.

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

Diwygio Rheoliadau Adnabod Gwartheg (Cymru) 2007

2. Ym mharagraff 13 o Ran 2 o Atodlen 3 i Rheoliadau Adnabod Gwartheg (Cymru) 2007(1), hepgorer is-baragraff (2).

Diwygio Rheoliadau'r Fasnach mewn Anifeiliaid a Chynhyrchion Perthynol (Cymru) 2011

3.—(1) Mae Rheoliadau'r Fasnach mewn Anifeiliaid a Chynhyrchion Perthynol (Cymru) 2011(2) wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 17, yn y geiriau o flaen is-baragraff (a)—

(a) yn lle “yw blwch 30, 31, 33 neu 34 o'r” rhodder “yw'r”; a

(b) yn lle “yn yr Undeb Ewropeaidd” rhodder “yng Nghymru”.

(3) Yn rheoliad 38, yn lle “masnach rhwng” rhodder “mewnforion o”.

Diwygio Rheoliadau Marchnata Hadau (Cymru) 2012

4. Yn rheoliad 30 o Rheoliadau Marchnata Hadau (Cymru) 2012(3), yn lle'r geiriau “Mae'r Ysgrifennydd Gwladol yn gweithredu fel yr Aelod-wladwriaeth at ddibenion” rhodder “Caiff Gweinidogion Cymru ganiatáu dros dro farchnata hadau nad ydynt yn bodloni'r gofynion o ran yr egino lleiaf o dan amodau a bennir yn unol â”.

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- (1) O.S. 2007/842 (Cy. 74), y mae diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.
- (2) O.S. 2011/2379 (Cy. 252), y mae diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.
- (3) O.S. 2012/245 (Cy. 39), y mae diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.

Diwygio Rheoliadau Iechyd Anifeiliaid (Ffioedd Amrywiol) (Cymru) 2018

5.—(1) Mae Rheoliadau Iechyd Anifeiliaid (Ffioedd Amrywiol) (Cymru) 2018(1) wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 2, yn lle'r diffiniad o “trydedd wlad” rhodder—

“ystyr “trydedd wlad” (“*third country*”) yw gwlad ac eithrio Aelod-wladwriaeth heblaw am—

(a) yn rheoliad 4, mae iddo'r ystyr a roddir i “*third country*” yn Rheoliad (EC) Rhif 2160/2003 ar reoli salmonela a chyfryngau milheintiol penodedig eraill a gludir mewn bwyd; a

(b) yn rheoliad 9 ac Atodlen 6, mae iddo'r ystyr a roddir yn Rheoliadau 2011.”

(3) Yn rheoliad 4(1) hepgorer “genedlaethol”, ac yn ei bennawd hepgorer “cenedlaethol”.

(4) Yn y pennawd i Atodlen 1, hepgorer “cenedlaethol”.

Diwygio Rheoliadau Enseffalopathïau Sbyngffurf Trosglwyddadwy (Cymru) 2018

6. Yn rheoliad 5(6)(e) o Reoliadau Enseffalopathïau Sbyngffurf Trosglwyddadwy (Cymru) 2018(2), yn lle “Gomisiwn yr UE” rhodder “Weinidogion Cymru”.

Diwygio Rheoliadau Anifeiliaid a Chynhyrchion Anifeiliaid (Archwilio am Weddillion a Therfynau Uchaf Gweddillion) (Cymru) 2019

7. Yn rheoliad 2(1) o Reoliadau Anifeiliaid a Chynhyrchion Anifeiliaid (Archwilio am Weddillion a Therfynau Uchaf Gweddillion) (Cymru) 2019(3), yn y diffiniad o “sylwedd anawdurdodedig” (“*unauthorised substance*”) yn lle “yn neddfwriaeth yr UE” rhodder “yng nghyfraith yr UE a ddargedwir”.

Diwygio Rheoliadau Iechyd Planhigion (Diwygio) (Cymru) (Ymadael â'r UE) 2019

8.—(1) Mae Rheoliadau Iechyd Planhigion (Diwygio) (Cymru) (Ymadael â'r UE) 2019(4) wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 8(a)—

(a) yn is-baragraff (i)—

(1) O.S. 2018/650 (Cy. 122).

(2) O.S. 2018/968 (Cy. 195), y mae diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.

(3) O.S. 2019/XXX (Cy. XXX).

(4) O.S. 2019/XXX (Cy. XXX).

(i) yn y diffiniad a fewnosodwyd o “awdurdod iechyd planhigion priodol y DU”, ar ôl paragraff (e) mewnosoder—

“(f) o ran Beiliaeth Guernsey, Pwyllgor yr Amgylchedd a Seilwaith Taleithiau Guernsey;

(g) o ran Beiliaeth Jersey, Adran yr Amgylchedd Taleithiau Jersey;

(h) o ran Ynys Manaw, Adran yr Amgylchedd, Bwyd ac Amaethyddiaeth Ynys Manaw;”;

(ii) ar ôl y diffiniad a fewnosodwyd o “y rhestr o ddeunydd wedi ei heigio gwaharddedig”, mewnosoder—

“ystyr “tiriogaeth ddibynnol ar y Goron” (“*CD territory*”) yw Beiliaeth Guernsey, Beiliaeth Jersey neu Ynys Manaw;”;

(b) yn lle is-baragraff (xxviii) rhodder—

“(xxviii) yn lle’r diffiniad o “trydedd wlad” rhodder—

“ystyr “trydedd wlad” (“*third country*”) yw unrhyw wlad neu diriogaeth y tu allan i Ynysoedd Prydain;”.

(3) Yn lle rheoliad 15 rhodder—

“15. Yn erthygl 8—

(a) ym mharagraff (1)—

(i) yn lle “gyflwynir i Gymru ym mhaciau teithiwr neu dramwywr arall” rhodder “ddygir i Gymru ym mhaciau teithiwr neu dramwywr arall sy’n dod o unrhyw drydedd wlad, ac eithrio’r Undeb Ewropeaidd neu’r Swistir, neu i unrhyw ddeunydd esempt a ddygir i Gymru ym mhaciau teithiwr neu dramwywr arall sy’n dod o’r Undeb Ewropeaidd neu’r Swistir”;

(ii) ym mharagraff (a), yn lle “(f)” rhodder “(h)”;

(iii) ar ôl paragraff (b) mewnosoder—

“(ba) erthygl 6A(1);”;

(iv) ar ôl is-baragraff (d), mewnosoder— “(e) erthygl 12A;”;

(b) ym mharagraff (3)—

(i) yn is-baragraff (a), ar ôl “yw” mewnosoder “unrhyw un neu ragor o’r deunydd perthnasol a ganlyn sy’n tarddu o drydedd

wlad, ac eithrio'r Undeb Ewropeaidd neu'r Swistir”;

- (ii) ar ôl paragraff (a) mewnosoder—
- “(aa) ystyr “deunydd esempt” (“*exempt material*”) yw unrhyw feintiau bach o ddeunydd perthnasol sy'n tarddu o'r Undeb Ewropeaidd neu'r Swistir, ac eithrio planhigion *Castanea* Mill. a fwriedir ar gyfer eu plannu, planhigion *Fraxinus* L. a fwriedir ar gyfer eu plannu neu blanhigion, ac eithrio hadau, *Platanus* L. a fwriedir ar gyfer eu plannu;”.

(4) Yn rheoliad 27—

(a) ym mharagraff (a)—

- (i) yn nhestun is-baragraff (e) a amnewidiwyd, yn lle “o Brydain Fawr” rhodder “o'r Deyrnas Unedig neu diriogaeth ddibynnol ar y Goron”;
- (ii) yn nhestun is-baragraff (f) a amnewidiwyd, ar ôl “Deyrnas Unedig” mewnosoder “neu diriogaeth ddibynnol ar y Goron”;

(b) ym mharagraff (b)—

- (i) yn nhestun is-baragraff (1B)(d) a fewnosodwyd, ar ôl “Deyrnas Unedig” mewnosoder “neu diriogaeth ddibynnol ar y Goron”;
- (ii) yn nhestun is-baragraff (1B)(e) a fewnosodwyd, ar ôl “Deyrnas Unedig” mewnosoder “neu diriogaeth ddibynnol ar y Goron”;

(5) Yn rheoliad 28—

(a) ym mharagraff (b)—

- (i) yn nhestun paragraff (1)(a) a amnewidiwyd, ar y diwedd mewnosoder “neu diriogaeth ddibynnol ar y Goron”;
- (ii) yn nhestun paragraff (1)(b) a amnewidiwyd, yn lle'r geiriau “o dan erthygl 12” rhodder “ar ran Gweinidogion Cymru o dan erthygl 12(1) neu gan neu ar ran awdurdod iechyd planhigion priodol arall y DU mewn dull cyfatebol;”;
- (iii) ar ôl testun paragraff (1)(b) a amnewidiwyd mewnosoder—

- “(c) yn achos unrhyw ddeunydd perthnasol hysbysadwy sy’n tarddu o’r Undeb Ewropeaidd neu’r Swistir a ddygwyd i fan cyrraedd yn y Deyrnas Unedig, unrhyw ddeunydd perthnasol a bennir yn y rhestr o ddeunydd a reolir sy’n tarddu o’r Undeb Ewropeaidd neu’r Swistir ac yr hysbyswyd Gweinidogion Cymru amdano yn unol ag erthygl 6(1), neu yr hysbyswyd awdurdod iechyd planhigion priodol y DU amdano yn unol â gofynion cyfatebol o dan y Gorchymyn Iechyd Planhigion perthnasol.”;
- (iv) yn nhestun paragraff (2)(a) a amnewidiwyd, ar y diwedd mewnosoder “neu diriogaeth ddibynnol ar y Goron”;
- (v) yn lle testun paragraff (2)(b) a amnewidiwyd rhodder—
- “(b) unrhyw ddeunydd perthnasol o ddisgrifiad a bennir yn y rhestr o ddeunydd a reolir mewn ardaloedd sy’n rhydd rhag plâu mewn cysylltiad â’r ardal berthnasol yn y DU sy’n rhydd rhag plâu a ollyngir ar ran Gweinidogion Cymru o dan erthygl 12(1) neu gan neu ar ran awdurdod iechyd planhigion priodol arall y DU mewn dull cyfatebol;
- (c) yn achos unrhyw ddeunydd perthnasol hysbysadwy sy’n tarddu o’r Undeb Ewropeaidd neu’r Swistir a ddygwyd i fan cyrraedd yn y Deyrnas Unedig, unrhyw ddeunydd perthnasol a bennir yn y rhestr o ddeunydd a reolir mewn ardaloedd sy’n rhydd rhag plâu mewn cysylltiad â’r ardal berthnasol yn y DU sy’n rhydd rhag plâu—
- (i) sy’n tarddu o’r Undeb Ewropeaidd neu’r Swistir; a
- (ii) yr hysbyswyd Gweinidogion Cymru amdano yn unol ag erthygl 6(1), neu yr hysbyswyd yr awdurdod iechyd planhigion priodol y DU amdano yn unol â gofynion cyfatebol o dan y Gorchymyn Iechyd Planhigion perthnasol.”;

(vi) yn nhestun paragraff (3) a amnewidiwyd—

(aa) yn y geiriau cyn is-baragraff (a), ar ôl “diriogaethau eraill y DU” mewnosoder “neu diriogaeth ddibynnol ar y Goron”;

(bb) ar y diwedd mewnosoder—

“(e) yn achos deunydd perthnasol y bwriedir iddo fynd i diriogaeth ddibynnol ar y Goron, unrhyw ddeunydd perthnasol o ddisgrifiad a bennir at ddibenion y paragraff hwn yn y ddeddfwriaeth iechyd planhigion sy’n gymwys yn y diriogaeth honno sy’n ddibynnol ar y Goron”;

(b) ar y diwedd mewnosoder—

“(g) ar ôl paragraff (10) mewnosoder—

“(11) Ym mharagraffau (1) a (2), mae i “Gorchymyn Iechyd Planhigion perthnasol” yr un ystyr ag sydd iddo yn Rhan 2 (gweler erthygl 3).”.

(6) Yn rheoliad 34, yn lle paragraff (b) rhodder—

“(b) ym mharagraff (4) yn lle is-baragraffau (a) a (b) rhodder—

“(a) ystyr “gweithredwr proffesiynol” (“*professional operator*”) yw unrhyw berson sydd, wrth ei waith o fasnachu, rhedeg busnes neu broffesiwn, yn ymwneud â phlannu, bridio, cynhyrchu, mewnforio, marchnata neu ddsbarthu planhigion;

(aa) ystyr “manylion a bennir” (“*specified details*”), mewn perthynas â lot, yw ei tharddiad, ei thraddodwr, ei thraddodai, ei chyrchfan, ei rhif cyfresol neu wythnosol unigol neu rif swp unigol pasbort planhigion y DU, ei manylion adnabod a’i nifer;

(b) ystyr “planhigion penodedig *Xylella*” (“*Xylella specified plants*”) yw planhigion a bennir ym mharagraff 13 o Ran E o’r rhestr o ddeunydd a reolir sydd wedi eu tyfu am o leiaf ran o’u bywyd mewn, neu wedi eu symud drwy—

- (i) ardal a ddarnodir o dan baragraff 5 o Atodlen 15 i'r Rheoliadau Iechyd Planhigion neu, o ran yr Alban, o dan ddarpariaethau cyfatebol yng Ngorchmynion yr Alban; neu
- (ii) tiriogaeth ddibynnol ar y Goron lle y cadarnhawyd bod *Xylella fastidiosa* (Wells et al.) yn bresennol;”

(7) Yn rheoliad 42(b)(i), yn lle “y Deyrnas Unedig” rhodder “y Deyrnas Unedig, tiriogaeth ddibynnol ar y Goron,”.

(8) Yn rheoliad 48(a), ar ôl is-baragraff (i) mewnosoder—

“(ia) hepgorer paragraffau (v) a (vi) o is-baragraff (a);”.

(9) Yn rheoliad 51—

- (a) ym mharagraff (d)(viii) yn lle “i'r Deyrnas Unedig” rhodder “i'r Deyrnas Unedig neu diriogaeth ddibynnol ar y Goron”;
- (b) ym mharagraff (e), yn lle'r geiriau ym mharagraff (i) rhodder “yn lle “yn rhywle arall yn yr Undeb Ewropeaidd” rhodder “mewn un o diriogaethau eraill y DU neu mewn tiriogaeth ddibynnol ar y Goron””;
- (c) ym mharagraff (h), ar ôl testun paragraff 8(a) a fewnosodwyd, mewnosoder—

“(aa) mewn perthynas â deunydd lluosogi planhigion ffrwythau a phlanhigion ffrwythau—

- (i) a gynhyrchir yn Lloegr, yn Rhan 2 o Atodlen 2 i Reoliadau Marchnata Planhigion Ffrwythau a Deunyddiau Lluosogi (Lloegr) 2017(1);
- (ii) a gynhyrchir yng Nghymru, yn Rhan 2 o Atodlen 2 i Reoliadau Marchnata Planhigion Ffrwythau a Deunyddiau Lluosogi (Cymru) 2017(2);
- (c) a gynhyrchir yn yr Alban, yn Rhan 2 o Atodlen 5 i

(1) O.S. 2017/595, a ddiwygiwyd gan O.S. 2019/131.

(2) O.S. 2017/691 (Cy. 163), y mae diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.

Reoliadau Marchnata
Planhigion Ffrwythau a
Deunyddiau Lluosogi (Yr
Alban) 2017(1);

- (iv) a gynhrychir yng Ngogledd
Iwerddon, yn Rhan 2 o
Atodlen 2 i Reoliadau
Marchnata Planhigion
Ffrwythau a Deunyddiau
Lluosogi (Gogledd
Iwerddon) 2017(2);”.

Lesley Griffiths

Gweinidog yr Amgylchedd, Ynni a Materion Gwledig,
un o Weinidogion Cymru
Dyddiad

(1) O.S.A. 2017/177, y mae diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.

(2) Rh.St. 2017 Rhif 119, y mae diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.

Explanatory Memorandum to The Rural Affairs (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019

This Explanatory Memorandum has been prepared by Department for Energy, Planning and Rural Affairs and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Rural Affairs (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019.

I have made the statements required by the European Union (Withdrawal) Act 2018. These statements can be found in Part 2 of the annex to this memorandum.

Lesley Griffiths

Minister for Environment, Energy and Rural Affairs

5 March 2019

PART 1

1. Description

- 1.1. This instrument makes amendments to:
- the Cattle Identification (Wales) Regulations 2007;
 - the Trade in Animals and Related Products (Wales) Regulations 2011;
 - the Seed Marketing (Wales) Regulations 2012;
 - the Animal Health (Miscellaneous Fees) (Wales) Regulations 2018;
 - the Transmissible Spongiform Encephalopathies (Wales) Regulations 2018;
 - the Animals and Animal Products (Examination for Residues and Maximum Residue Limits) (Wales) Regulations 2019;
 - the Plant Health (Amendment) (Wales) (EU Exit) Regulations 2019.

These amendments are to ensure that the statute book remains operable following the UK's exit from the EU and will address deficiencies in domestic legislation arising from EU Exit.

- 1.2. The instrument comes into force on "exit day", which section 20(1) of the European Union (Withdrawal) Act 2018 ("the 2018 Act") defines as 29 March 2019 at 11.00 pm.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

- 2.1 This instrument is being made using the powers conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018 ("the 2018 Act").
- 2.2 This instrument is subject to the affirmative procedure.

3. Legislative background

- 3.1 This instrument is being made using the powers conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the 2018 Act in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

4. Purpose and intended effect of the legislation

What did any relevant EU law do before exit day?

- 4.1 As highlighted above, the instrument makes amendments to several pieces of domestic legislation including those which in turn transpose or implement EU rules.

The Cattle Identification (Wales) Regulations 2007

4.2 The EU law ensures that bovines are traceable for the purposes of disease control. The domestic law sets out how these species must be identified, what records their keepers must maintain, how they must report their animals' movements, and how central competent authorities must record this information on central databases. Controls on identification and registration of cattle are set out in the EU Regulations listed below and are enforced in Wales by the Cattle Identification (Wales) Regulation 2007 ("the 2007 Regulations").

- Commission Regulation (EC) 494/1998 laying down detailed rules for the implementation of Regulation (EC) 820/97;
- Commission Regulation (EC) 509/1999 concerning an extension on the maximum period laid down for the application of ear-tags to Bison;
- Council Regulation (EC) 1760/2000 establishing a system for the identification and registration of bovine animals;
- Commission Regulation (EC) 1082/2003 laying down detailed rules for the implementation of Regulation (EC) 1760/2000;
- Commission Regulation (EC) 911/2004 implementing Regulation (EC) 1760/2000 as regards eartags, passports and holding registers;
- Commission Regulation (EC) 644/2005 authorising a special identification system for bovine animals kept for cultural and historical purposes; and
- Commission Implementing Regulation 2017/949 laying down rules for the application of Regulation (EC) 1760/2000.

The Trade in Animals and Related Products (Wales) Regulations 2011

4.3 The domestic legislation amended by this instrument is derived from four pieces of EU legislation which ensure that veterinary controls on EU trade and imports of live animals and animal products are safe with regard to animal and public health and that they meet the specific import conditions laid down in the relevant EU legislation:

- Council Directive 89/662/EEC concerning veterinary checks in intra-Community trade with a view to the completion of the internal market
- Council Directive 90/425/EEC concerning veterinary checks applicable in intra-Union trade in certain live animals and products with a view to the completion of the internal market
- Council Directive 91/496/EEC laying down the principles governing the organization of veterinary checks on animals entering the Community from third countries and amending Directives 89/662/EEC, 90/425/EEC and 90/675/EEC (91/496/EEC); and
- Council Directive 97/78/EC laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries

- 4.4 The 2011 Regulations establish a system for trade with other EU Member States in live animals and genetic material and for the importation of live animals, genetic material, products of animal origin and animal by-products from outside the European Union. They also list the EU legislation required to be complied with before animals or goods can be released from control at the port of importation.

The Seed Marketing (Wales) Regulations 2012

- 4.5 These Regulations set out requirements for marketing seed. In order to be marketed, the seed must comply with the requirements set out for certification, packaging, sealing and labelling. The Regulations also impose record-keeping requirements and require the holding of a licence to carry out certain operations such as marketing seed. The Welsh Ministers may license crop inspectors, seed samplers and seed testing stations to act under these Regulations. Breach of the Regulations is an offence punishable on summary conviction by a fine not exceeding level 5 on the standard scale. The marketing of seed and plant propagating material is regulated at Community level by EU Directives. The Directives prescribe processes to ensure minimum quality standards and traceability. The Directives also set out administrative provisions (including, where appropriate, provision for fees), impose record-keeping requirements and provide for the licensing of crop inspectors, seed samplers and seed testing stations. This instrument amends the Seed Marketing Regulations (Wales) 2012 which implement:

- Council Directive 66/401/EEC on the marketing of fodder plant seed
- Council Directive 66/402/EEC on the marketing of cereal seed
- Council Directive 2002/54/EC on the marketing of beet seed
- Council Directive 2002/55/EC on the marketing of vegetable seed
- Council Directive 2002/57/EC on the marketing of seed of oil and fibre plants
- Commission Directive 2009/74/EC amending Council Directives 66/401/EEC, 66/402/EEC, 2002/55/EC and 2002/57/EC as regards the botanical names of plants, the scientific names of other organisms and certain Annexes to Directives 66/401/EEC, 66/402/EEC and 2002/57/EC in the light of developments of scientific and technical knowledge
- Commission Directive 2010/60/EU providing for certain derogations for marketing of fodder plant seed mixtures intended for use in the preservation of the natural environment
- Commission Decision 2011/180/EU implementing Council Directive 2002/55/EC as regards conditions under which the placing on the market of small packages of mixtures of standard seed of different vegetable varieties belonging to the same species may be authorised
- Commission Directive 2008/62/EC providing for certain derogations for acceptance of agricultural landraces and varieties which are naturally adapted to the local and regional conditions and threatened by genetic

- erosion and for marketing of seed and seed potatoes of those landraces and varieties; and
- Commission Directive 2009/145/EC providing for certain derogations, for acceptance of vegetable landraces and varieties which have been traditionally grown in particular localities and regions and are threatened by genetic erosion and of vegetable varieties with no intrinsic value for commercial crop production but developed for growing under particular conditions and for marketing of seed of those landraces and varieties.

The Animal Health (Miscellaneous Fees) (Wales) Regulations 2018

- 4.6 The Animal Health (Miscellaneous Fees) (Wales) Regulations 2018 specify the fees the Welsh Ministers can charge and the Animal and Plant Health Agency (APHA) can collect for certain Animal Health Services, including sampling charges for Salmonella. The control of regulated Salmonella serovars is regulated for at the European level, under Regulation (EC) No. 2160/2003 of the European Parliament and of the Council, The control of Salmonella and other specified food-borne zoonotic agents. This regulation provides for the control of salmonella, including testing and sampling regimes, through the establishment of National Control Programmes. On exiting the European Union, the Welsh Ministers will exercise the administrative functions currently undertaken by the Commission under Regulation (EC) No. 2160/2003, including the establishment of Control Plans to be implemented and adhered to across Wales. As these plans will not apply to the other administrations across the UK, the plans will be Control Plans for Wales, EU Exit Regulations amend the current title, namely “National Control Programme” to “Control Programme.
- 4.7 In line with Regulation (EC) No. 2160/2003, as part of the establishment of the Salmonella control plans, the Animal and Plant Health Agency (an executive agency of Defra, that delivers on the majority of our animal health requirements across GB) collect and test official samples in order to verify progress in achieving the agreed salmonella reduction targets. APHA also provides services to maintain an approved private laboratory network, and carries out proficiency tests for laboratories, to ensure consistency in test results on Salmonella samples. These tests are undertaken at a fee to the food business operator (FBO).
- 4.8 The Animal Health (Miscellaneous Fees) (Wales) Regulations 2018, were introduced to provide for changes to fees payable (and already charged) in relation to seven different services that are delivered by APHA on our behalf, including the Salmonella Control Plan sampling and testing requirements. Under The Animal Health (Miscellaneous Fees) (Wales) Regulations 2018, these fees were moved to full cost recovery, using the HM Treasury agreed model, based on the proposition that costs and services should be borne by those users who benefit directly from the service provided, i.e. the FBOs in relation to Salmonella sampling. The

Regulations amend regulation 4 and Schedule 1 by omitting “National” from the current references to a “National” Control Programme.

The Transmissible Spongiform Encephalopathies (Wales) Regulations 2018

4.9 These Regulations continue to enforce Regulation (EC) No 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (“the EU TSE Regulation”). Part 1 of the Regulations provides that the Welsh Ministers are the competent authority for the purposes of the EU TSE Regulation, (except in Schedule 7 where the competent authority is the Food Standards Agency). Animals kept for the purposes of research (and to which the EU TSE Regulation do not apply) must be disposed of in accordance with Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption. Regulation (EC) No. 999/2001 of the European Parliament and the Council (amended over 60 times), lays down rules for the prevention, control and eradication of certain TSEs, including BSE in cattle and scrapie in sheep and goats. The directly applicable EU legislation was introduced by the EU as a result of the Bovine Spongiform Encephalopathy (BSE) epidemic in the late 1980s and early 1990s and have been updated frequently since to reflect the development and decline of that particular epidemic, combined with an improved understanding of the disease and emergence of scientific evidence.. One of the main and most important transmission routes of TSEs is through feed. Schedule 8 of the Transmissible Spongiform Encephalopathies (Wales) Regulations 2018 prescribes the feed controls and prohibitions necessary to help prevent the transmission of TSEs, including banning the processing of processed animal proteins (PAP) and prohibiting the feeding of this material to ruminants and other animals, including prevention of entering the food chain. The EC Regulation is implemented by the Transmissible Spongiform Encephalopathies (Wales) Regulations 2018, which are amended by this instrument.

The Animals and Animal Products (Examination for Residues and Maximum Residue Limits) (Wales) Regulations 2019

4.10 The Regulations provide a technical update to The Animals and Animal Products (Examination for Residues and Maximum Residue Limits) Regulations 1997, ensuring animal produce remains safe for consumers from exposure to residue of veterinary drugs, and to prohibit the use of certain illegal drugs. The Regulations also bring Welsh veterinary legislation up to date alongside that of comparative UK and EU legislation. The Regulations include details of prohibited substances, sampling and analysis, and subsequent offences, penalties and enforcement.

The Plant Health (Amendment) (Wales) (EU Exit) Regulations 2019

- 4.11 Council Directive 2000/29/EC on protective measures against the introduction into the EU of organisms harmful to plants or plant products and against their spread within the EU (“the Plant Health Directive”) establishes the EU plant health regime. Whilst protecting against plant health risks, the Plant Health Directive also provides for the trade and movement of plant material within and between EU Member States, thereby creating an internal EU market for this material.
- 4.12 Part of the Plant Health Directive is implemented in Wales by the Plant Health (Wales) Order 2018 (S.I. 2018/1064) (W.223). The Order sets out obligations for the control and management of plant health risks from the import of plant material from third countries and the movement of such material within the EU single market, in order to protect biosecurity and the value of plant material to the economy and society. Similar but separate legislation operates in Scotland, England and Northern Ireland.
- 4.13 This instrument amends the Plant Health (Amendment) (Wales) (EU Exit) Regulations 2019 which amends the Plant Health (Wales) Order 2018, the Plant Health etc. (Fees)(Wales) Regulations 2018 and revokes the Potatoes Originating in Egypt (Wales) Regulations 2004. The amendments made by this instrument deal with further deficiencies in plant health legislation arising on the UK’s withdrawal from the EU.

Why is it being changed?

- 4.14 The changes made by the instrument are necessary to ensure that the current legislation continues to operate effectively after we leave the EU.

The Cattle Identification (Wales) Regulations 2007 (“2007 Regulations”)

- 4.15 This instrument omits paragraph 13(2), Part 2 of Schedule 3 to the 2007 Regulations which provides that when cattle are transported outside Great Britain to a destination within the European Union the transporter must ensure that each animal is accompanied by its passport, and failure to do so is an offence. The provision is omitted because post EU Exit, exporting cattle to the EU would be treated in the same way as export of cattle to a third country which is governed by the rules in 13(1), Part 2 of Schedule 3 of the 2007 Regulations, which requires the keeper to send the cattle passports to the National Assembly within seven days and failure to do so is an offence.

The Trade in Animals and Related Products (Wales) Regulations 2011 (the “2011 Regulations”)

4.16 This instrument makes minor and technical changes to the 2011 Regulations to ensure that the amended instruments continue to operate effectively following the UK's withdrawal from the European Union. The changes include substituting the reference to "European Union" in Regulation 17 to "Wales" and the amending the reference "trade between" Member States to "imports from "Member States" in Regulation 38.

The Seed Marketing (Wales) Regulations 2012 (the "2012 Regulations")

4.17 This instrument amends a provision in the 2012 Regulations which is no longer appropriate following the withdrawal of the UK from the EU. To ensure the law functions correctly after exiting the EU a reference in Regulation 30 to "the Secretary of States acts as the Member State for the purposes of" is substituted with "Welsh Ministers may temporarily permit the marketing of seed not satisfying the requirements of minimum germination under conditions determined in accordance with".

The Animal Health (Miscellaneous Fees) (Wales) Regulations 2018 (the "2018 Regulations")

4.18 This instruments make a minor corrections to the 2018 Regulations to ensure the law continues to function after exiting the EU. It omits "national" from regulation 4(1) and its title when referring to the control programme for salmonella and other specified food-borne zoonotic agents. This in no way relaxes the requirements of the controls in place to control salmonella and protect public health.

The Transmissible Spongiform Encephalopathies (Wales) Regulations 2018 (the "2018 Regulations")

4.19 This instrument makes a minor technical amendment to the 2018 Regulations to substitute the reference in regulation 5(6)(e) to "EU Commission" to "Welsh Ministers" as it will no longer be appropriate once the UK leaves the EU. This results in no policy change or production change for industry, and no relaxation of controls to prevent the spread of TSEs.

The Animals and Animal Products (Examination for Residues and Maximum Residue Limits) (Wales) Regulations 2019 (the "2019 Regulations")

4.20 This instrument makes a minor technical amendment to the definition of "unauthorised substance" in regulation 2(1) of the 2019 Regulations. It substitutes the reference to "EU legislation" with "retained EU law" to reflect the status of EU legislation once the UK leaves the EU.

The Plant Health (Amendment) (Wales) (EU Exit) Regulations 2019 (the "2019 Regulations")

4.21 Amendments are being made to the 2019 Regulations to facilitate trade with the Crown Dependencies. The Crown Dependencies are currently treated as part of the United Kingdom for the purposes of EU plant health legislation and therefore plants and plant products move between the Crown Dependencies, the UK and the rest of the EU under the same EU plant health rules. Details of the changes being made to the UK regime to address deficiencies arising from the UK's withdrawal from the European Union are set out in the explanatory memoranda to the 2019 Regulations and the Plant Health (EU Exit) Regulations 2019. Following recent discussions with the Crown Dependencies, it has been agreed that the Crown Dependencies will adopt similar controls as the United Kingdom to facilitate the trade in plants and plant products to the UK and vice versa. The changes made to the 2019 Regulations give effect to these arrangements.

4.22 A number of minor amendments are also being made to the 2019 Regulations to correct minor errors and to ensure that all identified deficiencies from EU Exit are dealt with appropriately. In particular, the 2019 Regulations are being amended to enable UK plant passports to contain certain information in relation to fruit plant propagating material and fruit plants. The 2019 Regulations are also being amended to ensure that people travelling from the EU will be subject to the same rules as they currently are when bringing plants and plant products into the UK in their passenger baggage.

What will it now do?

4.23 The instrument will ensure that legislation that underpins the following will operate effectively in the UK after leaving the EU:

- the traceability of livestock for disease prevention and control;
- trade in animals and animal related products with the EU, and halting any animals or products that are deemed to be a threat to animal and/or public health;
- seed marketing to ensure continuity of supply and marketing for an interim period after that withdrawal;
- animal health requirements in relation to Salmonella control programmes continue to be adhered to, and that sampling services are paid for, in order to maintain our control programme to reduce the prevalence of regulated serovars, and to protect both animal and public health;
- controls on TSEs continue to operate to protect animal and public health, through the prevention of prohibited materials entering the feed and food chain. Prohibitions concerning animal feeding to those animals under a TSE related movement restriction will continue to be enforced, unless that feed is produced and processed in a manner approved by the Welsh Ministers;

- the trade of plant material with Crown Dependencies and the maintenance of biosecurity.

5. Consultation

- 5.1 A four week consultation on the Animals and Animal Products (Examination for Residues and Maximum Residue Limits) (Wales) Regulations 2019 was undertaken and ended on 26 February. No responses were received.

6. Guidance

- 6.1 There is no associated guidance in respect of this Statutory Instrument.

7. Regulatory Impact Assessment (RIA)

- 7.1 The impact on business, charities or voluntary bodies is minimal.

8. Monitoring & review

- 8.1 As this instrument is made under the Withdrawal Act, no extra review arrangement is required.

Annex

Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required of the Welsh Ministers under the 2018 Act. The table also sets out those statements that may be required of Ministers of the Crown under the 2018 Act, which the Welsh Ministers have committed to also provide when required. The required statements can be found in Part 2 of this annex.

| Statement | Where the requirement sits | To whom it applies | What it requires |
|------------------|--|--|---|
| Appropriate-ness | Sub-paragraph (2) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement that the SI does no more than is appropriate. |
| Good Reasons | Sub-paragraph (3) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement to explain the good reasons for making the instrument and that what is being done is a reasonable course of action. |
| Equalities | Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have | A statement to explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them. |

| | | | |
|-------------------|--|---|--|
| | | committed to make the same statement when exercising powers in Schedule 2 | A statement that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010. |
| Explanations | Sub-paragraph (6) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement to explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g. whether minor or technical changes only are intended to the EU retained law. |
| Criminal offences | Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement setting out the 'good reasons' for creating a criminal offence, and the penalty attached. |
| Sub-delegation | Paragraph 30, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 or paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved | A statement to explain why it is appropriate to create such a sub-delegated power. |

| | | Authority | |
|---------|--|---|--|
| Urgency | Sub-paragraph (2) and (8) of paragraph 7, Schedule 7 | Welsh Ministers exercising powers in Part 1 of Schedule 2 but using the urgent procedure in paragraph 7 of Schedule 7 | A statement that the Welsh Ministers are of the opinion that it is necessary to make the SI using the urgent procedure and the reasons for that opinion. |

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

1. Appropriateness statement

The Minister for Environment, Energy and Rural Affairs has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view The Rural Affairs (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 does no more than is appropriate”. This is the case because all the changes being made are solely in order to address deficiencies arising from EU exit.”

2. Good reasons

The Minister for Environment, Energy and Rural Affairs has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action”. This is because the provisions ensure that protections provided by all the statutory instruments being amended continue to be operable after the UK leaves the European Union.”

3. Equalities

3.1 The Minister for Environment, Energy and Rural Affairs has made the following statement(s):

“The Rural Affairs (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts.”

3.2 The Minister for Environment, Energy and Rural Affairs has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the instrument, I, Lesley Griffiths have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.”

Eitem 4.26

SL(5)380 – Rheoliadau Bwyd (Diwygiadau Amrywiol) (Cymru) (Ymadael â'r UE) 2019

Cefndir a Phwrpas

Gwneir y Rheoliadau hyn drwy arfer y pwerau a roddir gan baragraff 1(1) o Atodlen 2 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 a pharagraff 21 o Atodlen 7 iddi, er mwyn ymdrin ag unrhyw fethiant yng nghyfraith yr UE a ddargedwir i weithredu'n effeithiol a diffygion eraill sy'n deillio o ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd. Maent yn diwygio is-ddeddfwriaeth, sy'n gymwys o ran Cymru, ym maes marchnata bwyd, labelu bwyd, dosbarthiad bwyd a mesurau cysylltiedig eraill.

Mae'r Rheoliadau hyn hefyd yn gwneud darpariaeth drwy arfer y pwerau a roddir gan adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972, a pharagraff 1A o Atodlen 2 iddi, i ddiweddarau cyfeiriadau at offerynnau penodol yr UE yn Rheoliadau Adrodd ar Brisiau Cynhyrchion Llaeth (Cymru) 2011.

Gweithdrefn

Gadarnhaol

Craffu Technegol

Nodwyd y pwynt canlynol i gyflwyno adroddiad arno o dan Reol Sefydlog 21.2(vi) (drafftio diffygiol) mewn perthynas â'r offeryn hwn.

Mae paragraff olaf y rhagymadrodd i'r Rheoliadau yn cyfeirio at adran 59(3) o Ddeddf Llywodraeth Cymru 2006. Mae'r ddarpariaeth honno yn gymwys i offerynnau statudol nad ydynt wedi eu cymeradwyo drwy benderfyniad y Cynulliad, y mae'r weithdrefn negyddol felly'n gymwys iddynt. Gan fod drafft o'r Rheoliadau hyn wedi'i osod i'w gymeradwyo o dan y weithdrefn gadarnhaol, nid yw adran 59(3) yn berthnasol. Fodd bynnag, nid yw cyfeirio at ddarpariaeth sy'n ddiangen yn effeithio dilysrwydd yr offeryn na'r newidiadau o sylwedd a wneir gan y Rheoliadau, felly nid oes angen cywiriad.

Craffu ar rinweddau

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.

Y goblygiadau yn sgil gadael yr Undeb Ewropeaidd

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.

Ymateb y Llywodraeth

Nid oes angen ymateb gan y Llywodraeth.

Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol



8 Mawrth 2019



Cynulliad Cenedlaethol Cymru

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

Tudalen y pecyn 753

Rheoliadau drafft a osodwyd gerbron Cynulliad Cenedlaethol Cymru o dan adran 59(3) o Ddeddf Llywodraeth Cymru 2006 a pharagraff 1(8) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018, i'w cymeradwyo drwy benderfyniad gan Gynulliad Cenedlaethol Cymru.

OFFERYNNAU STATUDOL
CYMRU

2019 Rhif (Cy.)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

BWYD, CYMRU

**Rheoliadau Bwyd (Diwygiadau
Amrywiol) (Cymru) (Ymadael â'r
UE) 2019**

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn wedi eu gwneud drwy arfer y pwerau a roddir gan baragraff 1(1) o Atodlen 2 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 (p. 16), a pharagraff 21 o Atodlen 7 iddi, er mwyn ymdrin ag unrhyw fethiant yng nghyfraith yr UE a ddargedwir i weithredu'n effeithiol a diffygion eraill sy'n deillio o ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd.

Mae'r Rheoliadau hyn yn gwneud diwygiadau i is-ddeddfwriaeth, sy'n gymwys o ran Cymru, ym maes marchnata bwyd, labelu bwyd, dosbarthiad bwyd a mesurau cysylltiedig eraill.

Mae'r Rheoliadau hyn hefyd yn gwneud darpariaeth drwy arfer y pwerau a roddir gan adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972, a pharagraff 1A o Atodlen 2 iddi.

Mae'r Rheoliadau hyn yn diweddarar cyfeiriadau at offerynnau penodol yr UE yn Rheoliadau Adrodd ar Brisiau Cynhyrchion Llaeth (Cymru) 2011.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Aseidiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, ystyriwyd nad oedd yn angenrheidiol cynnal aseiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn.

Rheoliadau drafft a osodwyd gerbron Cynulliad Cenedlaethol Cymru o dan adran 59(3) o Ddeddf Llywodraeth Cymru 2006 a pharagraff 1(8) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018, i'w cymeradwyo drwy benderfyniad gan Gynulliad Cenedlaethol Cymru.

OFFERYNNAU STATUDOL
CYMRU

2019 Rhif (Cy.)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

BWYD, CYMRU

**Rheoliadau Bwyd (Diwygiadau
Amrywiol) (Cymru) (Ymadael â'r
UE) 2019**

Gwnaed ***

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru* ***

Yn dod i rym yn unol â rheoliad 1(2) a (3)

Mae Gweinidogion Cymru wedi eu dynodi(1) at ddibenion adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972(2) mewn perthynas â'r polisi amaethyddol cyffredin.

Mae'r Rheoliadau hyn yn gwneud darpariaeth at ddiben a grybwyllir yn yr adran honno ac mae'n ymddangos i Weinidogion Cymru ei bod yn hwylus i unrhyw gyfeiriad yn y Rheoliadau hyn at offerynnau'r UE gael ei ddehongli fel cyfeiriad at yr offerynnau hynny fel y'u diwygir o bryd i'w gilydd.

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir gan adran 2(2) o Ddeddf y Cymunedau

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- (1) O.S. 2010/2690. Yn rhinwedd paragraff 28(1) o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006, mae'r dynodiad hwn yn cael effaith fel pe bai wedi ei wneud o dan adran 59(1) o'r Ddeddf honno.
- (2) 1972 p. 68. Diwygiwyd adran 2(2) gan adran 27(1)(a) o Ddeddf Diwygio Deddfwriaethol a Rheoleiddiol 2006 (p. 51) a chan adran 3(3) o Ddeddf yr Undeb Ewropeaidd (Diwygio) 2008 (p. 7), a Rhan 1 o'r Atodlen iddi.

Ewropeaidd 1972, a pharagraff 1A(1) o Atodlen 2 iddi, a pharagraff 1(1) o Atodlen 2, a pharagraff 21 o Atodlen 7, i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018(2), yn gwneud y Rheoliadau a ganlyn.

Ymgynghorwyd yn agored ac yn dryloyw â'r cyhoedd wrth lunio'r Rheoliadau hyn fel sy'n ofynnol gan Erthygl 9 o Reoliad (EC) Rhif 178/2002 Senedd Ewrop a'r Cyngor sy'n gosod egwyddorion cyffredinol a gofynion cyffredinol cyfraith bwyd, yn sefydlu Awdurdod Diogelwch Bwyd Ewrop ac yn gosod gweithdrefnau o ran materion diogelwch bwyd(3).

Yn unol ag adran 59(3) o Ddeddf Llywodraeth Cymru 2006(4) a pharagraff 1(8) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018, gosodwyd drafft o'r offeryn hwn gerbron Cynulliad Cenedlaethol Cymru ac fe'i cymeradwywyd drwy benderfyniad gan Gynulliad Cenedlaethol Cymru.

Enwi, cychwyn a chymhwys

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Bwyd (Diwygiadau Amrywiol) (Cymru) (Ymadael â'r UE) 2019.

(2) Daw'r Rheoliadau hyn, ac eithrio'r rheoliad hwn a rheoliad 5, i rym ar y diwrnod ymadael.

(3) Daw'r rheoliad hwn a rheoliad 5 i rym drannoeth y diwrnod y gwneir y Rheoliadau hyn.

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

Rheoliadau Marchnata Cynnyrch Garddwriaethol Ffres (Cymru) 2009

2.—(1) Mae Rheoliadau Marchnata Cynnyrch Garddwriaethol Ffres (Cymru) 2009(5) wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 2(2), yn lle “rheolau marchnata'r UE” (“*EU marketing rules*”) rhodder “rheolau marchnata” (“*marketing rules*”).

(3) Yn y darpariaethau a ganlyn, yn lle “rheolau marchnata'r UE” rhodder “rheolau marchnata”—

(a) rheoliad 2(2), yn y diffiniad o “cynnyrch garddwriaethol”;

(1) Mewnosodwyd paragraff 1A o Atodlen 2 gan adran 28 o Ddeddf Diwygio Deddfwriaethol a Rheoleiddiol 2006.
(2) 2018 p. 16.
(3) OJ Rhif L 31, 1.2.2002, t. 1, ac nid oes diwygiadau perthnasol i Erthygl 9.
(4) 2006 p. 32. Diwygiwyd adran 59(3) gan adran 20(2)(c) o Ddeddf Cymru 2017 (p. 4).
(5) O.S. 2009/1551 (Cy. 151), fel y'i diwygiwyd gan O.S. 2011/1043, O.S. 2011/2486 (Cy. 270), O.S. 2013/3270 (Cy. 320) ac O.S. 2018/1216 (Cy. 249) ac y ceir diwygiadau eraill iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.

- (b) rheoliad 3(2);
- (c) rheoliad 4, paragraffau (4)(a), (5), (6), (7)(a) (yn y ddau le y mae'n digwydd), (7)(c) ac (8);
- (d) rheoliad 8, paragraffau (1)(dd) a (2);
- (e) rheoliad 9(1);
- (f) rheoliad 10, paragraffau (1), (3) a (4);
- (g) rheoliad 11(1), is-baragraffau (a), (b), (c) ac (ch);
- (h) rheoliad 12(2)(d);
- (i) rheoliad 14, paragraffau (3)(a) a (5)(a)(ii);
- (j) rheoliad 16(1)(c) (yn y ddau le y mae'n digwydd).

(4) Yn rheoliad 3(2), yn lle "a'r Alban neu i'r Comisiwn Ewropeaidd" rhodder "neu'r Alban".

(5) Yn rheoliad 4—

- (a) ym mharagraff (8), yn lle "Undeb Ewropeaidd" rhodder "Deyrnas Unedig";
- (b) daw pennawd yr adran yn "Tramgwyddau rheolau marchnata".

(6) Yn rheoliad 7(3)(a), hepgorer paragraff (ii).

(7) Yn yr Atodlen, yn lle "Aelod-wladwriaethau" rhodder "yr awdurdodau perthnasol".

Rheoliadau Wyau a Chywion (Cymru) 2010

3.—(1) Mae Rheoliadau Wyau a Chywion (Cymru) 2010(1) wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 3(1)—

- (a) ar ôl y diffiniad o "Rheoliad y Comisiwn (EC) Rhif 617/2008", mewnosoder—
"ystyr "y rheoliadau lles anifeiliaid" (*"the animal welfare regulations"*) yw Rheoliadau Lles Anifeiliaid a Ffermir (Cymru) 2007(2)."
- (b) hepgorer y diffiniad o "Cyfarwyddeb y Cyngor 1999/74/EC";
- (c) hepgorer y diffiniad o "rhanbarth";
- (d) yn lle'r diffiniad o "rhanbarth cynhyrchu", rhodder—

"ystyr "rhanbarth cynhyrchu" (*"region of production"*), mewn perthynas ag wyau a gynhyrchir ar safle cynhyrchu yng Nghymru, ac a farchnetir gan y cynhyrchydd yn uniongyrchol i'r defnyddiwr terfynol drwy eu gwerthu o ddrws i ddrws neu mewn marchnad gyhoeddus leol, yw—

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- (1) O.S. 2010/1671 (Cy. 158) y ceir diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.
 - (2) O.S. 2007/3070 (Cy. 264), fel y'i diwygiwyd gan O.S. 2010/2713 (Cy. 229) ac O.S. [insert reference to The Animal Health and Welfare (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019].

- (a) yr ardal o fewn radiws o 80 cilometr o ffin y safle cynhyrchu; a
- (b) unrhyw ran o Gymru sydd y tu allan i'r radiws hwnnw o 80 cilometr;"

(3) Yn lle rheoliad 13(3) rhodder—

“(3) Yr amodau yw'r amodau yn y darpariaethau a ganlyn yn Atodlen 2 i'r rheoliadau lles anifeiliaid—

- (a) paragraff 2(ch) (ond nid y gofyniad nad yw clwydi i fod ag ymylon miniog a'u bod yn darparu 15cm o leiaf i bob iâr);
- (b) paragraff 2(d);
- (c) paragraff 5;
- (d) paragraff 6(a);
- (e) paragraff 7(a).”

(4) Yn lle rheoliad 14(3) rhodder—

“(3) Yr amodau yw'r amodau yn y darpariaethau a ganlyn yn Atodlen 2 i'r rheoliadau lles anifeiliaid—

- (a) paragraff 2(ch) (ond nid y gofyniad nad yw clwydi i fod ag ymylon miniog a'u bod yn darparu 15cm o leiaf i bob iâr);
- (b) paragraff 2(d);
- (c) paragraff 5;
- (d) paragraff 6(a);
- (e) paragraff 7(a).”

(5) Yn rheoliad 19—

- (a) yn lle paragraff (2) rhodder—

“(2) Caiff y swyddog awdurdodedig fynd ag unrhyw bersonau eraill y mae'n ystyried eu bod yn angenrheidiol gydag ef.”;

- (b) hepgorer paragraff (14).

(6) Yn Atodlen 2, yn Rhan 2, yn y tabl—

- (a) yng ngholofn 2, yn lle'r 21^{ain} cofnod (sef y cofnod sy'n cyfateb i'r cofnod ar gyfer “Erthygl 9(1)” yng ngholofn 1) rhodder—

“Rheoliad 4 o Reoliadau Cofrestru Sefydliadau (Ieir Dodwy) (Cymru) 2004(1)”;

- (b) yng ngholofn 2, yn y 26^{ain} cofnod (sef y cofnod sy'n cyfateb i'r cofnod ar gyfer “Erthygl 12(2), y pedwerydd is-baragraff” yng ngholofn 1), yn lle “a Phennod III o

(1) O.S. 2004/1432 (Cy. 145), fel y'i diwygiwyd gan O.S. [insert reference to The Animal Health and Welfare (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019] ac y mae diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.

Gyfarwyddeb y Cyngor 1999/74/EC” rhodder
“ac Atodlen 4 i’r rheoliadau lles anifeiliaid”.

Rheoliadau Labelu Cig Eidion a Chig Llo (Cymru) 2011

4.—(1) Mae Rheoliadau Labelu Cig Eidion a Chig Llo (Cymru) 2011(1) wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 4—

(a) ym mharagraff (1)—

(i) yn lle “neddfwriaeth yr UE” rhodder
“neddfwriaeth uniongyrchol yr UE a
ddargedwir”;

(ii) yn is-baragraff (a)(vi), ar ôl “drydydd
gwledydd” mewnosoder “, fel y’i
darllenir gydag Erthygl 15za
(darpariaethau trosiannol)”;

(iii) yn is-baragraff (b)(ii), ar ôl “(labelu)”
mewnosoder “(ond gweler paragraff
(4))”;

(iv) hepgorer is-baragraff (b)(viii);

(b) ar ôl paragraff (3), mewnosoder—

“(4) Nid yw person yn cyflawni tramgwydd o
dan baragraff (1)(b)(ii) mewn perthynas â chig a
osodir ar y farchnad ar neu cyn 31 Rhagfyr
2020, os yw’r person—

(a) wedi methu â chydymffurfio ag Erthygl
2(2)(b) o Reoliad y Comisiwn (EC)
Rhif 1825/2000, ond

(b) wedi cydymffurfio â’r Erthygl honno
fel yr oedd yn gymwys yn union cyn y
diwrnod ymadael.”;

(c) daw’r pennawd yn “Tramgwyddau o dan
ddeddfwriaeth uniongyrchol yr UE a
ddargedwir”.

(3) Yn rheoliad 6(2), hepgorer “, gan gynnwys
unrhyw gynrychiolydd y Comisiwn Ewropeaidd”.

Rheoliadau Adrodd ar Brisiau Cynhyrchion Llaeth (Cymru) 2011

5.—(1) Mae Rheoliadau Adrodd ar Brisiau Cynhyrchion Llaeth (Cymru) 2011(2) wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 2—

(a) yn lle’r diffiniad o “Rheoliad y Comisiwn”,
rhodder—

(1) O.S. 2011/991 (Cy. 145), fel y’i diwygiwyd gan O.S.
2013/3270 (Cy. 320) ac O.S. 2018/1188 (Cy. 242).

(2) O.S. 2011/1009. (Cy. 149).

“ystyr “Rheoliad Gweithredu’r Comisiwn” (“*Commission Implementing Regulation*”) yw Rheoliad Gweithredu’r Comisiwn (UE) 2017/1185 sy’n gosod rheolau ar gyfer cymhwyso Rheoliadau (EU) Rhif 1307/2013 ac (EU) Rhif 1308/2013 Senedd Ewrop a’r Cyngor o ran hysbysiadau i’r Comisiwn am wybodaeth a dogfennau a diwygio a diddymu nifer o Reoliadau’r Comisiwn(1), ac ystyr unrhyw gyfeiriad at Atodiad I, Atodiad II ac Atodiad III i Reoliad Gweithredu’r Comisiwn yw Atodiad I, Atodiad II ac Atodiad III i Reoliad Gweithredu’r Comisiwn fel y’i diwygir o bryd i’w gilydd;”;

(b) yn y diffiniad o “cynhyrchion llaeth”, yn lle’r geiriau “yn Erthygl 2(3)(a) o Reoliad y Comisiwn, ac Atodiadau 1.A ac 1.B iddo” rhodder “ym Mhwynt 7 o Atodiad I, Pwynt 4 o Atodiad II a Phwynt 9 o Atodiad III i Reoliad Gweithredu’r Comisiwn”.

(3) Yn rheoliad 3(1), yn lle “Erthyglau 2 a 3 o Reoliad y Comisiwn” rhodder “Erthyglau 7, 11 a 12 o Reoliad Gweithredu’r Comisiwn”.

6.—(1) Mae Rheoliadau Adrodd ar Brisiau Cynhyrchion Llaeth (Cymru) 2011, fel y’i diwygiwyd gan reoliad 5, wedi eu diwygio ymhellach ar y diwrnod ymadael fel a ganlyn.

(2) Yn rheoliad 2—

(a) hepgorer y diffiniad o “Rheoliad Gweithredu’r Comisiwn”;

(b) yn lle’r diffiniad o “cynhyrchion llaeth” rhodder—

“ystyr “cynhyrchion llaeth” (“*milk products*”) yw powdr maidd, powdr llaeth sgim, powdr llaeth cyflawn, menyn, cawsiau (gan gynnwys cawsiau diwydiannol) a llaeth amrwd.”.

(3) Yn rheoliad 3(1), hepgorer “at ddibenion Erthyglau 7, 11 a 12 o Reoliad Gweithredu’r Comisiwn”.

Rheoliadau Cig Dofednod (Cymru) 2011

7.—(1) Mae Rheoliadau Cig Dofednod (Cymru) 2011(2) wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 2(1) yn lle ““darpariaeth cig dofednod Ewropeaidd” (“*European poultrymeat provision*”)” rhodder ““darpariaeth cig dofednod yr UE a ddargedwir” (“*retained EU poultrymeat provision*”).

(1) OJ Rhif L 171, 4.7.2017, t. 113.

(2) O.S. 2011/1719 (Cy. 195) fel y’i diwygiwyd gan O.S. 2013/3270 (Cy. 320).

(3) Yn rheoliad 9(1) a (2)(a), yn lle “Ewropeaidd” rhodder “yr UE a ddargedwir”.

(4) Yn rheoliad 11(2), hepgorer is-baragraff (b) a’r “a” sy’n ei ragflaenu yn union.

(5) Yn rheoliad 12—

(a) ym mharagraff (9)(a), yn lle “yr Undeb Ewropeaidd” rhodder “y Deyrnas Unedig”.

(b) hepgorer paragraff (12).

(6) Yn rheoliad 14(1)(a), yn lle “Ewropeaidd” rhodder “yr UE a ddargedwir”.

(7) Daw pennawd newydd Atodlen 1 yn “DARPARIAETHAU CIG DOFEDNOD YR UE A DDARGEDWIR, Y GALL EU TORRI ARWAIN AT DDYRODDI HYSBYSIAD CYDYMFFURFIO”.

Rheoliadau Llaeth Ysgol (Cymru) 2017

8.—(1) Mae Rheoliadau Llaeth Ysgol (Cymru) 2017(1) wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 2(1)—

(a) cyn y diffiniad o “cymorth gwladol”, mewnosoder—

ystyr “cymorth” (“*aid*”) yw cymorth a roddir yn unol ag Erthygl 23(1) o Reoliad y Cyngor ac yn unol â Rheoliad Dirprwyedig y Comisiwn a Rheoliad Gweithredu’r Comisiwn (ond gweler rheoliad 59(A1));

(b) yn y diffiniadau o “Rheoliad Dirprwyedig y Comisiwn” a “Rheoliad Gweithredu’r Comisiwn”, hepgorer y gair “Undeb”;

(c) hepgorer y diffiniad o “cymorth gwladol”;

(d) yn y diffiniad o “y costau gweddilliol”, hepgorer y geiriau “Undeb a chymorth gwladol”;

(e) hepgorer y diffiniad o “cymorth Undeb”.

(3) Hpgorer rheoliad 3.

(4) Yn rheoliad 4—

(a) yn lle “cymorth gwladol” rhodder “gwladol”;

(b) daw’r pennawd yn “Cymorth ychwanegol i ddisgyblion cymwys”.

(5) Yn rheoliad 5—

(a) cyn paragraff (1), mewnosoder—

“(A1) Yn y rheoliad hwn—

(a) mae “cymorth” yn cynnwys—

(i) unrhyw gymorth a roddir cyn y diwrnod ymadael yn unol ag Erthygl

(1) O.S. 2017/724 (Cy. 174).

23(1) o Reoliad y Cyngor fel yr oedd yn gymwys cyn y diwrnod hwnnw; a

(ii) unrhyw gymorth a roddir gan Weinidogion Cymru cyn y diwrnod ymadael o dan reoliad 3 o'r rheoliadau hyn fel yr oedd yn cael effaith cyn y diwrnod hwnnw, a

(b) mae "ceisydd" i'w ddehongli yn unol â hynny."

(b) Ym mharagraff (1) —

(i) hepgorer y geiriau "Undeb neu gymorth gwladol o dan reoliad 3";

(ii) yn lle "Undeb neu gymorth gwladol o'r fath o dan y rheoliad hwnnw" rhodder "o'r fath";

(iii) yn is-baragraff (a), yn lle "Undeb neu gymorth gwladol o'r fath yn ôl o dan reoliad 3" rhodder "o'r fath yn ôl";

(iv) yn is-baragraff (b), yn lle "Undeb neu gymorth gwladol o'r fath o dan reoliad 3" rhodder "o'r fath".

(c) Daw'r pennawd yn "Cadw cymorth yn ôl a'i adennill".

(6) Yn rheoliad 7(7), hepgorer paragraff (a) a'r "a" yn union ar ei ôl.

(7) Hefgorer rheoliad 9.

Rheoliadau Dosbarthu Carcasau a Hysbysu eu Prisiau (Cymru) 2018

9.—(1) Mae Rheoliadau Dosbarthu Carcasau a Hysbysu eu Prisiau (Cymru) 2018(1) wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 2(1)—

(a) yn y diffiniad o "dosbarthu", yn lle "Ewropeaidd" rhodder "yr UE a ddargedwir" (yn y ddau le y mae'n digwydd);

(b) yn lle "'darpariaeth eidion Ewropeaidd" ("*European beef provision*")" rhodder "'darpariaeth eidion yr UE a ddargedwir" ("*retained EU beef provision*")";

(c) yn lle "'darpariaeth moch Ewropeaidd" ("*European pig provision*")" rhodder "'darpariaeth moch yr UE a ddargedwir" ("*retained EU pig provision*").

(3) Hefgorer rheoliad 7(2)(b).

(4) Hefgorer rheoliad 13(2)(b).

(1) O.S. 2018/1215 (Cy. 248).

(5) Yn rheoliad 15, yn lle “â’r darpariaethau moch Ewropeaidd” rhodder “â darpariaethau moch yr UE a ddargedwir”.

(6) Yn rheoliad 26—

- (a) yn lle “Ewropeaidd” rhodder “yr UE a ddargedwir” (yn y ddau le y mae’n digwydd);
- (b) daw’r pennawd yn “Troseddau: darpariaethau eidion yr UE a ddargedwir”.

(7) Yn rheoliad 27—

- (a) yn lle “Ewropeaidd” rhodder “yr UE a ddargedwir” (yn mhob lle y mae’n digwydd);
- (b) daw’r pennawd yn “Troseddau: darpariaethau moch yr UE a ddargedwir”.

(8) Yn rheoliad 36(1), yn lle “Ewropeaidd” rhodder “yr UE a ddargedwir” (yn y ddau le y mae’n digwydd).

(9) Yn Atodlen 1—

- (a) yn y pennawd i golofn 1 o’r tabl, yn lle “Ewropeaidd” rhodder “yr UE a ddargedwir”;
- (b) yn y cofnod yn y pedwaredd rhes o golofn 3 o’r tabl, yn lle “Undeb” rhodder “Deyrnas Unedig”;
- (c) daw’r pennawd yn “DARPARIAETHAU’R UE A DDARGEDWIR: CARCASAU BUCHOL”.

(10) Yn Atodlen 2—

- (a) yn y penawdau i golofn 1 o’r tablau yn rhannau 1 a 2, yn lle “Ewropeaidd” rhodder “yr UE a ddargedwir”;
- (b) yn y tabl yn rhan 1, yn y cofnod yn y drydedd rhes o golofn 3, yn lle “ddulliau a awdurdodir gan y Comisiwn” rhodder “ddulliau awdurdodedig”;
- (c) daw’r pennawd yn “DARPARIAETHAU’R UE A DDARGEDWIR: CARCASAU MOCH”.

Enw

Gweinidog yr Amgylchedd, Ynni a Materion Gwledig,
un o Weinidogion Cymru
Dyddiad

Explanatory Memorandum to Food (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019

This Explanatory Memorandum has been prepared by the Department for Economy, Skills and Natural Resources and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Food (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019.

I have made the statements required by the European Union (Withdrawal) Act 2018. These statements can be found in Part 2 of the Annex to this Memorandum.

Lesley Griffiths AM

Minister for Environment, Energy and Rural Affairs

5 March 2019

PART 1

1. Description

The Food (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (“this Instrument”) amend out of date references to European and domestic legislation in food-related Welsh statutory instruments; and correct deficiencies in those instruments which arise as a result of the UK’s exit from the European Union (“EU”). This Instrument will ensure that the statute book in Wales remains up to date and operable once the UK withdraws from the EU.

Those provisions which amend out of date references to European and domestic legislation in Welsh statutory instruments will come into force prior to the UK’s withdrawal from the EU. These changes will ensure that the statute book is up to date.

Those provisions which fix deficiencies that arise as a result of the UK’s withdrawal from the EU will come into force on ‘exit day’. ‘Exit day’ is defined in section 20(1) of the European Union (Withdrawal) Act 2018 (“the 2018 Act”) as 29 March 2019 at 11.00 pm.

This Instrument amends the Marketing of Fresh Horticultural Produce (Wales) Regulations 2009, the Eggs and Chicks (Wales) Regulations 2010, the Reporting of Prices of Milk Products (Wales) Regulations 2011, the Beef and Veal Labelling (Wales) Regulations 2011, the Poultrymeat (Wales) Regulations 2011, the School Milk (Wales) Regulations 2017 and the Carcase Classification and Price Reporting (Wales) Regulations 2018.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

This Instrument does not amend primary legislation. The amendments in this Instrument are technical in nature and do not introduce policy changes.

The amendments include updating references to European and domestic legislation, and minor amendments to address deficiencies which arise in Welsh statutory instruments as a result of the UK’s withdrawal from the EU. The changes made by this Instrument are necessary to ensure the effective and correct functioning of the statute book following the UK’s exit from the EU.

3. Legislative background

This Instrument is being made using the powers conferred by section 2(2) of and paragraph 1A of Schedule 2 to the European Communities Act 1972 and paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the 2018 Act.

This Instrument is subject to the affirmative procedure in accordance with section 59(3) of the Government of Wales Act 2006, and paragraph 1(8) of Schedule 7 to the 2018 Act.

In accordance with the requirements of the 2018 Act the Minister for Environment, Energy and Rural Affairs, has made the relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.

4. Purpose and intended effect of the legislation

The technical changes made by this Instrument are necessary to ensure the statute book in Wales is up to date, and operable following the UK's exit from the EU. The amendments include updating references to European and domestic legislation, and minor amendments to address deficiencies which arise as a result of the UK's withdrawal from the EU.

What did any relevant EU law do before exit day?

A summary of the domestic Regulations subject to amendment is set out in the following paragraphs

The Marketing of Fresh Horticultural Produce (Wales) Regulations 2009

The Marketing of Fresh Horticultural Produce (Wales) Regulations 2009 provide a statutory framework for the enforcement of European marketing rules in the fresh fruit and vegetable sector. This aligns with the common organisation of agricultural markets.

The Regulations designate the Welsh Ministers as the inspection body for Wales, and make a failure to comply with the marketing rules an offence.

The Eggs and Chicks (Wales) Regulations 2010

The Eggs and Chicks (Wales) Regulations 2010 make provision for the enforcement and execution of directly applicable EU marketing standards relating to eggs for hatching and farmyard poultry chicks, and eggs in shell for consumption (Commission Regulation (EC) No 617/2008, and Commission Regulation (EC) No 589/2008). They also make provision for the enforcement

of directly applicable EU controls for Salmonella serotypes with public health significance in relation to the marketing and use of eggs in shell for human consumption.

The Beef and Veal Labelling (Wales) Regulations 2011

The Beef and Veal Labelling (Wales) Regulations 2011 enforce in Wales Regulation (EC) No 1760/2000 which established a system for the identification and registration of bovine animals and the labelling of beef and beef products. The Regulations also enforce provisions relating to the marketing of the meat of bovine animals age 12 months or less, and provide rules for the provision of information for un-prepacked meat of bovine animals aged 12 months or less at the point of sale.

These Regulations are enforced by the local authority, port health authority or Welsh Ministers, and breach of the regulations is an offence.

The Reporting of Prices of Milk Products (Wales) Regulations 2011

The Reporting of Prices of Milk Products (Wales) Regulations 2011 revoked and replaced the Reporting of Prices of Milk Products (Wales) Regulations 2005 which made provision in Wales for the implementation of Commission Regulation (EC) No 562/2005 laying down rules for the implementation of [Council Regulation \(EC\) No 1255/1999](#) as regards communications between the Member States and the Commission in the milk and milk products sector as amended from time to time.

The Regulations require milk processors to provide the Welsh Ministers with such information relating to the prices of certain milk products, as they may require by notice. Failure to comply with such a requirement is an offence.

The Poultrymeat (Wales) Regulations 2011

The Poultrymeat (Wales) Regulations 2011 make the failure to comply with the provisions of Commission Regulation (EC) No 543/2008 as regards to EU Marketing Standards for poultrymeat an offence and make provision in relation to the registration of slaughterhouses and producers as required by that Commission Regulation.

The School Milk (Wales) Regulations 2017

The School Milk (Wales) Regulations 2017 replaced the School Milk (Wales) Regulations 2008.

These Regulations make provision allowing the Welsh Ministers to pay national aid and to determine the type or class of educational establishment or milk products in relation to which national aid may be paid. The Regulations also provide that any national aid payment can be subject to terms and conditions, and the Welsh Ministers may withhold or recover any national payment.

The Carcase Classification and Price Reporting (Wales) Regulations 2018

The Carcase Classification and Price Reporting (Wales) Regulations 2018 revoked and replaced the Beef and Pig Carcase Classification (Wales) Regulations 2011.

These Regulations enforce Regulation (EU) No 1308/2013 of the European Parliament and of the Council which relate to European Union scales for the classification of carcasses; and Commission Delegated [Regulation \(EU\) No 2017/1182](#); and Commission Implementing [Regulation \(EU\) No 2017/1184](#) which set out further details regarding the implementation of those scales.

These Regulations relate to the carcasses of adult bovine animals (being animals aged eight months or more) and pigs. The Regulations provide for a licensing system for anybody who visually classifies bovine carcasses and for the licensing of slaughterhouses using automated grading equipment for classifying such carcasses. Breach of the licensing requirements is an offence

Why is it being changed?

After EU-Exit, without amendment certain provisions will be inoperable and, as a result, existing law will either be unclear or will not function effectively. This Instrument therefore uses powers in the 2018 Act to make predominantly technical changes to the above legislation to ensure that it remains coherent and continues to function correctly after the UK has left the EU. This will provide clarity to stakeholders.

What will it now do?

This Instrument will ensure the Welsh food-related regulations continue to be operable after the UK leaves the EU. This Instrument does not make any change to the way the Welsh food marketing regulations operate.

In relation to the changes proposed to the School Milk (Wales) Regulations, there will no longer be a distinction between 'Union aid' and national 'aid' - the Welsh Ministers will simply have the power to pay 'aid'.

5. Consultation

A public consultation was run between 11 January 2019 and 19 February 2019. The consultation was bilingual and over 90 stakeholder experts and organisations were contacted directly, in addition to the consultation paper being published on the Welsh Government website.

Seven responses were received to this consultation – no concerns were raised in relation to the proposed amendments. All responses supported the proposals to update and correct deficiencies in EU derived domestic legislation.

6. Regulatory Impact Assessment (RIA)

It was not considered necessary to carry out a regulatory impact assessment for this instrument as no impact on the business, public or voluntary sectors are foreseen. The Regulations only introduce minor technical corrections. This is in line with the Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments

Annex

Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required of the Welsh Ministers under the 2018 Act. The table also sets out those statements that may be required of Ministers of the Crown under the 2018 Act, which the Welsh Ministers have committed to also provide when required. The required statements can be found in Part 2 of this annex.

| Statement | Where the requirement sits | To whom it applies | What it requires |
|------------------|---|--|---|
| Sifting | Paragraphs 3(7) and 4(3), Schedule 7 <i>Paragraph 3(7) (anticipated to be a requirement on Welsh Ministers in Standing Orders)</i> | The Welsh Ministers exercising powers in Part 1 of Schedule 2 to make a Negative SI Paragraph 3(7) applies to Ministers of the Crown, but Welsh Ministers have committed to make the same statement | A statement to explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation of the CLA Committee (as sifting committee) |
| Appropriate-ness | Sub-paragraph (2) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement that the SI does no more than is appropriate. |
| Good Reasons | Sub-paragraph (3) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have | A statement to explain the good reasons for making the instrument and that what is being done is a reasonable course of action. |

| | | | |
|-------------------|--|--|--|
| | | committed to make the same statement when exercising powers in Schedule 2 | |
| Equalities | Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | <p>A statement to explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them.</p> <p>A statement that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.</p> |
| Explanations | Sub-paragraph (6) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement to explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g. whether minor or technical changes only are intended to the EU retained law. |
| Criminal offences | Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement setting out the 'good reasons' for creating a criminal offence, and the penalty attached. |
| Sub-delegation | Paragraph 30, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 18(1), 9 and paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved | A statement to explain why it is appropriate to create such a sub-delegated power. |

| | | | |
|---------|--|---|-------------|
| | | <p>Authority.</p> <p>Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 or paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority</p> | |
| Urgency | Sub-paragraph (2) and (8) of paragraph 7, Schedule 7 | Welsh Ministers exercising powers in Part 1 of Schedule 2 but using the urgent procedure in paragraph 7 of Schedule 7 | A statement |

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

1. Sifting statement(s)

Not applicable/required.

2. Appropriateness statement

The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Food (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 do no more than is appropriate”. This is the case because the Regulations largely correct technical deficiencies in the Welsh legislation that will arise on exit of the EU. The Regulations ensures that food-related Welsh statutory instruments remain up to date and continue to operate effectively in Wales once we leave the EU. This is in line with government policy.

3. Good reasons

The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this draft instrument, and I have concluded they are a reasonable course of action”. This is because the provisions ensure that protections provided by the food-related Welsh legislation continue to be operable after the UK leaves the European Union.

4. Equalities

4.1 The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement(s):

“The draft instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts.

4.2 The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the draft instrument, I, Lesley Griffiths, have had due regard to the need to eliminate discrimination, harassment, victimisation

and any other conduct that is prohibited by or under the Equality Act 2010”.

4.3 Little or no impact on equalities is expected.

5. Explanations

The explanations statement has been made in paragraph 4 (Purpose & intended effect of the legislation) of the main body of this explanatory memorandum.

6. Criminal offences

Not applicable/required

7. Legislative sub-delegation

Not applicable/required.

8. Urgency

Not applicable/required.

SL(5)381 – The Regulation and Inspection of Social Care (Qualifications) (Wales) (Amendment) (EU Exit) Regulations 2019

Background and Purpose

These Regulations make amendments to the Regulation and Inspection of Social Care (Wales) Act 2016 (the 2016 Act) relating to the regulation of social workers and social care managers in Wales. Amendments are also made to the 2016 Act relating to exclusions to the scope of regulated advocacy services, to amend references to European Lawyers, and to the Mental Health Act 1983.

These amendments are required in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union without an agreement.

Procedure

Affirmative (uplifted from proposed negative on the recommendation of the Committee, after scrutiny under Standing Order 21.3B).

Technical Scrutiny

One point is identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(i) - that there appears to be doubt as to whether it is intra vires

As stated in the Explanatory Memorandum: “these Regulations revoke sections in the 2016 Act which relate to temporary and occasional service provision in Wales by social care professions, as they rely on reciprocal arrangements with the EEA which will no longer apply once the UK leaves the EU”.

This appears to be removing a reciprocal arrangement of a kind mentioned in section 8(2)(c) or (e) of the European Union Withdrawal Act 2018 (the 2018 Act). If that is the case, paragraph 4 of Schedule 2 to the 2018 Act says that the Welsh Ministers have no power to make the Regulations unless they have consulted the Secretary of State.

There is no indication that such consultation has taken place, neither in the preamble to the Regulations nor in the Explanatory Memorandum. Therefore, we have little option but to question whether the Welsh Ministers can make these Regulations.

We ask the Welsh Government to confirm:

- (a) whether the Regulations remove a reciprocal arrangement of a kind mentioned in section 8(2)(c) or (e) of the 2018 Act, and
- (b) if they do, whether the Welsh Ministers have consulted with the Secretary of State.

Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.



Implications arising from exiting the European Union

In our report on these Regulations during the sifting stage, we raised a concern about the impact these Regulations could have on the provision of social care in Wales.

We welcome the Welsh Government's response to this concern as set out in paragraph 2.4 of the Explanatory Memorandum, which states:

"The Committee's concerns about the potential impact of the Regulations are noted but assurance is provided that any impact has been assessed as being very limited. No European workers have ever been registered on the visiting social care workforce registers maintained by Social Care Wales (SCW) which relate to the provision of temporary and occasional services by social workers and social care managers. It should also be noted that as at February 2019 there were fewer than 100 EU nationals registered as social workers or social care managers with SCW. Those who are already registered with SCW will continue to be so registered post- exit day, and new applicants for registration from the EEA or Switzerland will be able to make the same application for registration as currently applies to international social care professionals."

Government Response

A government response is required to the technical scrutiny point raised in this report.

Legal Advisers

Constitutional and Legislative Affairs Committee

12 March 2019



Rheoliadau drafft a osodwyd gerbron Cynulliad Cenedlaethol Cymru o dan baragraff 1(9) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018, i'w cymeradwyo drwy benderfyniad gan Gynulliad Cenedlaethol Cymru.

OFFERYNNAU STATUDOL
CYMRU DRAFFT

2019 Rhif (Cy.)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

**GOFAL CYMDEITHASOL,
CYMRU**

**CYMWYSTERAU
PROFFESIYNOL, CYMRU**

Rheoliadau Rheoleiddio ac Arolygu
Gofal Cymdeithasol
(Cymwysterau) (Cymru) (Diwygio)
(Ymadael â'r UE) 2019

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn wedi eu gwneud drwy arfer y pwerau a roddir gan baragraff 1(1) o Atodlen 2 a pharagraff 21 o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 (p. 16), er mwyn ymdrin ag unrhyw fethiant yng nghyfraith yr UE a ddargedwir i weithredu'n effeithiol a diffygion eraill sy'n deillio o ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd.

Mae'r Rheoliadau hyn yn gwneud diwygiadau i Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016 (dccc 2) ("Deddf 2016") sy'n ymwneud â rheoleiddio gweithwyr cymdeithasol a rheolwyr gofal cymdeithasol yng Nghymru ac yn gwneud arbedion a darpariaeth drosiannol mewn cysylltiad â'r diwygiadau hynny.

Mae rheoliad 14 yn diwygio'r cyfeiriad at "cyfreithiwr Ewropeaidd" ym mharagraff 7 o Atodlen 1 i Ddeddf 2016 yn unol â'r trefniadau trosiannol a

wneir ar gyfer cyfreithwyr o wladwriaethau'r AEE a'r Swistir gan Reoliadau Gwasanaethau Cyfreithwyr ac Ymarfer Cyfreithwyr (Dirymu etc.) (Ymadael â'r UE) 2019.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, ystyriwyd nad oedd yn angenrheidiol cynnal asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn.

Rheoliadau drafft a osodwyd gerbron Cynulliad Cenedlaethol Cymru o dan baragraff 1(9) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018, i'w cymeradwyo drwy benderfyniad gan Gynulliad Cenedlaethol Cymru.

OFFERYNNAU STATUDOL
CYMRU DRAFFT

2019 Rhif (Cy.)

**YMADAEL Â'R UNDEB
EWROPEAIDD, CYMRU**

**GOFAL CYMDEITHASOL,
CYMRU**

**CYMWYSTERAU
PROFFESIYNOL, CYMRU**

Rheoliadau Rheoleiddio ac Arolygu
Gofal Cymdeithasol
(Cymwysterau) (Cymru) (Diwygio)
(Ymadael â'r UE) 2019

Gwnaed

Yn dod i rym yn unol â rheoliad 1(2) a (3)

Mae Gweinidogion Cymru drwy arfer y pwerau a roddir gan baragraff 1(1) o Atodlen 2 a pharagraff 21 o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018(1) yn gwneud y Rheoliadau a ganlyn.

Yn unol â pharagraff 1(9) o Atodlen 7 i'r Ddeddf honno, gosodwyd drafft o'r offeryn hwn gerbron Cynulliad Cenedlaethol Cymru ac fe'i cymeradwywyd ganddo drwy benderfyniad.

(1) 2018 p. 16.

Enwi, cychwyn, cymhwyso a dehongli

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymwysterau) (Cymru) (Diwygio) (Ymadael â'r UE) 2019.

(2) Yn ddarostyngedig i baragraff (3), daw'r Rheoliadau hyn i rym ar y diwrnod ymadael.

(3) Daw rheoliad 14(2) i rym ar 11.00pm ar 31 Rhagfyr 2020.

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

(5) Yn y Rheoliadau hyn, ystyr "Deddf 2016" yw Deddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016(1).

RHAN 1

Diwygiadau i ddeddfwriaeth

Diwygiadau i Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016

2. Mae Deddf 2016 wedi ei diwygio fel a ganlyn.

3. Yn adran 66(1) (dehongli Rhannau 3 i 8), hepgorer y diffiniadau o "gwladolyn", "Gwladwriaeth Ewropeaidd berthnasol", "person esempt", "rhan gweithwyr cymdeithasol Ewropeaidd sydd ar ymweliad", "rhan rheolwyr gofal cymdeithasol Ewropeaidd sydd ar ymweliad" ac "y Rheoliadau Systemau Cyffredinol"(2).

4. Yn adran 74 (rheolau: ffioedd)(3), hepgorer is-adran (3).

5. Yn adran 80 (y gofrestr)(4), hepgorer is-adrannau (1)(c) a (d), (2)(c) a (d) a (3)(c) a (d).

6. Yn adran 84 ("wedi ei gymhwyso'n briodol")(5), hepgorer paragraff (aa)(ii).

7. Yn adran 85 (cymwysterau a geir y tu allan i Gymru – gweithwyr cymdeithasol)(6), hepgorer is-adran (1).

(1) 2016 dccc 2.

(2) Mewnosodwyd y diffiniadau "rhan gweithwyr cymdeithasol Ewropeaidd sydd ar ymweliad" a "rhan rheolwyr gofal cymdeithasol Ewropeaidd sydd ar ymweliad" gan O.S. 2016/1030, rheoliad 121(2).

(3) Amnewidiwyd "rhan gweithwyr cymdeithasol Ewropeaidd sydd ar ymweliad neu'r rhan rheolwyr gofal cymdeithasol Ewropeaidd sydd ar ymweliad" gan O.S. 2016/1030, rheoliad 123.

(4) Gwnaed diwygiadau perthnasol gan O.S. 2016/1030, rheoliad 127(2), (3) a (4).

(5) Gwnaed diwygiadau perthnasol gan O.S. 2016/1030, rheoliad 129(2) a (3).

(6) Mewnosodwyd "gweithwyr cymdeithasol" ym mhennawd yr adran gan O.S. 2016/1030, rheoliad 131(2).

8. Hepgorer adran 85A (cymwysterau a geir y tu allan i Gymru – rheolwyr gofal cymdeithasol)(1).

9. Hepgorer adran 90 (gweithwyr cymdeithasol sydd ar ymweliad o Wladwriaethau Ewropeaidd perthnasol)(2).

10. Hepgorer adran 90A (rheolwyr gofal cymdeithasol sydd ar ymweliad o Wladwriaethau Ewropeaidd perthnasol)(3).

11. Hepgorer adran 105 (apelau eraill: penderfyniadau a wneir o dan y Rheoliadau Systemau Cyffredinol)(4).

12. Yn adran 113 (datblygiad proffesiynol parhaus), hepgorer is-adrannau (3) i (5)(5).

13. Yn adran 164 (ystyr “person cofrestredig” yn Rhan 6)(6)—

- (a) yn lle “y rhan gweithwyr cymdeithasol, mewn rhan ychwanegol” rhodder “y rhan gweithwyr cymdeithasol neu mewn rhan ychwanegol”;
- (b) hepgorer “neu yn y rhan gweithwyr cymdeithasol Ewropeaidd sydd ar ymweliad neu’r rhan rheolwyr gofal cymdeithasol Ewropeaidd sydd ar ymweliad”.

14.—(1) Yn Atodlen 1 (gwasanaethau rheoleiddiedig: diffiniadau), ym mharagraff 7 (gwasanaethau eirioli)—

- (a) yn is-baragraff (4)—
 - (i) ar ddiwedd paragraff (a), hepgorer “neu”;
 - (ii) yn lle paragraff (b) rhodder—
 - “(b) yn unigolyn—
 - (i) y mae rheoliad 5(1)(a) o’r Rheoliadau Dirymu yn gymwys iddo,
 - (ii) yr oedd rheoliad 5(1)(b) o’r Rheoliadau hynny yn gymwys iddo ac sy’n dod yn gyfreithiwr Ewropeaidd cofrestredig (yn rhinwedd penderfyniad ar gais yr unigolyn neu ar apêl),
 - (iii) yr oedd rheoliad 5(1)(c) o’r Rheoliadau hynny yn gymwys iddo ac y caiff ei ataliad dros dro

(1) Mewnosodwyd gan O.S. 2016/1030, rheoliad 133.
(2) Gwnaed diwygiadau perthnasol gan O.S. 2016/1030, rheoliad 135.
(3) Mewnosodwyd gan O.S. 2016/1030, rheoliad 137.
(4) Gwnaed diwygiadau perthnasol gan O.S. 2016/1030, rheoliad 139.
(5) Gwnaed diwygiadau perthnasol gan O.S. 2016/1030, rheoliad 141.
(6) Amnewidiwyd “rhan gweithwyr cymdeithasol Ewropeaidd sydd ar ymweliad neu’r rhan rheolwyr gofal cymdeithasol Ewropeaidd sydd ar ymweliad” gan O.S. 2016/1030, rheoliad 143(2).

ei derfynu (pa un ai ar apêl neu fel arall), neu

(iv) yr oedd rheoliad 5(1)(d) o'r Rheoliadau hynny yn gymwys iddo ac y mae ei gofrestrriad yn gyfreithiwr Ewropeaidd cofrestredig wedi ei adfer, neu

(c) yn unigolyn y mae'r darpariaethau yn rheoliad 4A neu 5A o'r Rheoliadau Dirymu yn cael effaith ar ei gyfer er mwyn caniatáu i'r person hwnnw barhau i ymarfer fel cyfreithiwr yn y Deyrnas Unedig ar ôl y diwrnod ymadael.”;

(b) ar ôl is-baragraff (4) mewnosoder—

“(4A) Yn is-baragraff (4)—

mae i “cyfreithiwr Ewropeaidd cofrestredig” yr un ystyr â “registered European lawyer” yn rheoliad 2(1) o Rheoliadau'r Cymunedau Ewropeaidd (Ymarfer Cyfreithwyr) 2000 (O.S. 2000/1119) fel yr oedd yn cael effaith yn union cyn y diwrnod ymadael;

ystyr “y Rheoliadau Dirymu” (“*the Revocation Regulations*”) yw Rheoliadau Gwasanaethau Cyfreithwyr ac Ymarfer Cyfreithwyr (Dirymu etc.) (Ymadael â'r UE) 2019 (O.S. 2019/XXX).”

(2) Yn Atodlen 1, ym mharagraff 7, hepgorer is-baragraff (4)(b) a'r diffiniad o “cyfreithiwr Ewropeaidd cofrestredig” yn is-baragraff (4A) (fel y'i hamnewidir ac y'i mewnosodir gan baragraff (1) o'r rheoliad hwn).

Diwygiad canlyniadol i Ddeddf Iechyd Meddwl 1983

15. Yn adran 130H(7)(b) (eiriolwyr iechyd meddwl annibynnol i Gymru: pwerau a dyletswyddau atodol) o Ddeddf Iechyd Meddwl 1983(1), hepgorer “or the visiting European part”.

RHAN 2

Arbedion a darpariaeth drosiannol

Ceisiadau sydd yn yr arfaeth

16.—(1) Pan geir cais perthnasol cyn y diwrnod ymadael, mae Deddf 2016 yn parhau i fod yn gymwys

(1) 1983 p. 20; mewnosodwyd adran 130H gan Fesur Iechyd Meddwl (Cymru) 2010 (mccc 7), adran 34. Diwygiwyd is-adran (7)(b) o adran 130H gan Ddeddf 2016, Atodlen 3, paragraff 39.

mewn perthynas â'r cais (gan gynnwys mewn perthynas ag unrhyw apêl sy'n codi ohono) ar ac ar ôl y diwrnod ymadael fel pe na bai'r diwygiadau a wnaed gan Ran 1 wedi eu gwneud.

(2) Ym mharagraff (1), ystyr "cais perthnasol" yw cais—

- (a) i dderbyn i ran gweithwyr cymdeithasol Ewropeaidd sydd ar ymweliad neu'r rhan rheolwyr gofal cymdeithasol Ewropeaidd sydd ar ymweliad o'r gofrestr a gedwir o dan adran 80 o Ddeddf 2016,
- (b) i adnewyddu cofrestriad yn y rhannau hynny o'r gofrestr o dan adran 86(2) o Ddeddf 2016,
- (c) i aildderbyn i'r rhannau hynny o'r gofrestr o dan adran 80 o Ddeddf 2016 ar ôl i gofrestrriad ddarfod, neu
- (d) i adfer i'r rhannau hynny o'r gofrestr o dan adran 96(2) neu 97(2) o Ddeddf 2016.

Gweithwyr cymdeithasol sydd ar ymweliad a rheolwyr gofal cymdeithasol sydd ar ymweliad: arbed yr hen gyfraith

17.—(1) Mae'r rheoliad hwn yn gymwys pan—

- (a) yn union cyn y diwrnod ymadael—
 - (i) roedd gan berson fudd rheoliad 12 o Reoliadau'r Undeb Ewropeaidd (Cydnabod Cymwysterau Proffesiynol) 2015(1) mewn cysylltiad â darparu gwasanaethau fel gweithiwr cymdeithasol neu reolwr gofal cymdeithasol gan y person hwnnw, a
 - (ii) roedd adran 90(3) neu 90A(3) o Ddeddf 2016 yn gymwys i'r person, a
- (b) bo'r person yn parhau i gael y budd hwnnw ar neu ar ôl y diwrnod ymadael.

(2) Er gwaethaf y diwygiadau a wnaed gan Ran 1, mae'r darpariaethau a ganlyn o Ddeddf 2016 yn parhau i fod yn gymwys mewn perthynas â darparu'r gwasanaethau hynny gan y person hwnnw ar ac ar ôl y diwrnod ymadael, fel yr oeddent yn gymwys cyn y diwrnod hwnnw, yn ddarostyngedig i'r addasiadau a bennir yn rheoliad 18 (dehongli darpariaethau sydd wedi eu harbed)—

- (a) yn adran 66(1) (dehongli Rhannau 3 i 8), y diffiniadau o "gwladolyn", "Gwladwriaeth Ewropeaidd berthnasol", "person esempt", "rhan gweithwyr cymdeithasol Ewropeaidd sydd ar ymweliad", "rhan rheolwyr gofal cymdeithasol Ewropeaidd sydd ar ymweliad" ac "y Rheoliadau Systemau Cyffredinol";

(1) O.S. 2015/2059.

- (b) adran 74(3) (rheolau: ffioedd);
 - (c) yn adran 80, is-adrannau (1)(c) a (d), (2)(c) a (d) a (3)(c) a (d) (y gofrestr);
 - (d) adran 90 (gweithwyr cymdeithasol sydd ar ymweliad o Wladwriaethau Ewropeaidd perthnasol);
 - (e) adran 90A (rheolwyr gofal cymdeithasol sydd ar ymweliad o Wladwriaethau Ewropeaidd perthnasol);
 - (f) adran 113(3) i (5) (datblygiad proffesiynol parhaus).
- (3) Mae paragraff (2) yn cael effaith tan—
- (a) yn achos person sydd wedi ei gofrestru yn unol ag adran 90(3) neu 90A(3) o Ddeddf 2016, y diwrnod y caiff enw'r person ei ddileu o'r gofrestr o dan adran 90(6) neu 90A(6) o'r Ddeddf honno yn ôl y digwydd;
 - (b) yn achos person sy'n cael ei drin fel pe bai wedi ei gofrestru o dan adran 90(4) neu 90A(4) o'r Ddeddf honno, y diwrnod y mae hawlogaeth y person i gael ei gofrestru o dan adran 90(3) neu 90A(3) o Ddeddf 2016 yn peidio yn rhinwedd adran 90(5) neu 90A(5) o'r Ddeddf honno yn ôl y digwydd.

Dehongli darpariaethau sydd wedi eu harbed gan reoliad 17(2)

18. I'r graddau y mae'r darpariaethau a ganlyn o Ddeddf 2016 yn parhau i fod yn gymwys yn rhinwedd rheoliad 17(2), maent yn gymwys gyda'r addasiadau a ganlyn—

- (a) yn adran 90 (gweithwyr cymdeithasol sydd ar ymweliad o Wladwriaethau Ewropeaidd perthnasol)—
 - (i) mae is-adran (1) i'w darllen fel pe bai “ac eithrio'r Deyrnas Unedig” wedi ei hepgor;
 - (ii) mae is-adran (8) i'w darllen fel pe bai'r diffiniadau a ganlyn wedi eu rhoi yn lle'r diffiniadau o “person esempt” a “y Rheoliadau Systemau Cyffredinol”—
ystyr “person esempt” (“*exempt person*”) yw—
 - (a) person a oedd, yn union cyn y diwrnod ymadael, yn wladolyn o Wladwriaeth Ewropeaidd berthnasol,
 - (b) person a oedd, yn union cyn y diwrnod ymadael, yn wladolyn o'r Deyrnas Unedig ac, ar yr adeg honno, yn ceisio cael mynediad at waith cymdeithasol, neu waith fel rheolwr gofal cymdeithasol, neu'n dilyn y gwaith

hwinnw, yn rhinwedd hawl UE orfodadwy, neu

- (c) person nad oedd, yn union cyn y diwrnod ymadael, yn wladolyn o Wladwriaeth Ewropeaidd berthnasol, ond a oedd, ar yr adeg honno, yn rhinwedd hawl UE orfodadwy, â hawlogaeth i beidio â chael ei drin, at ddibenion cael mynediad at waith cymdeithasol neu waith fel rheolwr gofal cymdeithasol a dilyn y gwaith hwinnw, yn llai ffafriol na gwladolyn o Wladwriaeth Ewropeaidd berthnasol,

ac at ddibenion y diffiniad hwn, ystyr “hawl UE orfodadwy” (“*enforceable EU right*”) yw hawl a gydnabyddir ac sydd ar gael mewn cyfraith ddomestig, yn union cyn y diwrnod ymadael, yn rhinwedd adran 2(1) o Ddeddf y Cymunedau Ewropeaidd 1972 (p. 68);”;

“ystyr “y Rheoliadau Systemau Cyffredinol” (“*the General Systems Regulations*”) yw Rheoliadau’r Undeb Ewropeaidd (Cydnabod Cymwysterau Proffesiynol) 2015 (O.S. 2015/2059)—

- (a) mewn perthynas ag unrhyw beth a wneir cyn y diwrnod ymadael, fel yr oeddent yn cael effaith ar yr adeg honno;
- (b) fel arall, fel y maent yn cael effaith (a dim ond i’r graddau y maent yn cael effaith), ar neu ar ôl y diwrnod ymadael, mewn perthynas â hawlogaeth a gododd cyn y diwrnod ymadael neu sy’n codi o ganlyniad i rywbeth a wneir cyn y diwrnod ymadael.”;

- (b) yn adran 90A (rheolwyr gofal cymdeithasol sydd ar ymweliad o Wladwriaethau Ewropeaidd perthnasol), mae is-adran (1) i’w darllen fel pe bai “ac eithrio’r Deyrnas Unedig” wedi ei hepgor.

Rhybuddion System Wybodaeth y Farchnad Fewnol (IMI)

19.—(1) Mae’r rheoliad hwn yn gymwys pan—

- (a) bo person, cyn y diwrnod ymadael, yn cael hysbysiad o benderfyniad a wneir o dan reoliad 67 o Reoliadau’r Undeb Ewropeaidd (Cydnabod Cymwysterau Proffesiynol) 2015 i anfon rhybudd ynglŷn â’r person, a
- (b) naill ai—

- (i) bo'r terfyn amser ar gyfer apelio yn erbyn y penderfyniad o dan adran 105(1)(c) o Ddeddf 2016 yn dod i ben ar neu ar ôl y diwrnod ymadael, neu
- (ii) bo apêl yn erbyn y penderfyniad o dan yr adran honno yn cael ei gwneud, ond ni phenderfynir yn derfynol arni, cyn y diwrnod ymadael.

(2) Er gwaethaf y diwygiadau a wnaed gan Ran 1, mae'r darpariaethau a ganlyn o Ddeddf 2016 yn parhau i fod yn gymwys mewn perthynas â'r penderfyniad ar ac ar ôl y diwrnod ymadael fel yr oeddent yn gymwys cyn y diwrnod ymadael—

- (a) yn adran 66(1), y diffiniad o “y Rheoliadau Systemau Cyffredinol”;
- (b) yn adran 90(8), y diffiniad o “y Rheoliadau Systemau Cyffredinol”;
- (c) adran 105(1) (ond nid paragraffau (a) a (b) o'r is-adran honno ac yn ddarostyngedig i'r addasiad a bennir ym mharagraff (3) o'r rheoliad hwn).

(3) At ddibenion paragraff (2)(c), mae adran 105(1)(c) o Ddeddf 2016 i'w darllen fel pe bai “Rheoliadau Systemau Cyffredinol (fel yr oeddent yn cael effaith ar yr adeg y gwnaed penderfyniad GCC(1))” wedi ei roi yn lle “Rheoliadau hynny”.

(4) Wrth waredu apêl yn erbyn y penderfyniad ar neu ar ôl y diwrnod ymadael, mae gan y tribiwnlys (yn lle'r pŵerau a bennir yn adran 105(5) o Ddeddf 2016) y pŵer—

- (a) i gadarnhau'r penderfyniad, neu
- (b) os yw'r tribiwnlys yn ystyried y dylai'r rhybudd gael ei dynnu'n ôl neu ei ddiwygio, i gyfarwyddo Gofal Cymdeithasol Cymru i gymryd unrhyw gamau y mae'r tribiwnlys yn meddwl eu bod yn addas i hysbysu'r Comisiwn Ewropeaidd am benderfyniad y tribiwnlys.

Julie Morgan, y Dirprwy Weinidog Iechyd a
Gwasanaethau Cymdeithasol, un o Weinidogion
Cymru
Dyddiad

(1) *Gweler* adran 67(3) o Ddeddf 2016 am y diffiniad o Ofal Cymdeithasol Cymru (“GCC”).

Explanatory Memorandum to The Regulation and Inspection of Social Care (Qualifications) (Wales) (Amendment) (EU Exit) Regulations 2019

This Explanatory Memorandum has been prepared by Social Services and Integration Directorate and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister/Deputy Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Regulation and Inspection of Social Care (Qualifications) (Wales) (Amendment) (EU Exit) Regulations 2019

I have made the statements required by the European Union (Withdrawal) Act 2018. These statements can be found in Part 2 of the annex to this memorandum.

Julie Morgan

Deputy Minister for Health and Social Services

5 March 2019

PART 1

1. Description

- 1.1 These Regulations make amendments to the Regulation and Inspection of Social Care (Wales) Act 2016 (“the 2016 Act”) relating to the regulation of social workers and social care managers in Wales. Minor amendments are also made to the 2016 Act relating to exclusions to the scope of regulated advocacy services, to amend references to European Lawyers, and to the Mental Health Act 1983.
- 1.2 These amendments are required in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union without an agreement.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

- 2.1 The Regulation and Inspection of Social Care (Qualifications) (Wales) (Amendment) (EU Exit) Regulations 2019 were laid for sifting on 29 January 2019. The Constitutional and Legislative Affairs Committee considered the Regulations on 11 February and laid their report on 12 February. The report can be found at: <http://www.assembly.wales/laid%20documents/cr-ld12151/cr-ld12152-e.pdf>
- 2.2 The report recommends that these Regulations should be subject to the affirmative procedure because the Regulations raise matters of public, political or legal importance in three respects:
- They involve significant amendment of primary legislation
 - The sensitive nature of the sector to which these Regulations relate,, and the unknown impact the amendments may have on social care in Wales
 - The amendments are not technical.
- 2.3 The Deputy Minister for Health and Social Services accepts the recommendations of the Committee that The Regulation and Inspection of Social Care (Qualifications) (Wales) (Amendment) (EU Exit) Regulations 2019 should be subject to the affirmative procedure because they amend primary legislation.
- 2.4 The Committee’s concerns about the potential impact of the Regulations are noted but assurance is provided that any impact has been assessed as being very limited. No European workers have ever been registered on the visiting social care workforce registers maintained by Social Care Wales (SCW) which relate to the provision of temporary and occasional services by social workers and social care managers. It should also be noted that as at February 2019 there were fewer than 100 EU nationals registered as

social workers or social care managers with SCW. Those who are already registered with SCW will be continue to be so registered post- exit day, and new applicants for registration from the EEA or Switzerland will be able to make the same application for registration as currently applies to international social care professionals.

3. Legislative background

- 3.1 This instrument is being made in exercise of the powers conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.
- 3.2 In accordance with the requirements of that Act the Deputy Minister for Health and Social Services has made the relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.
- 3.3 These Regulations are being made under the affirmative resolution procedure.

4. Purpose and intended effect of the legislation

What did any relevant EU law do before exit day?

- 4.1 The European Union Directive 2005/36/EC (“the 2005 Directive”) facilitates the free movement of prescribed professionals across the European Economic Area (EEA) and Switzerland by setting out a reciprocal framework of rules for the recognition of professional qualifications. This enables European Economic Area (EEA) and Swiss nationals to have their professional qualifications recognised and gain access in an EEA State or Switzerland to the regulated profession in which they are qualified in another EEA State or Switzerland, in order to work on a permanent or temporary basis.
- 4.2 The 2005 Directive is currently implemented via a main set of the regulations which set out the general approach, namely, the European Union (Recognition of Professional Qualifications) Regulations 2015 (“the 2015 Regulations”) and then sectoral specific regulations. For the social care professions, the sectoral specific legislation is the European Qualifications (Health and Social Care Professions) Regulations 2016 (“the 2016 Regulations”). The 2016 Act makes express reference to the mutual recognition of professional qualification arrangements as provided for in the 2015 Regulations, as amended by the 2016 Regulations. Following exit day, the provisions of the 2015 Regulations which are currently referred to in the 2016 Act will no longer apply, as the UK will fall outside the remit of the 2005 Directive. The UK Government has already made amendments to the 2015 Regulations to reflect this fact and to correct any deficiencies which will arise in that legislation once the UK leaves the EU. .

4.3 Lawyers of EU states are permitted to practice in the UK in certain circumstances under the Establishment of Lawyers Directive 98/5/EC. The UK Government implemented the Directive through the European Communities (Lawyer's Practice) Regulations 2000 (S.I. 2000 No. 1119). A lawyer of an Establishment Directive state also has the right to provide services in the UK on a temporary or visiting basis, under the Services of Lawyers Directive 77/249/EEC and the European Communities (Services of Lawyers) Order 1978. Both orders give effect to European Directives designed to facilitate the free movement of workers and mutual recognition of professional legal qualifications.

4.4 This instrument makes amendments to the 2016 Act relating to the regulation of EEA and Swiss social workers and social care managers in Wales, and to exclusions affecting the scope of regulated advocacy services, so that it operates effectively after exit date and corrects deficiencies which have arisen as a consequence of the UK leaving the EU.

Why is it being changed?

4.5 Following the UK's exit from the EU, the 2005 Directive will no longer apply to social workers and social care managers in the UK. The domestic legislation implementing the Directive, namely the 2015 Regulations, will therefore not operate effectively after exit day. The provisions within the 2016 Act which rely on the mutual recognition arrangements under the 2015 Regulations will also be inoperable after exit day.

4.6 After exit day, in the event of no deal, individuals with EEA and Swiss qualifications who are already registered with Social Care Wales (SCW), the social care workforce regulator in Wales, will have their registration maintained. New applicants will be able to seek recognition of their EEA and Swiss qualifications through the existing international registration system of SCW.

4.7 As is currently the case for international applicants, EEA and Swiss qualifications will be assessed against the equivalent UK qualification standards for social care professionals, and if they are found to be comparable, SCW will be required to recognise the qualification, with no additional tests to an applicant's practical skills. SCW will still be able to check an applicant's language skills and whether there are concerns about their fitness to be registered. In cases where a qualification is not comparable, SCW will have discretion as to how it proceeds with the recognition process. There will be no obligation to offer compensatory measures where a qualification is not comparable to the UK qualification standard, as was previously the case under the 2005 Directive.

What will it now do?

4.8 The purpose of these Regulations is to ensure that the provisions of the 2016 Act which relate to the regulation of social workers and social care managers will continue to be operable in Wales after the UK leaves the EU.

- 4.9 Regulations 4 -13 of these Regulations revoke the sections in the 2016 Act which relate to temporary and occasional service provision in Wales by social care professionals, as they rely on reciprocal arrangements with the EEA which will no longer apply once the UK leaves the EU. The 2005 Directive sets out rules which facilitate the temporary and occasional provision of services, which allow EEA and Swiss professionals to practise across the EEA and Switzerland without the need for full registration with the relevant regulator. Providing temporary and occasional service allows the professional to remain established in their home state while practising in another state. However, none of these arrangements will apply to the UK following exit day. These changes are being made to reflect that and to remove from the 2016 Act references to the 2015 Regulations which will be revoked on exit day.
- 4.10 The 2016 Act does not define what advocacy services are but gives power to Welsh Ministers to do this in regulations. However the 2016 Act does provide some parameters within which the definition in regulations must fall. The 2016 Act excludes from the scope of regulation a service provided by a person in the course of a legal activity (within the meaning of the Legal Services Act 2007) and this includes where the person is a European lawyer within the meaning of the European Communities (Services of Lawyers) Order 1978. The preferential rights for European lawyers to practise in the UK after exit day are being revoked but a transitional period is being provided for European Lawyers who registered before exit day to continue to practise in England, Wales and Northern Ireland until 31 December 2020. Regulation 14 of these Regulations makes minor consequential amendments to the exclusions from the scope of regulated advocacy services, to reflect that for the transitional period (to 31 December 2020) the exclusion will extend to cover services provided by a European Lawyer in the course of a legal activity (within the meaning of the Legal Services Act 2007). Regulation 14 also includes wording to reflect the enhanced transitional arrangements which will apply to Swiss lawyers in the UK pursuant to the UK-Swiss Separation Agreement for lawyers.
- 4.11 Regulations 16 and 17 contain transitional and savings provisions relating to temporary and occasional service provision. Regulation 16 allows applications which have been made before exit day to provide services as a social worker or a social care manager in Wales on a temporary or occasional basis to be concluded under current arrangements as far as possible. Regulation 17 allows individuals already practising under temporary and occasional status in Wales to continue do so for up to one year. Under regulation 15 of the 2005 Directive, individuals seeking to provide temporary or occasional services in the UK had to make a declaration of their intention to do so to Social Care Wales every 12 months. Regulation 17 allows those individuals who made such a declaration before exit day to continue to provide temporary and occasional services until the expiry of the declaration.

4.12 The Internal Market Information system (IMI) is an online tool used by regulators to share information. The 2005 Directive allows regulators within the EEA and Switzerland to share details about applicants and qualifications. It also provides an Alert Mechanism which makes EEA and Swiss regulators aware of a professional's compromised fitness to practise or restrictions on their practice. The UK will no longer have access to IMI when it exits the EU. Regulation 19 provides that where before exit day an alert was issued in respect of a person, that person will still be able to bring an appeal against the decision to issue the alert in certain circumstances.

5. Consultation

5.1 As these amendments are technical in nature and only correct deficiencies which will arise in the 2016 Act as a result of the 2005 Directive no longer applying to the UK following the withdrawal of the United Kingdom from the European Union, no public consultation was undertaken. The purpose of the instrument is solely to make such changes as are required to enable the current legislative and policy framework to be able to continue to operate following exit day. The 2016 Act currently makes express reference to provisions of the 2015 Act, which will be revoked on exit day, and these Regulations make amendments to the 2016 Act to enable that Act to continue to operate effectively post-exit day.

5.2 Technical discussions concerning the proposed amendments to the provisions of the 2016 Act under these Regulations were held with Social Care Wales to ensure the amended registration procedures are operable.

6. Regulatory Impact Assessment (RIA)

No RIA has been undertaken as there is no significant impact on business, charities, voluntary bodies or the public sector resulting from this instrument. The changes are technical in nature and go no further than simply correcting deficiencies which will arise in the 2016 Act when, post exit day, the 2005 Directive no longer applies to the UK. These amendments made by these Regulations will have minimal impact on the sector because no European workers have ever been registered on the visiting social care workforce registers maintained by SCW, and the limited number of EU nationals who are registered as social workers or social care managers with SCW will not be affected by these Regulations and will have the right to continue working in Wales post-exit day.

Annex

Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required of the Welsh Ministers under the 2018 Act. The table also sets out those statements that may be required of Ministers of the Crown under the 2018 Act, which the Welsh Ministers have committed to also provide when required. The required statements can be found in Part 2 of this annex.

| Statement | Where the requirement sits | To whom it applies | What it requires |
|-----------------|---|--|---|
| Sifting | Paragraphs 3(7) and 4(3), Schedule 7 <i>Paragraph 3(7) (anticipated to be a requirement on Welsh Ministers in Standing Orders)</i> | The Welsh Ministers exercising powers in Part 1 of Schedule 2 to make a Negative SI Paragraph 3(7) applies to Ministers of the Crown, but Welsh Ministers have committed to make the same statement | A statement to explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation of the CLA Committee (as sifting committee) |
| Appropriateness | Sub-paragraph (2) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement that the SI does no more than is appropriate. |
| Good Reasons | Sub-paragraph (3) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have | A statement to explain the good reasons for making the instrument and that what is being done is a reasonable course of action. |

| | | | |
|-------------------|--|--|--|
| | | committed to make the same statement when exercising powers in Schedule 2 | |
| Equalities | Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | <p>A statement to explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them.</p> <p>A statement that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.</p> |
| Explanations | Sub-paragraph (6) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement to explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g. whether minor or technical changes only are intended to the EU retained law. |
| Criminal offences | Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 | A statement setting out the 'good reasons' for creating a criminal offence, and the penalty attached. |
| Sub-delegation | Paragraph 30, Schedule 7 | Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority. | A statement to explain why it is appropriate to create such a sub-delegated power. |

| | | | |
|---------|--|--|--|
| | | Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 or paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority | |
| Urgency | Sub-paragraph (2) and (8) of paragraph 7, Schedule 7 | Welsh Ministers exercising powers in Part 1 of Schedule 2 but using the urgent procedure in paragraph 7 of Schedule 7 | A statement that the Welsh Ministers are of the opinion that it is necessary to make the SI using the urgent procedure and the reasons for that opinion. |

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

1. Sifting statements

- 1.1 The Deputy Minister for Health and Social Services, Julie Morgan has made the following statement regarding the use of legislative powers in the European Union (Withdrawal) Act 2018:
- 1.2 “I accept the recommendation of the Constitutional and Legislative Affairs Committee that the Regulation and Inspection of Social Care (Qualifications) (Wales) (Amendment) (EU Exit) Regulations 2019 should be subject to the affirmative resolution procedure as they make amendments to primary legislation”.

2. Appropriateness statement

- 2.1 The Deputy Minister for Health and Social Services, Julie Morgan, has made the following statement regarding the use of legislative powers in the European Union (Withdrawal) Act 2018:
- 2.2 “In my view The Regulation and Inspection of Social Care (Qualifications) (Wales) (Amendment) (EU Exit) Regulations 2019 do no more than is appropriate”.
- 2.3 This is the case because the instrument only makes changes required to correct the deficiencies arising from the United Kingdom’s withdrawal from the European Union without an agreement.

3. Good reasons

- 3.1 The Deputy Minister for Health and Social Services, Julie Morgan, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:
- 3.2 “In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action”.
- 3.3 These are: The instrument makes amendments to domestic legislation relating to the recognition of qualifications of social care professionals. These amendments correct deficiencies arising from the United Kingdom’s withdrawal from the European Union without a withdrawal agreement and ensure an operable system for recognition at exit.

4. Equalities

- 4.1 The Deputy Minister for Health and Social Services, Julie Morgan, has made the following statements.
- 4.2 “This statutory instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts.
- 4.3 In relation to the statutory instrument, I, Julie Morgan, have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.”

5. Explanations

- 5.1 The explanations statement has been made in paragraph 4 (Purpose & intended effect of the legislation) of the main body of this explanatory memorandum.

6. Criminal offences

- 6.1 No criminal offences are being created in these Regulations. No criminal offences statements are therefore necessary.

7. Legislative sub-delegation

- 7.1 No new sub-delegation powers are being created by these amendments. No legislative sub-delegation statement is therefore required

8. Urgency

- 8.1 This statutory instrument is not being made urgently. No urgency statement is therefore required.

Eitem 5.1

SL(5)341 - Rheoliadau Gweithfeydd Trydan (Asesiad o'r Effaith Amgylcheddol) (Cymru a Lloegr) (Diwygio) (Cymru) 2019

Cefndir a Diben

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Gweithfeydd Trydan (Asesiad o'r Effaith Amgylcheddol) (Cymru a Lloegr) 2017 ("Rheoliadau 2017").

Mae ceisiadau a wneir ar neu ar ôl 1 Ebrill 2019 o dan adrannau 36 a 36C o Ddeddf Trydan 1989 ("Deddf 1989") sy'n ymwneud â gorsafoedd cynhyrchu (neu orsafoedd cynhyrchu arfaethedig) yn nyfroedd Cymru sydd â chapasiti nad yw'n fwy na 350 megawat, neu a fydd â chapasiti nad yw'n fwy na hynny, i'w gwneud i Weinidogion Cymru.

Mae'r Rheoliadau hyn yn diwygio'r diffiniad o "relevant authority" i ddarparu mai Gweinidogion Cymru yw'r awdurdod perthnasol pan wneir cais o dan adran 36 neu 36C (neu pan fo cais o'r fath i'w wneud) i Weinidogion Cymru. Mae'r Rheoliadau hyn yn gwneud diwygiadau i'r ddarpariaeth sy'n ymwneud â chyrrff ymgynghori. Mae'r Rheoliadau hyn hefyd yn diwygio rheoliadau 22 a 28 i fewnosod cyfeiriad at Rheoliadau Trydan (Gorsafoedd Cynhyrchu Alltraeth) (Amrywio Cydsyniadau) (Cymru) 2019.

Gweithdrefn

Negyddol.

Materion technegol: craffu

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.2 mewn perthynas â'r offeryn hwn.

Craffu ar y rhinweddau

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.

Y goblygiadau yn sgil gadael yr Undeb Ewropeaidd

Mae Rheoliadau 2017 yn cael eu gwneud drwy arfer y pwerau a roddwyd gan adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972 (ac wrth arfer y pwerau a geir yn Neddf 1989). O'r herwydd, bydd Rheoliadau 2017 yn dod yn rhan o gyfraith yr UE a gedwir ar y diwrnod ymadael.

Ymateb y Llywodraeth

Nid oes angen ymateb gan y Llywodraeth.

Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

11 Mawrth 2019



SL(5)346 – Rheoliadau Cynllunio Gwlad a Thref (Asesu Effeithiau Amgylcheddol) (Cymru) (Diwygio) 2019

Cefndir a Diben

Mae'r Rheoliadau hyn yn amnewid y darpariaethau arbed a throsiannol yn Rheoliad 62 (2) i (6) o Reoliadau Cynllunio Gwlad a Thref (Asesu Effeithiau Amgylcheddol) (Cymru) 2017 ("Rheoliadau 2017").

Mae'r Rheoliadau hyn hefyd yn diwygio Atodlen 2 i Reoliadau 2017 i ychwanegu cyfeiriad at osod llinellau trydan uwchben. Effaith y diwygiad hwn yw y gallai fod angen cynnal asesiad o'r effaith amgylcheddol mewn cysylltiad â datblygiad o'r fath cyn rhoi caniatâd cynllunio.

Gweithdrefn

Negyddol.

Materion technegol: craffu

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.2 mewn perthynas â'r offeryn hwn.

Rhinweddau: craffu

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.

Y goblygiadau yn sgil gadael yr Undeb Ewropeaidd

Gwneir y Rheoliadau hyn o dan y pŵer yn adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972 (mewn perthynas â'r gofyniad am asesiad o'r effaith ar yr amgylchedd gan brosiectau sy'n debygol o gael effeithiau sylweddol ar yr amgylchedd). O'r herwydd, bydd y Rheoliadau hyn yn dod yn rhan o gyfraith yr UE a ddargedwir ar y diwrnod ymadael.

Ymateb y Llywodraeth

Nid oes angen ymateb gan y Llywodraeth.

Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

8 Mawrth 2019



Eitem 5.3

SL(5)369 – Rheoliadau Addysg (Cyllid Myfyrwyr) (Diwygiadau Amrywiol) (Cymru) (Ymadael â'r UE) 2019

Cefndir a Diben

Caiff y Rheoliadau hyn eu gwneud o dan adrannau 1 a 2 o Ddeddf Addysg (Ffioedd a Dyfarniadau) 1983 ac adrannau 22 a 42(6) o Ddeddf Addysgu ac Addysg Uwch 1998. Maent yn gwneud diwygiadau technegol i nifer o Reoliadau sy'n gysylltiedig â chyllid myfyrwyr. Mae'r diwygiadau'n angenrheidiol i sicrhau bod cyfeiriadau amrywiol drwy gydol y Rheoliadau diwygiedig yn parhau i weithredu'n effeithiol ar ôl ymadawiad y DU â'r Undeb Ewropeaidd.

Gweithdrefn

Negyddol.

Materion technegol: craffu

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.2 mewn perthynas â'r offeryn hwn.

Rhinweddau: craffu

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.

Y goblygiadau yn sgil gadael yr Undeb Ewropeaidd

Bydd y Rheoliadau hyn yn rhan o gyfraith yr UE a ddargedwir er nad ydynt yn cael eu gwneud o dan Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018. Mae'r weithdrefn yn negyddol yn unol â'r pwerau galluogi.

Ymateb y Llywodraeth

Nid oes angen ymateb gan y Llywodraeth.

Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

13 Mawrth 2019





Mick Antoniw AC
Y Cadeirydd
Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol
Cynulliad Cenedlaethol Cymru
Bae Caerdydd
CF99 1NA

21 Chwefror 2019

Annwyl Mick

Rheoliadau Addysg (Cyllid Myfyrwyr) (Diwygio) (Ymadael â'r UE) 2019

Rwy'n bwriadu cyflwyno'r rheoliadau uchod yn y Cynulliad Cenedlaethol ar 8 Mawrth 2019, neu o gwmpas y dyddiad hwnnw. Bydd y rheoliadau'n sicrhau y bydd cymorth yn parhau'n ddi-dor i fyfyrwyr o'r Undeb Ewropeaidd ar ôl i'r Deyrnas Unedig adael yn Undeb Ewropeaidd ar 29 Mawrth 2019. Y weithdrefn negyddol fydd yn gymwys i'r rheoliadau hyn a chânt eu gwneud gan ddefnyddio pwerau o dan Ddeddf Addysg (Ffioedd a Dyfarniadau) 1983, Deddf Addysgu ac Addysg Uwch 1998 a Deddf Addysg Uwch (Cymru) 2015, yn hytrach na Deddf yr Undeb Ewropeaidd (Ymadael) 2018 ("y Ddeddf Ymadael"). Roeddwn i'n meddwl efallai y byddai nodyn esboniadol cyn cyflwyno'r rheoliadau o fudd ichi, i esbonio pam fod y rheoliadau hyn yn cael eu gwneud o dan y pwerau hynny yn hytrach nag o dan y Ddeddf Ymadael.

Mae Gweinidogion Cymru wedi sicrhau bod cymorth ar gael i fyfyrwyr o'r Undeb Ewropeaidd ers cryn amser. Bydd myfyrwyr mewn categorïau preswyllo penodol yn gymwys, yn amodol ar fodloni meini prawf eraill, i gael cymorth gan Weiniogion Cymru a byddant yn cael statws myfyriwr cartref mewn perthynas â'r ffioedd a godir. Nid effeithir yn uniongyrchol ar bolisi Gweinidogion Cymru i gefnogi'r myfyrwyr hyn gan ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd. Cyhoeddais Ddatganiad Ysgrifenedig ar 2 Gorffennaf 2018 i gyhoeddi parhad y polisi cyfredol ym mlwyddyn academaidd 2019/20.

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Gohebiaeth.Kirsty.Williams@llyw.cymru
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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.

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.

Defnyddir amrywiaeth o ddisgrifiadau tiriogaethol a sefydliadol mewn deddfwriaeth cyllid myfyrwyr. Mae hyn yn cynnwys cyfeiriadau at yr Undeb Ewropeaidd a'r Ardal Economaidd Ewropeaidd. Wrth i'r Deyrnas Unedig adael yr Undeb Ewropeaidd, mae angen diwygiadau technegol i sicrhau y bydd geiriad y ddeddfwriaeth yn parhau i weithredu'r polisi cyfredol yn effeithiol.

Mae Paragraff 1(1) o Atodlen 2 i'r Ddeddf Ymadael yn cynnwys pŵer i Weinidogion Cymru wneud rheoliadau i atal, unioni neu liniaru unrhyw achos o fethiant cyfraith UE a gedwir i weithredu'n effeithiol yn sgil ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd. Gellir dadlau y dylid gwneud y rheoliadau diwygio arfaethedig o dan y pŵer hwn. Fodd bynnag, credaf fod y pwerau deddfwriaeth addysg arferol a nodwyd uchod yn fwy priodol at y dibenion hyn.

Nid oes polisi newydd yn cael ei gyflwyno ac ni wnaiff y rheoliadau arfaethedig unrhyw beth i ail-greu neu ddisodli cyfraith yr UE mewn deddfwriaeth ddomestig. Mae'r diwygiadau hyn yn cyd-fynd â diwygiadau technegol eraill a wneir yn rheolaidd i ddeddfwriaeth cyllid myfyrwyr gan ddefnyddio'r pwerau y soniwyd amdanynt.

Mae hygyrchedd y gyfraith yn ystyriaeth bwysig yn y penderfyniad hwn. Nododd y Pwyllgor bwysigrwydd cynnal hygyrchedd y gyfraith yn rhaglen Offerynnau Statudol Ymadael â'r UE yn ei adroddiad diweddar ar graffu ar ddeddfwriaeth ymadael â'r UE. Mae deddfwriaeth cymorth i fyfyrwyr yn gymhleth iawn a chaiff ei ddiwygio'n aml. Ni fydd rheoliadau a wneir o dan y Ddeddf Ymadael yn gysylltiedig yn uniongyrchol â deddfwriaeth addysg, a byddai hynny'n gwneud darganfod y ddeddfwriaeth briodol yn anoddach nag sydd raid i'r cyhoedd. Yn yr un modd, o ran hygyrchedd, bydd teitl y rheoliadau'n cynnwys "Ymadael â'r UE" gan wneud y cysylltiad ag ymadawiad y DU â'r UE yn glir.

Nodaf fod Rheoliadau Addysg (Ffioedd Myfyrwyr, Dyfarniadau a Chymorth) (Diwygio) (Ymadael â'r UE) 2019 sy'n gymwys yn Lloegr wedi'u rhoi gerbron Senedd San Steffan ar 31 Ionawr 2019, a'u bod yn defnyddio pwerau cyfraith addysg yn hytrach na phwerau'r Ddeddf Ymadael.

Gobeithio bod hyn o gymorth i'ch Pwyllgor.

Yn gywir



Kirsty Williams AC/AM

Y Gweinidog Addysg
Minister for Education

SL(5)377 – Rheoliadau Safonau a Labelu Bwyd (Diwygiadau Amrywiol) (Cymru) (Ymadael â'r UE) 2019

Cefndir a Phwrpas

Mae'r Rheoliadau hyn yn gwneud diwygiadau i is-ddeddfwriaeth sy'n gymwys yng Nghymru ym maes cyfansoddiad a labelu bwyd.

Mae'r Rheoliadau hyn, ac eithrio rheoliad 6, i'w gwneud drwy arfer y pwerau a roddir i Weinidogion Cymru gan baragraff 1(1) o Atodlen 2 a pharagraff 21(b) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018, er mwyn ymdrin ag unrhyw fethiant yng nghyfraith yr UE a ddargedwir i weithredu'n effeithiol a diffygion eraill sy'n deillio o ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd.

Mae rheoliad 6 wedi ei wneud o dan adran 16 o Ddeddf Diogelwch Bwyd 1990 i ddiwygio Rheoliadau Mèl (Cymru) 2015 i osod y dull dadansoddi y mae'n rhaid i awdurdodau bwyd ei ddefnyddio i wirio cydymffurfedd â gofynion y Rheoliadau hynny

Gweithdrefn

Negyddol

Craffu Technegol

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.2 mewn perthynas â'r offeryn hwn.

Craffu ar rinweddau

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.

Y goblygiadau yn sgil gadael yr Undeb Ewropeaidd

Gosodwyd drafft o'r Rheoliadau hyn gerbron y Cynulliad i'w sifftio yn unol â pharagraff 4 o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018. Cytunodd y Pwyllgor mai'r weithdrefn negyddol oedd y weithdrefn briodol ar gyfer y Rheoliadau hyn.

Ymateb y Llywodraeth

Nid oes angen ymateb gan y Llywodraeth.

Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

5 Mawrth 2019



Eitem 5.5

SL(5)378 – Rheoliadau Hylendid a Diogelwch Bwyd a Bwyd Anifeiliaid (Diwygiadau Amrywiol) (Cymru) (Ymadael â'r UE) 2019

Cefndir a Phwrpas

Gwneir y Rheoliadau hyn drwy arfer y pwerau a roddir i Weinidogion Cymru gan baragraff 1(1) o Atodlen 2 a pharagraff 21(b) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018, er mwyn ymdrin ag unrhyw fethiant yng nghyfraith yr UE a ddargedwir i weithredu'n effeithiol a diffygion eraill sy'n deillio o ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd.

Mae'r Rheoliadau hyn yn gwneud diwygiadau i is-ddeddfwriaeth sy'n gymwys yng Nghymru ym maes hylendid a diogelwch bwyd a bwyd anifeiliaid.

Gweithdrefn

Negyddol

Craffu Technegol

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.2 mewn perthynas â'r offeryn hwn.

Craffu ar rinweddau

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.

Y goblygiadau yn sgil gadael yr Undeb Ewropeaidd

Cafodd y Rheoliadau hyn eu gosod at ddibenion sifftio o dan Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 yn unol â Rheol Sefydlog 27.9A. Cytunodd y Pwyllgor mai'r weithdrefn negyddol oedd y weithdrefn briodol ar gyfer y Rheoliadau hyn.

Ymateb y Llywodraeth

Nid oes angen ymateb gan y Llywodraeth.

Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

7 Mawrth 2019





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

11 Mawrth 2019

Annwyl Mick,

Ysgrifennaf fel ymateb i'ch llythyr ynghylch eich adroddiad cynnydd ar y gwaith o graffu ar reoliadau o dan Ddeddf yr UE (Ymadael).

Yn gyntaf hoffwn ddiolch ichi am waith craffu eich Pwyllgor ar yr OSau Cymru arfaethedig o dan y weithdrefn negyddol a osodwyd ar gyfer sifftio. Bu'r Pwyllgor yn deg ac yn rhesymol o ran ei argymhellion, ac rwy'n gwerthfawrogi eich cymorth o ran hwyluso hynt y gwaith heriol hwn fel y gall yr OSau hyn ddod i rym ar y diwrnod ymadael.

Roedd hefyd yn galonogol i weld bod eich adroddiad yn nodi y byddai'r Cynulliad yn gallu ymdopi, pe bai angen, ag unrhyw gynnydd mewn llwyth gwaith a fyddai'n deillio o ymadawiad y DU â'r UE. Roedd pryderon gennyf o ran gallu sicrhau digon o amser mewn cyfarfodydd llawn ac, yn enwedig, digon o amser mewn pwyllgorau ar gyfer yr holl OSau cadarnhaol sydd eu hangen ar gyfer ymadael â'r UE, ond ar sail eich llythyr gwelaf y dylem allu bod yn hyderus y bydd gan y Cynulliad y capasiti i graffu ar yr OSau hyn, a'u trafod, cyn y diwrnod ymadael.

Mae'r adroddiad a osodwyd yn y Cynulliad yn mynd i'r afael â rhai materion cyffredinol ynghylch craffu ar yr OSau ymadael, a rhai materion eraill sy'n benodol i OSau unigol. O ran y materion sy'n ymwneud ag OSau penodol, aethpwyd i'r afael â'r materion hynny eisoes mewn llythyrau manwl a anfonwyd atoch, felly ni soniaf amdanynt eto yn y llythyr hwn. Yn hytrach, af i'r afael â'r pwyntiau sy'n gymwys yn fwy cyffredinol i'r rhaglen ddeddfu ar gyfer ymadael â'r UE.

Rwyf wedi darllen adroddiad y Pwyllgor yn ofalus iawn. Rhaid imi ddweud ichi nad yw'r adroddiad yn cyd-fynd o gwbl â fy mhrofiad dyddiol o fynd i'r afael ag amgylchiadau eithriadol Brexit a cheisio sicrhau blaenoriaeth Llywodraeth Cymru, sef diogelu lles dinasyddion, hyd y gellir, pe bai Brexit yn digwydd heb gytundeb. Mae hynny wedi golygu gweithredu ar unwaith i sicrhau bod trefniadau brys ar waith, tra'n cadw ein gallu i greu systemau newydd yn y dyfodol.

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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.

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.

Nid wyf yn derbyn bod y Cynulliad Cenedlaethol wedi ei cael ei ymylu na'i osgoi yn y broses hon. Yn hytrach na chael ein hymylu, buom yn cydweithredu â Llywodraeth y DU er mwyn sicrhau llyfr statud sy'n gweithio. Cyd-destun hyn, fel y gwyddoch, yw ein bod yn gorfod gweithio ar y sail bod 'dim cytundeb' yn bosiblwydd go iawn o hyd. Ym mis Gorffennaf 2018 roeddem oll yn gweithio yn unol ag amserlen lle dywedodd Llywodraeth y DU y byddai'n dod i gytundeb yng nghyfarfod Cyngor Ewrop yn y mis Hydref, a byddai hynny wedi golygu y gellid bod wedi gohirio cryn dipyn o'r ddeddfwriaeth tan y cyfnod pontio, ond yn hytrach, bu'n rhaid inni gwblhau'r holl ddeddfwriaeth o fewn amserlen eithriadol o dynn. Mae hyn yn waith deddfwriaethol nas welwyd mo'i debyg o'r blaen. Nid yw Llywodraeth Cymru, nac yn wir unrhyw un o'r Gweinyddiaethau Datganoledig eraill, erioed wedi ceisio cyflawni unrhyw beth ar y raddfa hon ers dechrau cyfnod datganoli. Nid yw Aelod-wladwriaeth gyfan erioed wedi ymadael â'r UE o'r blaen, ac mae'n debyg nad yw cymaint o waith deddfwriaethol erioed wedi ei wneud o'r blaen yn y DU o fewn amserlen mor dynn.

Mae'r adroddiad yn awgrymu nad yw'r Pwyllgor o'r un farn â ninnau o ran hyn, ac nad oes ganddo'r un pryderon â ninnau o ran pa un a fydd gennym lyfr statud sy'n gweithio ar 30 Mawrth pe bai dim cytundeb.

Rwyf hefyd yn gwrthod yr haerid bod Llywodraeth Cymru wedi bod yn gyfrannog yn lleihau cymhwysedd deddfwriaethol drwy ddefnyddio pwerau cydamserol. Fel y gwyddoch, bu gohebiaeth Gweinidogol â Swyddfa Cymru ynghylch Gorchymyn a109 i fynd i'r afael â'r cyfyngiadau anfwriadol ar gymhwysedd y Cynulliad sydd wedi'u creu gan bwerau a roddir mewn OSau sy'n gysylltiedig ag ymadael â'r UE, ac mewn deddfwriaeth arall, sy'n rhoi effaith i baragraffau 8, 10 ac 11 o Atodlen 7B i Ddeddf Llywodraeth Cymru. Mae swyddogion yn edrych ar y mater yn fanwl ac yn ystyried sut orau i'w ddatrys. Yn y cyfamser rydym yn gweithredu yn unol â'r gyfraith fel y mae heddiw.

Ar lefel ehangach, fel y gwyddoch, bydd ymadael â'r UE yn golygu y bydd rhaid i'r DU weithredu'n fewnol mewn ffordd wahanol. Yn anochel, bydd trosglwyddo swyddogaethau i'w harfer o fewn y DU yn hytrach nag ar sail ryngwladol yn golygu y bydd angen i Llywodraeth y DU a'r Gweinyddiaethau Datganoledig weithio mewn ffyrdd newydd er mwyn rheoli'r swyddogaethau hyn. Mae trafodaeth gyfansoddiadol ehangach na dim ond trafod gweithrediad Atodlen 7B yn y dyfodol yn codi - sef trafodaeth y mae Llywodraeth Cymru wedi galw amdano yn gyson ar lefel y DU.

Mae'r adroddiad yn cynnwys rhywfaint o feirniadaeth fanwl o'r datganiadau ysgrifenedig a gyhoeddwyd o dan RhS30C. Bu'r Pwyllgor yn ddiwyd o ran ysgrifennu at Lywodraeth Cymru am bryderon ynghylch datganiadau ysgrifenedig penodol. Diwygiwyd y templedi a'r canllawiau a roddir i'r swyddogion sy'n llunio'r datganiadau RhS30C.

Fodd bynnag, mae wedi dod i'r amlwg bod gennym ddealltwriaeth wahanol o ddiben y datganiadau ysgrifenedig hyn. Ein dehongliad ni o RhS30C oedd mai diben y datganiadau ysgrifenedig hyn oedd hysbysu'r Cynulliad Cenedlaethol bod OSau Ymadael â'r UE wedi eu gosod yn Senedd y DU, gan alluogi'r Aelodau i ystyried yr OSau (a'r dogfennau ategol) a osodwyd gerbron Senedd y DU yn ôl eu dymuniad. Gan hynny, ein dull gweithredu fu rhoi hysbysiad yn tynnu sylw'r Cynulliad at bwyntiau amlycaf pob OS. Mae cynnwys ein datganiadau yn ymwneud â'r gofynion a nodwyd yn RhS30C.3, sy'n tarddu o adroddiad eich Pwyllgor a gyhoeddwyd ym mis Gorffennaf 2018, ac argymhellion 7 ac 8 yn enwedig.

Ymddengys ar sail yr ohebiaeth ac adroddiad cynnydd y Pwyllgor bod mwy o ddiddordeb gan Aelodau'r Pwyllgor mewn craffu ar resymeg Gweinidogion Cymru dros roi cydsyniad, ac mewn craffu ar y Datganiadau, yn hytrach na chraffu ar yr OSau eu hunain. Roeddwn wedi cymryd yn ganiataol y byddai'r OSau a'r Memoranda Esboniadol y mae'r hysbysladau yn cyfeirio atynt o fwy o ddiddordeb i Aelodau, a lluniwyd y Datganiadau yn unol â hynny.

Yn wir, mae RhS30C yn nodi'n benodol iawn mai hysbysiad yw'r datganiad ysgrifenedig, ac yn nodi rhestr glir o bwyntiau y mae'n rhaid eu cynnwys yn y datganiad ysgrifenedig. Trafodwyd y newidiadau hyn i'r Rheolau Sefydlog yn fanwl gan swyddogion Llywodraeth Cymru a chlercod y Cynulliad yr haf diwethaf, gan ddod i gyd-ddealltwriaeth mai diben y datganiadau ysgrifenedig hyn oedd hysbysu Aelodau'r Cynulliad am OSau a osodwyd yn Senedd y DU, yn hytrach na rhoi esboniad manwl o'r rhesymau polisi dros roi cydsyniad. Pe bai wedi bod yn bosibl rhagweld y byddai'r Pwyllgor yn dymuno mabwysiadu'r dull gweithredu hwnnw, gellid bod wedi geirio RhS30C yn wahanol, a gallai fod wedi ei gwneud yn ofynnol bod y datganiadau yn cynnwys yr wybodaeth a fyddai'n hwyluso'r dull gweithredu hwnnw (megis trosolwg o'r polisiâu yn yr OSau, cyfiawnhau pam y mabwysiadwyd dull gweithredu ar sail y DU gyfan yn hytrach nag ar sail Cymru, ac ati.).

Rwy'n gobeithio, yn dilyn y camau a gymerwyd ynghylch y templedi a'r canllawiau a roddir i swyddogion, bod y datganiadau RhS30C bellach yn rhoi'r wybodaeth i'r Pwyllgor sy'n hwyluso'r dull gweithredu a ddewiswyd ganddo o ran craffu, er y buom yn dilyn y gweithdrefnau a gytunwyd â'r Cynulliad yr haf diwethaf.

Sylwaf y byddai'n well gan y Pwyllgor pe bai Gweinidogion Cymru yn gosod cynigion ar gyfer holl Femoranda Cydsyniad Offerynnau Statudol.

Mae Gorchmynion Sefydlog yn nodi'n glir mai dewis i'r Gweinidogion neu Aelodau yw gosod cynnig. Mae'r ffaith bod Suzy Davies AC wedi gallu gosod cynnig i drafod Memorandwm Cydsyniad Offeryn Statudol yr Amgylchedd Morol yn dangos bod y Rheolau Sefydlog yn gweithredu yn unol â'r bwriad. Fel y nodais uchod, gan fod eich adroddiad yn datgan y gallai'r Cynulliad, pe bai angen, fod wedi gallu ymdopi ag unrhyw gynnydd o ran llwyth gwaith yn deillio o Brexit, mae'n galonogol imi y byddai'r adnoddau ar gael i Aelodau Cynulliad ddrafftio memorandwm a gosod cynnig yn y Cynulliad os oeddent o'r farn bod hynny'n hanfodol.

Nodaf fod y Pwyllgor yn teimlo nad oes cytbwysedd priodol wedi ei daro rhwng OSau Cymru ac OSau y DU. Mater o farn yw hynny. Y ffaith yw y buom yn cyfleu'r neges yn gyson ers mis Medi 2018 ein bod yn rhagweld y byddai tua 150 o OSau ymadael â'r UE i'w gwneud yn Senedd y DU ym meysydd a ddatganolwyd i Gymru, a thua 50 o OSau ymadael â'r UE i'w gosod yn y Cynulliad Cenedlaethol. Mae'r niferoedd hynny a ragwelwyd wedi lleihau ers hynny o ran OSau y DU ac OSau Cymru, ond dim ond o ychydig, wrth i'r broses fynd rhagddo. Er nad yw'r Pwyllgor yn cytuno â'r cydbwysedd a darwyd rhwng OSau Cymru ac OSau y DU, ni all hynny fod yn syndod iddo.

Ni ddylai wedi bod yn syndod ychwaith i'r Pwyllgor bod OSau ymadael â'r UE y DU wedi dod cyn OSau Cymru, felly mae'n anochel y byddant wedi gweld mwy o OSau y DU nag OSau Cymru ar ddechrau'r cyfnod craffu. Rydym wedi dweud yn glir iawn o ddechrau'r broses bod bron holl OSau Cymru yn dibynnu ar OSau y DU, ac felly ni ellir gosod OSau Cymru cyn OSau y DU.

Mae gwahaniaeth barn rhyngom ynghylch cysondeb y camau gweithredu a gymerwyd gan Weinidogion Cymru â darpariaethau'r Cytundeb Rhynglywodraethol. Nid yw'r OSau rydym wedi rhoi cydsyniad iddynt yn gwneud polisiâu newydd, yn hytrach maent yn addasu'r dulliau gweithredu presennol i'r sefyllfa ddomestig. Ym mhob achos, diben y dull gweithredu a fabwysiadwyd yw sicrhau bod y polisi sylfaenol yn parhau, mewn cytundeb â Llywodraeth y DU. Gan hynny, hyd yn oed os yw dewisiadau polisi yn cael eu gwneud, mae'r newidiadau hyn wedi eu cyfyngu i'r hyn sy'n angenrheidiol i sicrhau bod y gyfraith yn gweithredu'n llwyddiannus ar y diwrnod ymadael.

Er enghraifft, ar hyn o bryd gall cyfraith yr UE bennu bod swyddogaeth benodol i'w harfer gan un o sefydliadau'r UE. Yn amlwg, ar ôl i'r DU ymadael â'r UE, ni fydd y sefydliad dan sylw yn arfer y swyddogaeth honno mwyach o ran y DU.

Mae angen gwneud penderfyniad i nodi sefydliad domestig sy'n cyfateb i sefydliad yr UE. Ymddengys fod y pwyllgor o'r farn mai dewis polisi yw hyn. Yn amlwg, nid yw'n ddewis o'r fath. Y polisi yw rhoi swyddogaeth i sefydliad cyfrifol. Y broses o nodi'r sefydliad hwnnw yw'r mynegiant mecanyddol o'r polisi hwnnw, sef polisi sy'n parhau'n gyson drwy gydol y broses.

Rydych hefyd yn sôn am y mater o gyfraith yr UE sy'n uniongyrchol gymwys. Hyd yma, nid yw unrhyw un o'r rheoliadau a osodwyd yn y Cynulliad Cenedlaethol wedi diwygio cyfraith yr UE sy'n uniongyrchol gymwys. Mae OSau sy'n diwygio cyfraith yr UE sy'n uniongyrchol gymwys yn cael eu hystyried fesul achos ac mae Gweinidogion Cymru yn adolygu'r dull gweithredu hwn yn barhaus. Yn yr achosion a welwyd hyd yma, mae Llywodraeth Cymru wedi cadw'r dull gweithredu ar sail y DU gyfan, yn hytrach na chreu polisiau newydd a strwythurau cyflawni newydd o dan amgylchiadau hynod gyfyngedig Brexit.

Roedd pwerau i ddiwygio cyfraith yr UE sy'n uniongyrchol gymwys wedi eu cynnwys yn Neddf yr Undeb Ewropeaidd (Ymadael) ar gais Llywodraeth Cymru er mwyn sicrhau cydraddoldeb rhwng y pwerau sy'n cael eu rhoi i Weinidogion Cymru a Gweinidogion Llywodraeth y DU. Gan fod gennym bwerau i ddiwygio cyfraith yr UE sy'n uniongyrchol gymwys, roedd mabwysiadu dull gweithredu ar sail y DU gyfan yn ddewis polisi bwriadol, yn hytrach na'n rhywbeth sy'n cael ei orfodi arnom oherwydd diffyg pwerau i wneud fel arall. Mae hyn hefyd wedi rhoi'r hyblygrwydd i Weinidogion Cymru ystyried sut sydd orau i wneud deddfwriaeth sy'n mynd i'r afael â chyfraith yr UE sy'n uniongyrchol gymwys.

Yn olaf, rydych yn codi'r pwynt bod y dull gweithredu a fabwysiadwyd yn gwneud llyfr statud Cymru yn llai hygyrch. Rhaid cydnabod bod y ddeddfwriaeth hon yn cael ei gwneud yng nghyd-destun gadael system gyfreithiol ryngwladol hir sefydledig, a gosod system newydd ar sail y DU gyfan yn ei le, lle nad oes o reidrwydd unrhyw gytundeb o ran yr hyn fydd yn digwydd yn y tymor hwy. Rydym wedi ceisio cadw cymaint o eglurder a hygyrchedd â phosibl. Yn wir, un rheswm dros ddefnyddio OSau y DU ar gyfer systemau'r DU gyfan yw sicrhau bod y gyfraith yn fwy hygyrch drwy gael un OS ar gyfer y DU gyfan yn hytrach na phedwar OS ar wahân ar draws yr holl weinyddiaethau. Yn y pendraw, diogelu dinasyddion a busnesau fu ein blaenoriaeth. Rhan o'r broses o symud i sefyllfa newydd y byd ar ôl Brexit fydd gwella hygyrchedd ac eglurder y gyfraith tra'n rhoi'r datrysiadau tymor hwy ar waith.

Yn gywir



MARK DRAKEFORD

Mark Drakeford AC
Prif Weinidog Cymru

14 Mawrth 2019

Annwyl Mark,

Rôl y Cynulliad wrth ddeddfu ar gyfer Brexit

Cytunodd y Pwyllgor Materion Allanol a Deddfwriaeth Ychwanegol i ysgrifennu i gefnogi'r pryderon a fynegwyd gan y Llywydd a'r Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol mewn perthynas â rôl y Cynulliad yn y broses o ddeddfu ar gyfer Brexit.

Gwnaethom ystyried rôl y Cynulliad yn y broses o ddeddfu ar gyfer Brexit yn ystod cam cyntaf ein gwaith fel pwyllgor, a hynny yn nhymor yr hydref 2016.

Fe wnaethom ymhelaethu ar ein safbwynt yn dilyn cyhoeddi Papur Gwyn Llywodraeth y DU ar ddeddfu ar gyfer Brexit, ym mis Mawrth 2017.

Bryd hynny, fe wnaethom nodi ein pryder nad oedd rôl y deddfwrfeydd datganoledig wedi cael ei hystyried yn ddigonol a bod y broses o ddeddfu ar gyfer Brexit yn peri risgiau i'r setliad datganoli ac o ran rheoli'r pwerau a ddirprwywyd i Weinidogion Cymru.

Wrth ymateb i gyhoeddiad Bil yr Undeb Ewropeaidd (Ymadael) yn nhymor yr hydref 2017, gwnaethom fynegi pryderon pellach ynghylch rôl y Cynulliad a gallu Llywodraeth Cymru a Llywodraeth y DU i reoli'r broses o ddeddfu ar gyfer Brexit mewn meysydd datganoledig drwy Senedd y DU .



Er ein bod yn credu ein bod wedi gwneud rhywfaint o gynnydd, gan gynnwys sicrhau y cydnabyddir rôl y deddfwrfeydd datganoledig yn y broses yn Nhŷ'r Cyffredin, ni fodlonwyd ein hamcanion ar gyfer gwella Bil yr Undeb Ewropeaidd (Ymadael) i roi mwy o rôl i'r Cynulliad.

Yn ystod y misoedd diwethaf, rydym wedi ystyried y llythyr a anfonodd y Llywydd atoch mewn perthynas â deddfu ar gyfer Brexit a rôl y Cynulliad. Roedd hyn yn cynnwys llawer o'r pryderon sydd gennym ni, fel Pwyllgor, ynghylch y ffordd y mae'r broses o ddeddfu ar gyfer Brexit wedi cael ei rheoli gan Lywodraeth Cymru a Llywodraeth y DU. Er bod gennym efallai, ar sail eich ymateb i'r Llywydd, safbwyntiau gwahanol ynghylch rhesymeg Llywodraeth Cymru dros ofyn i Senedd a Llywodraeth y DU ddeddfu ar ei rhan, mae'r effaith yr un fath yn y bôn, sef llai o rôl i'r Cynulliad wrth ddeddfu ar gyfer Brexit.

Mae hyn yn arwyddocaol gan ei fod yn cyfyngu ar allu Aelodau'r Cynulliad i gyflawni'r rôl lawn y cawsant eu hethol i'w gwneud a gan ei fod yn golygu bod y penderfyniadau a wneir ynghylch cyfreithiau mewn meysydd datganoledig yn cael eu gwneud ymhell i ffwrdd o bobl Cymru. Mae'r cyfreithiau hyn, wrth gael eu pasio gan Lywodraeth y DU, yn cael eu gwneud yn Saesneg yn unig.

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol sy'n arwain y gwaith o graffu ar is-ddeddfwriaeth. Fodd bynnag, rydym ninnau wedi bod â cryn ddiddordeb yn y broses o ddeddfu ar gyfer Brexit, ac rydym yn cael diweddariadau rheolaidd gan ein swyddogion ar y cynnydd a wneir ac wrth inni graffu ar waith Gweinidogion. Mae hyn yn cynnwys monitro'r holl faterion o ran rhoi cydsyniad deddfwriaethol cysylltiedig â Brexit, ochr yn ochr â'r is-ddeddfwriaeth sy'n cael ei gwneud yn y Cynulliad ac yn San Steffan.

Mae adroddiad diweddar y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol, *Craffu ar y rheoliadau a wnaed o dan Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018: Adroddiad Cynnydd*, yn rhoi cadarnhad pellach o'r pryderon sydd gennym ynglŷn â defnyddio pwerau cydredol.



Rydym yn cymeradwyo'r adroddiad pwysig hwn ac yn ychwanegu ein bod ninnau'n cefnogi'r casgliadau a wneir.

Roeddem yn pryderu'n enwedig wrth ddysgu bod dwy set o reoliadau yn ymddangos i fod yn groes i'r Cytundeb Rhynglywodraethol gan fod Llywodraeth y DU yn defnyddio pwerau o dan dan Ddeddf yr UE (Ymadael) 2018 i greu polisiau newydd mewn meysydd datganoledig, yn arbennig felly o gofio'r sicrwydd a roddwyd i ni gan Weinidogion Cymru y bydd y pwerau hyn yn cael eu defnyddio ar gyfer newidiadau technegol yn unig.

Yr wythnos diwethaf, gwnaethom gyhoeddi ein hadroddiad ar Femorandwm Cydsyniad Deddfwriaethol Atodol y Bil Masnach. Yn yr adroddiad hwnnw, daethom i'r casgliad a ganlyn:

"Wrth i ni ystyried y newid i'r setliad datganoli, barn y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol, a'n pryderon ein hunain ynghylch defnyddio pwerau cydredol o dan Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018, rydym wedi dod i'r casgliad bod sail dda i'n pryder gwreiddiol ynghylch darparu pwerau cydredol."

Er bod y llythyr yn canolbwyntio ar ddefnyddio pwerau cydredol yn bennaf, mae ein pryderon yn cynnwys defnyddio Biliau y DU ar gyfer deddfwriaeth sy'n gysylltiedig â Brexit y gallesid bod wedi ei hystyried gan y Cynulliad.

O ran y broses cydsyniad deddfwriaethol ar gyfer deddfwriaeth sylfaenol, fel hyn y'i disgrifir yn ein hadroddiad diweddar ar y Bil Masnach:

"Nid yw'r broses cydsyniad deddfwriaethol yn caniatáu ar gyfer ymgysylltu cynnil â'r ddeddfwriaeth y creffir arni. Yn hytrach, mae'n cynnig dewis syml a deuaidd rhwng rhoi caniatâd ar gyfer y darpariaethau fel y'u drafftwyd neu eu gwrthod yn llwyr."

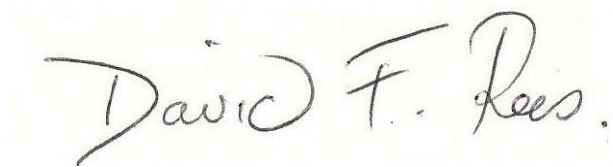
Mae hyn yn cyferbynnu'n anffafriol â'r gweithdrefnau ar gyfer craffu ar Filiau y Cynulliad, hyd yn oed o dan amgylchiadau brys.



Rydym yn parhau i fonitro'r broses o ddeddfu ar gyfer Brexit ac rydym yn edrych ymlaen at drafod rhai o'r materion hyn gyda chi yn ein cyfarfod ar 25 Mawrth 2019.

Rwyf yn anfon copi o'r llythyr hwn at y Llywydd a Gadeirydd y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol.

Yn gywir,

A handwritten signature in black ink that reads "David F. Rees." The signature is written in a cursive style and is centered on a light yellow rectangular background.

David Rees AC

Cadeirydd y Pwyllgor Materion Allanol a Deddfwriaeth Ychwanegol

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



Jeremy Miles AC/AM
Y Cwnsler Cyffredinol a Gweinidog Brexit
Counsel General and Brexit Minister

Eitem 6.3



Llywodraeth Cymru
Welsh Government

David Rees AM
Chair
External Affairs and Additional Legislation Committee
National Assembly for Wales

SeneddEAL@assembly.wales

11 March 2019

Dear David,

I am writing to you following my appearance at the External Affairs and Additional Legislation Committee on 4 February to provide you with more detailed information about the Welsh EU Exit SI programme, the progress to date and possible future SIs relating to EU Exit.

By the week of my appearance, 29 proposed negative procedure statutory instruments had been laid before the National Assembly for consideration by the Constitutional and Legislative Affairs Committee (CLAC) for sifting, as required for SIs proposed for the negative procedure to be made under the EU (Withdrawal) Act 2018. Of these 29, the committee agreed that 27 should be made by the negative procedure. All of these have now been laid before the National Assembly. Three further SIs have been made under the negative procedure but not using powers under the EU (Withdrawal) Act. All of these negative SIs are being laid in time for them to come into force by 29 March.

CLAC considered two of the proposed negative SIs should be subject to the affirmative procedure and the Welsh Government accepted both recommendations, laying a draft of the first as affirmative on 19 February and the second on 5 March. Including these, we have laid 11 affirmative SIs to be considered by the National Assembly ahead of exit day. For ease of reference, I have attached a table of all the EU Exit SIs laid before the National Assembly to date.

Additionally, we are anticipating up to eight SIs, which are intended to come into force after 29 March. The majority of these would make amendments to Welsh law in consequence of UK legislation, which has not yet been made. For example, we may need to make amendments to the Allocation of Housing and Homelessness (Eligibility) (Wales) Regulations 2014 but these are dependent on the Immigration and Social Security Co-ordination (EU Withdrawal) Bill, which is undergoing Parliamentary scrutiny. Further SIs may be required as a result of emergency legislation made in response to a no deal exit on 29 March, should that situation occur.

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

PSCGBM@gov.wales / YPCCGB@llyw.cymru

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.

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.

Tudalen y pecyn 813

The remainder of the SIs are unrelated to UK legislation currently in Parliament and will come into force after exit day as their provisions do not need to take effect until a later date. We are endeavouring to lay these at the earliest opportunity to enable scrutiny of the complete picture of EU Exit SIs.

I hope this information is of use to the committee in providing a more detailed context for your consideration.

I am copying this letter to Mick Antoniw AM, chair of the Constitutional and Legislative Affairs Committee.

Yours sincerely,



Jeremy Miles AM

Y Cwnsler Cyffredinol a Gweinidog Brexit
Counsel General and Brexit Minister

Jeremy Miles AC/AM
Y Cwnsler Cyffredinol a Gweinidog Brexit
Counsel General and Brexit Minister



Llywodraeth Cymru
Welsh Government

David Rees AM
Chair
External Affairs and Additional Legislation Committee
National Assembly for Wales

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Tudalen y pecyn 815

The remainder of the SIs are unrelated to UK legislation currently in Parliament and will come into force after exit day as their provisions do not need to take effect until a later date. We are endeavouring to lay these at the earliest opportunity to enable scrutiny of the complete picture of EU Exit SIs.

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Yours sincerely,



Jeremy Miles AM

Y Cwnsler Cyffredinol a Gweinidog Brexit
Counsel General and Brexit Minister



Ein cyf/Our ref: MA-L/KS/0051/19

Mick Antoniw AC
Cadeirydd,
Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol
Cynulliad Cenedlaethol Cymru
SeneddCLA@cynulliad.cymru

8 Mawrth 2019

Annwyl Mick

Yn dilyn fy llythyr ar 25 Ionawr am ymateb Gweinidogion Cymru pan osodwyd y Rheoliadau Cymorth Gwladwriaethol (Ymadael â'r UE) gan Lywodraeth y DU yn Senedd y DU, rwy'n ysgrifennu atoch i'ch hysbysu am safbwynt Llywodraeth Cymru o ran yr Offeryn Statudol cysylltiedig: **Rheoliadau Rheoliad (EC) rhif 1370/2007 (Rhwymedigaethau Gwasanaeth Cyhoeddus mewn Trafnidiaeth) (Diwygio) (Ymadael â'r UE) 2019** ('OS y PSO').

Fel y gwyddoch, gosodwyd **Rheoliadau Cymorth Gwladwriaethol (Ymadael â'r UE) 2019** gan yr Adran Fusnes, Ynni a Strategaeth Ddiwydiannol yn Senedd y DU ar 21 Ionawr. Yn ein barn ni, nid yw cymorth gwladwriaethol yn fater sydd wedi'i gadw'n ôl ac o dan delerau'r Cytundeb Rhynglywodraethol, rydym yn credu y dylid bod wedi gofyn i Weinidogion Cymru am eu caniatâd cyn gosod yr offeryn. Hefyd, rydym yn siomedig nad yw'r rheoliadau, fel y maent wedi eu gosod, yn darparu ar gyfer gwneud penderfyniadau drwy gydsyniad rhwng y naill a'r llall ac nad ydynt yn darparu trefniant Cymorth Gwladwriaethol sydd wir yn eiddo i bob un o'r pedair Llywodraeth yn y DU.

Mae ein barn am gymorth gwladwriaethol yn effeithio ar OS y PSO. Mae Rheoliad 1370/2007 yn pennu'r amodau ar gyfer digolledu gweithredwyr rhwymedigaethau gwasanaeth cyhoeddus (PSO) am y costau y maent yn eu hysgwyddo wrth gynnal eu rhwymedigaethau gwasanaeth cyhoeddus. Mae Rheoliad 1370 yn darparu ar gyfer eithrio'r sector rhag y rheolau cyffredinol ar gymorth gwladwriaethol (gwasanaethau trafndiaeth teithwyr cyhoeddus ar y ffyrdd a'r rheilffyrdd), gan ryddhau'r awdurdodau cyhoeddus rhag gorfod cael cymeradwyaeth cymorth gwladwriaethol ymlaen llaw gan y Comisiwn bob tro y telir iawndal i weithredwr gwasanaeth cyhoeddus, cyn belled â bod yr iawndal yn clymffurfio â gofynion Rheoliad 1370/2007.

Serch hynny, rydym yn sylweddoli bod angen sicrhau bod y llyfr statud yn weithredol ar y diwrnod ymadael, ac yn cydnabod bod y cywiriadau i'r ddeddfwriaeth sy'n sail i drefn masnachfaint y rheilffyrdd a sefydlwyd gan yr OS hwn yn hanfodol er mwyn i'r gwasanaethau rheilffyrdd ar draws y DU allu parhau.

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At hynny, mae trafodaethau'n mynd rhagddynt â swyddogion yr Adran Fusnes, Ynni a Strategaeth Ddiwydiannol i ddatblygu Memorandwm Cyd-ddealltwriaeth ar gyfer rhedeg system cymorth gwladwriaethol ar gyfer y DU yn gyfan.

Mae'r Adran Drafnidiaeth wedi'n hysbysu ni y bu'n rhaid gosod yr OS ar gyfer sifftio ar 28 Ionawr er mwyn cael digon o amser iddo ddod i rym ar y diwrnod ymadael pe bai'r pwyllgorau sifftio yn penderfynu y dylai'r OS ddilyn y drefn gadarnhaol. Fodd bynnag, mae'r Memorandwm Esboniadol yn datgan na chaiff yr offeryn ei wneud heb ganiatâd Gweinidogion Cymru.

Mae'n glir i ni fod y terfynau amser eithriadol sydd ar ein gwarthaf yn cyfyngu ar sgôp unrhyw negodi ar y pwnc cymhleth hwn sydd wedi para heb ei ddatrys ers blynyddoedd lawer. Rydym felly yn fodlon bod yn bragmatig yn hyn o beth er mwyn diogelu pobl a chaniatáu'r OS yn ei gyfanrwydd am nad oes gwahaniaeth o ran polisi rhyngom ac y byddai'n lleddfu pryderon yr Awdurdodau Datganoledig. Nid yw hyn, serch hynny, yn rhagfarnu'n safbwynt am gymhwysedd deddfwriaethol mewn cysylltiad â chymorth gwladwriaethol.

Mae Gweinidog yr Economi a Thrafnidiaeth wedi ysgrifennu at yr Is-ysgrifennydd Gwladol Seneddol dros Drafnidiaeth, Andrew Jones AS, sy'n gyfrifol am yr OS hwn, i gyfleu'r farn hon a bydd trafodaethau'n para rhwng y ddwy weinyddiaeth.

Byddwn yn hysbysu Aelodau'r Cynulliad am hyn trwy ddatganiad ysgrifenedig cyn hir.

Yn gywir



Jeremy Miles AC

Y Cwnsler Cyffredinol a Gweinidog Brexit
Counsel General and Brexit Minister

Ein cyf / Our ref: MA-L/VG/0239/19

Penaethiaid y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol
a'r Pwyllgor Iechyd, Gofal Cymdeithasol a Chwaraeon
Cynulliad Cenedlaethol Cymru
Bae Caerdydd
CF99 1NA

11 Mawrth 2019

Annwyl Gadeiryddion,

Yn dilyn cyflwyno'r Memorandwm Cydsyniad Deddfwriaethol Atodol ar gyfer y Bil Gofal Iechyd (Trefniadau Rhyngwladol), mae Llywodraeth y DU wedi cyflwyno gwelliant sy'n dileu'r pŵer canlyniadol Harri'r VIII yn y Bil yng Nghymal 5 (3).

Roedd y Bil fel y'i cyflwynwyd yn darparu pŵer gwneud rheoliadau a oedd yn caniatáu i'r Ysgrifennydd Gwladol ddiwygio, diddymu neu ddirymu deddfwriaeth sylfaenol. Byddai hyn yn cynnwys Mesur neu Ddeddf y Cynulliad Cenedlaethol. Roeddwn wedi ysgrifennu i Lywodraeth y DU yn mynegi fy mhryderon am y pŵer gwneud rheoliadau hwn. Os derbynnir gwelliant y Llywodraeth ni fydd y Bil yn caniatáu mwyach i'r Ysgrifennydd Gwladol ddiwygio, diddymu neu ddirymu Deddfwriaeth Sylfaenol Gymreig. Mae hwn yn ganlyniad cadarnhaol sy'n adlewyrchu'r pwysau a roddwyd ar Lywodraeth y DU mewn perthynas â'r pŵer eithafol hwn.

Mae Llywodraeth y DU hefyd wedi cyflwyno gwelliant sy'n mabwysiadu'r dull machludo mewn perthynas â'r pwerau gwneud rheoliadau yng nghymalau 2(1)a a 2(1)b fel bod modd eu harfer am gyfnod penodedig o bum mlynedd yn unig. Mae'r cymalau hyn yn angenrheidiol yn y tymor byr er mwyn lliniaru unrhyw effeithiau niweidiol yn sgil newid sydyn yn y gofal iechyd ar gyfer gwladolion y DU sy'n byw yn yr UE pe byddai'r DU yn Ymadael â'r UE heb gytundeb oherwydd maent yn caniatáu i Lywodraeth y DU wneud darpariaeth unochrog. Croesewir y gwelliant hwn gan ei fod yn cyfyngu ar gwmpas y Bil. Gellid parhau i ddefnyddio'r Bil i roi effaith i gytundebau gofal iechyd y tu hwnt i'r cyfnod pum mlynedd hwn.

Nid wyf yn ystyried bod angen Memorandwm Cydsyniad Deddfwriaethol Atodol mewn perthynas â'r gwelliannau hyn gan eu bod naill ai'n cyfyngu ar bwerau a bennwyd yn y memoranda presennol neu'n eu dileu. Nid ydynt yn gwneud darpariaeth berthnasol am y tro cyntaf.

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Cyflwynwyd gwelliant pellach gan Lywodraeth y DU sy'n ymwneud ag adrodd ariannol mewn perthynas â thaliadau o dan gymal 1. Gan y gallai'r Cynulliad Cenedlaethol wneud darpariaeth gyfatebol mewn Bil y Cynulliad mewn perthynas â thalu am driniaeth dramor a awdurdodwyd ymlaen llaw a ariennir gan y GIG yng Nghymru, byddai'n ofynnol o dan amgylchiadau arferol cael Memorandwm Cydsyniad Deddfwriaethol Atodol arall ar gyfer y ddarpariaeth hon. Nid oes digon o amser yn awr i baratoi a gosod Memorandwm Cydsyniad Deddfwriaethol o'r fath ond roeddwn am ddod â'r gwelliant hwn sydd i'w groesawu at sylw'r Aelodau.

Byddai'r gwelliannau hyn yn gwella'r Bil ymhellach, ac rwy'n dal i argymhell cydsyniad ar gyfer y Bil drwy'r Memorandwm Cydsyniad Deddfwriaethol.

Rwy'n anfon copi o'r llythyr hwn at bob Aelod Cynulliad er mwyn iddynt allu cyfeirio ato cyn y ddaol.

Yn gywir,

A handwritten signature in black ink that reads "Vaughan Gething". The signature is written in a cursive, flowing style.

Vaughan Gething AC/AM

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol
Minister for Health and Social Services

Jeremy Miles AC/AM
Y Cwnsler Cyffredinol a Gweinidog Brexit
Counsel General and Brexit Minister

Eitem 6.6



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref MA-L CG 0274 19

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

08 Mawrth 2019

Annwyl Mick,

Y BIL DEDDFWRIAETH (CYMRU)

Yn ystod fy nhystiolaeth i'r Pwyllgor ar 18 Chwefror fe ymrwymais i ddarparu rhagor o wybodaeth ynghylch adran 8 y Bil. Mae nodyn ar hwn wedi'i atodi yn Atodiad A.

Fe soniais yn ogystal fy mod wedi gofyn i swyddogion baratoi diagram yn esbonio natur gymhleth deddfwriaeth ar hyn o bryd, a sut y bydd Cod o Gyfraith Cymru yn cydgrynhoi a chodeiddio hyn. O ystyried y cyfeiriadau at ddeddfwriaeth gynllunio a wnaethpwyd yn ystod tystiolaeth rhan ddeiliaid, rydym wedi defnyddio hwn fel yr esiamp. Rydw i'n gobeithio y bydd Atodiad B yn ddefnyddiol i'r Pwyllgor am ei fod hefyd yn rhoi syniad o sut y gall gwefan Cyfraith Cymru/Law Wales fod yn ddefnyddiol er mwyn cyhoeddi Codau a deunydd esboniadol yn y dyfodol.

Yn gywir,

Jeremy Miles AM
Y Cwnsler Cyffredinol a Gweinidog Brexit
Counsel General and Brexit Minister

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Tudalen y pecyn 821

Yr Atodiad: sylwadau ar adran 8 o'r Bil

Diben ac effaith adran 8

1. Pan fydd term sy'n cael ei ddefnyddio mewn Deddf neu offeryn yn cael ei ddiffinio'n statudol, mae adran 8 o'r Bil yn darparu bod "rhannau ymadrodd eraill a ffurfiau neu oleddfiadau gramadegol" ar y term hwnnw i'w dehongli yn unol â'r diffiniad. Un o ddibenion adran 8 yw galluogi deddfwriaeth i fod yn fyrrach ac yn fwy cyson, mewn achosion pan fwriedir i ddiffiniad o un term lywodraethu ystyr termau perthynol.
2. Er enghraifft, pe bai Deddf yn creu cynllun cofrestru, gallai ddiffinio "y gofrestr". Gallai'r Cynulliad fwriadu i eiriau megis "cofrestru" a "cofrestriad" gael eu dehongli drwy gyfeirio at y gofrestr honno. Gallai'r bwriad hwnnw fod mor amlwg fel na fyddai angen i'r Ddeddf ei grybwyll. Os na fyddai'r bwriad yn amlwg, byddai'r drafftivr yn ychwanegu geiriad at ddiwedd y diffiniad o "y gofrestr" er mwyn gwneud hyn yn glir, megis "mae ymadroddion perthynol i'w dehongli yn unol â hynny". Mae adran 8 yn osgoi'r angen i ailadrodd y math hwn o eiriad ym mhob achos, ac yn lleihau'r risg y bydd drafftwyr gwahanol yn drafftio mewn ffyrdd anghyson.
3. Cafodd y Pwyllgor dystiolaeth bod adran 8 yn "mynd yn rhy bell".¹ Ar un olwg mae hyn yn wir, oherwydd bod adran 8 yn creu rhagdybiaeth ynghylch yr hyn y bwriedir i ddeddfwriaeth ei olygu, ac ni fydd hyn yn iawn ar gyfer pob Deddf ac offeryn. Fodd bynnag, mae'r un peth yn wir am bob rheol yn Rhan 2 o'r Bil: maent i gyd yn rhagdybiaethau cyffredinol, sydd wedi eu cynnwys oherwydd bod y Llywodraeth yn credu eu bod yn iawn ar gyfer y rhan fwyaf o ddeddfwriaeth Cymru. Ond bydd achosion pan fydd angen i ddeddfwriaeth weithio'n wahanol. Dyna pam y mae'r rhan fwyaf o'r rheolau yn Rhan 2 yn ddarostyngedig i unrhyw ddarpariaeth ddatganedig i'r gwrthwyneb neu i unrhyw gyd-destun sy'n mynnu dehongliad gwahanol.
4. Awgrymwyd yn y dystiolaeth y gallai unrhyw broblem o ran cymhwyso adran 8 gael ei datrys drwy ddehongli ("*resolved by interpretation*") ac y byddai'r ystyr a fwriedir fel arfer yn glir o'r cyd-destun.² Rydym yn cytuno y gall fod achosion pan nad yw diffiniad statudol yn gymwys i derm perthynol oherwydd bod y cyd-destun yn ei gwneud yn glir mai canlyniad gwahanol yw'r bwriad. Fodd bynnag, nid ydym yn gweld hyn yn wendid; yn hytrach, mae'n nodwedd annatod o sut y bwriedir i Ran 2 o'r Bil weithredu.

Y berthynas rhwng enwau a berfau

5. Cyfeiriwyd y Pwyllgor at sylw'r Athro Daube y gall fod i "enwau asiant" (sy'n cyfeirio at bobl sy'n gwneud pethau) ac ambell waith "enwau gweithred" (sy'n cyfeirio at yr hyn a wneir) ystyron mwy cul a mwy penodol na'r berfau cyfatebol.³ Felly, nid yw pawb sy'n pobi yn bobydd, ac nid cogydd yn unig sy'n coginio.⁴
6. Mae rhywfaint o rym i'r sylwadau hyn wrth gyffredinoli am yr hyn y mae geiriau yn tueddu i'w olygu yn y defnydd arferol o iaith, os ydynt yn cael eu defnyddio heb unrhyw esboniad pellach. Ond mae ystyron geiriau bob amser yn dibynnu ar y cyd-destun lle y cânt eu defnyddio, ac nid yw'n anodd meddwl am gyd-destunau lle y bwriedir i "cogydd"

¹ Tystiolaeth lafar gan yr Athro Thomas Glyn Watkin, 14 Ionawr 2019, paragraffau 157, 161.

² Tystiolaeth ysgrifenedig gan yr Athro Watkin, 5 Ionawr 2019, paragraff 23; tystiolaeth lafar, paragraffau 153, 155.

³ Tystiolaeth ysgrifenedig gan yr Athro Watkin, paragraff 23; tystiolaeth lafar, paragraff 150. Gwnaed y pwynt gan yr Athro Daube mewn darlith ar Gyfraith Rufain yn 1966, fel rhan o ddadl yn erbyn dod i gasgliadau hanesyddol ffug ar sail y tarddiadau ieithyddol cyffredin ar gyfer enwau cysyniadau cyfreithiol. Yn benodol, nododd y gallai enwau gweithred ymddangos mewn cofnodion sydd gryn dipyn yn ddiweddarach na'r berfau y maent yn tarddu ohonynt.

⁴ Efallai ei bod yn bosibl dadlau hefyd fod tuedd i enwau asiant feddu ar ystyron mwy cul na'r enwau gweithred cyfatebol. Er enghraifft, gellid dweud "Tudalen y pecyn 822" yn cael ei wneud gan bobyddion".

neu “pobydd” olygu dim byd mwy na rhywun sy’n coginio neu’n pobi, ac nid unigolyn sy’n gwneud hynny o ran galwedigaeth neu mewn unrhyw ffordd arbennig. Nid yw’r sawl sy’n dweud “Cogydd da ydw i” o reidrwydd yn defnyddio “cogydd” mewn unrhyw ystyr arbennig.

7. Pa mor ddilys bynnag y bo’r honiadau ieithyddol hyn wrth ddisgrifio’r defnydd arferol o iaith, nid ymddengys eu bod yn ddadleuon ynghylch sut y mae geiriau yn cael eu defnyddio yn y cyd-destunau deddfwriaethol penodol y bydd adran 8 o’r Bil yn gymwys iddynt. Nid ymdrin ag ystyron geiriau yn gyffredinol y mae adran 8 o’r Bil, ond ag achosion pan fo deddfwriaeth yn defnyddio geiriau ac ymadroddion sy’n perthyn i dermau eraill y rhoddydd diffiniadau statudol iddynt. Mae llawer llai o rym i’r dadleuon yn y cyd-destun hwn.
8. Rhan bwysig o gyd-destun adran 8 yw’r ffaith nad yw ond yn gymwys pan fo deddfiad yn rhoi diffiniad o air neu ymadrodd. Mae dau fath o sefyllfa, yn fras, pan fo deddfwriaeth yn cynnwys diffiniadau. Un ohonynt yw pan fo’r ddeddfwriaeth yn creu cysyniad neu label cyfreithiol newydd na fyddai ystyr iddo fel arall, megis “is-offeryn Cymreig” yn adran 3(2) o’r Bil. Y llall yw pan fo’r ddeddfwriaeth yn defnyddio gair neu ymadrodd cyffredin, ond mae angen egluro neu newid yr ystyr cyffredin yn y geiriadur sydd i’r gair hwnnw neu’r ymadrodd hwnnw at ddibenion y ddeddfwriaeth, megis yn y diffiniad o “Cymru” yn Atodlen 1 i’r Bil. Er na ddylai deddfwriaeth ddefnyddio geiriau mewn ffyrdd sy’n gamarweiniol, efallai y bydd angen i ddeddfwriaeth roi ystyron mwy manwl iddynt na’r ystyron arferol.
9. Mae’r dadleuon a wnaed yn y dystiolaeth yn awgrymu y gallai adran 8 o’r Bil olygu bod diffiniadau eang o ferfau yn cael eu cymhwyso yn anfwriadol i enwau y bwriadwyd iddynt gael ystyron mwy cul. Fodd bynnag, mae hynny’n awgrymu y gallai drafftwyd deddfwriaethol wneud ymdrech fawr i ddarparu diffiniadau manwl o ferfau, ond wedyn ddefnyddio enwau perthynol yn llac, heb ystyried y diffiniadau hynny nac adran 8.⁵ Nid dyna’r ffordd rydym yn disgwyl i ddeddfwriaeth gael ei drafftio; mae angen i ddrafftwyd deddfwriaethol feddwl yn ofalus bob amser am ystyr y geiriau y maent yn eu defnyddio. Os yw Deddf yn diffinio term, rhaid i’r drafftiwr ystyried sut y gallai’r diffiniad effeithio ar ystyr unrhyw dermau tebyg a ddefnyddir mewn manau eraill yn y Ddeddf.
10. Mae cysondeb a manwl gywirdeb yn arbennig o bwysig wrth ddrafftio deddfwriaeth. Gall hynny olygu bod deddfwriaeth yn defnyddio enwau mewn ffyrdd sy’n cyfateb yn agosach at eu berfau perthynol nag mewn cyd-destunau eraill sy’n llai ffurfiol. Os yw Deddf yn diffinio “mewnforio” mewn ffordd benodol, mae’n debyg y bwriedir i “mewnforiad” olygu gwneud yr hyn sydd wedi ei gwmpasu gan y diffiniad, ac i “y mewnforiwr” olygu’r person sy’n ei wneud. Dyna fydd y sefyllfa ddiodyn o dan adran 8, ond bydd angen penderfynu ym mhob achos a yw adran 8 yn cael yr effaith gywir.
11. I’r gwrthwyneb, os yw Deddf yn diffinio berf mewn ffordd benodol ond mae’r drafftiwr am roi ystyr mwy arbenigol i enw perthynol, bydd rhaid i’r Ddeddf ddiffinio’r enw. Os yw’r Ddeddf yn diffinio “mewnforio” ond yn bwriadu i “mewnforiwr” olygu person sy’n ymwneud â mewnforio mewn ffordd benodol iawn, bydd rhaid i’r Ddeddf ddatgan hynny yn glir. Byddai hynny’n wir gydag adran 8 neu hebdi; ac os oes diffiniadau ar wahân ar gyfer y ferf a’r enw, ni fydd adran 8 yn berthnasol i’r berthynas rhyngddynt.⁶

⁵ Efallai fod hyn yn awgrymu y gallai deddfwriaeth ddiffinio “enwau gweithred” ond defnyddio “enwau asiant” yn llac wedyn. Yn aml iawn, mae deddfwriaeth yn diffinio enwau gweithred (megis “tramgwydd” neu “addysg” neu “mabwysiad”) ac wedyn yn darparu i’r diffiniadau hynny fod yn gymwys i “ymadroddion perthynol” megis berfau neu enwau asiant. Ond mae’r angen i fod yn ofalus ac yn fanwl yr un mor bwysig wrth ddiffinio term sy’n enw ag y mae wrth ddiffinio berf.

⁶ Bydd adran 8 yn dal i fod yn berthnasol i amrywiadau gramadegol eraill ar y termau sydd wedi eu diffinio, megis treigladau, cywasgiadau, ffurfdroadau berf, a threfnau llysoeg a ymddangosir yn y ddeddfwriaeth. Tudalen y pecyn 823

12. Cyfeiriodd y dystiolaeth i'r Pwyllgor at y posibilrwydd y gall fod i enw weithiau ystyr hollol wahanol i ferf gyfatebol.⁷ Yn sicr, mae'n bosibl y gall deddfwriaeth ddiffinio un term weithiau a hefyd ddefnyddio term arall sy'n perthyn yn etymolegol iddo ond y mae ystyr hollol wahanol iddo. Yn yr achos hwnnw, byddem yn dweud nad oedd y ddau derm yn ffurfiau gwahanol ar yr un term, ac ni fyddai adran 8 yn gymwys.
13. Gan ystyried yr enghraifft a grybwyllwyd yn y dystiolaeth lafar, ni fyddai adran 8 yn golygu bod diffiniad statudol o'r ffurfiau berfol "*solicit*" neu "*soliciting*" yn gymwys i gyfeiriadau at yr enw "*solicitor*". Ni fyddai siaradwyr Saesneg Prydeinig yn ystyried "*solicitor*" yn enw asiant ar y ferf "*solicit*" ond yn hytrach, byddent yn ei weld yn air hollol wahanol. Byddai adran 8 yn amherthnasol felly.

Y gwahaniaethau rhwng y Gymraeg a'r Saesneg

14. Tynnwyd sylw at y ffaith y gall y ffyrdd y mae berfau ac enwau yn cyfateb i'w gilydd fod yn wahanol yn Gymraeg ac yn Saesneg. Rhoddwyd yr enghraifft hon mewn tystiolaeth:

"Cymerwch air fel 'compose' yn Saesneg. Mae 'composer' yn mynd gyda 'compose' a 'composition' hefyd. Trowch at y Gymraeg: 'cyfansoddi', 'cyfansoddwr', 'cyfansoddiad'—rŷch chi wedi mynd yn awr at 'constitution', yntê, a dim byd i wneud â 'composition'."⁸

15. Ond mae i'r gair "cyfansoddiad" ystod o ystyron bosibl sy'n cynnwys "*composition*" yn ogystal â "*constitution*".⁹ Pe bai darn o ddeddfwriaeth yn defnyddio'r geiriau "cyfansoddi" a "cyfansoddiad" mae'n anodd dychmygu sut y gallai'r cyd-destun adael unrhyw amheuaeth ynghylch pa ystyron a fwriadwyd. Ond byddai angen i'r drafftiwr a'r cyfieithydd sicrhau na fyddent yn defnyddio'r geiriau mewn ffordd a fyddai'n creu amwysedd, yn yr un ffordd ag y dylent bob amser ystyried unrhyw amwyseddau bosibl a'u hosgoi.
16. Mae'n bosibl y gallai testun Bil mewn un iaith ddefnyddio berf ac enw sy'n ffurfiau sy'n perthyn yn etymolegol i'w gilydd, tra byddai testun y Bil yn yr iaith arall yn defnyddio ffurfiau na fyddent yn perthyn yn etymolegol i'w gilydd. Er enghraifft, gallai'r testun Cymraeg ddefnyddio "dysgu" ac "athro" sydd â gwreiddiau gwahanol, tra byddai'r testun Saesneg yn defnyddio "*to teach*" a "*teacher*" sy'n dod o'r un gwreiddyn etymolegol. Fodd bynnag, mae'n bosibl bod geiriau yn perthyn i'w gilydd yn ramadegol er bod iddynt darddiadau etymolegol gwahanol.
17. Nodwedd llawer o ieithoedd, gan gynnwys y Gymraeg a'r Saesneg, yw y gall ffurfdroadau gwahanol neu ffurfiau gramadegol gwahanol ar yr un rhan ymadrodd (e.e. ffurfiau ar enw, ansoddair neu ferf) fod yn seiliedig ar wreiddiau etymolegol gwahanol. Er enghraifft, yn Gymraeg mae i "gwell" a "gorau" wreiddyn gwahanol i "da", ac yn Saesneg mae'r un peth yn wir am "*better*" a "*best*" a "*good*". Gellir gweld hyn mewn ffurfdroadau berfol hefyd: mae gan "mynd" darddiad gwahanol i "aeth", ac mae'r un peth yn wir am "*go*" a "*went*". Mae defnyddio geiriau nad ydynt yn perthyn yn etymolegol yn y ffordd hon yn cael ei alw weithiau yn "cyflenwadaeth" ("*suppletion*").
18. Gall y cysyniad hwn hefyd gael ei gymhwyso i achosion pan ystyrir bod rhannau ymadrodd gwahanol (megis enw ac ansoddair) yn perthyn i'w gilydd o ran ystyr er bod

⁷ Tystiolaeth lafar gan yr Athro Watkin, paragraffau 150, 159.

⁸ Tystiolaeth lafar gan yr Athro Watkin, paragraff 161.

⁹ Mae *Geiriadur Prifysgol Cymru* yn rhoi'r ystyron Saesneg a ganlyn ar gyfer "cyfansoddiad": "*composition, combination; order, arrangement; constitution, physique; nature, disposition, temperament; the act of composing; that which is composed; structure, fabric; constitution of a state, &c.*"

iddynt darddiadau etymolegol gwahanol. Er enghraifft, yn Gymraeg, nid yw “athro” yn perthyn yn etymolegol i “dysgu” (neu “addysgu”) ond mae’n arfer swyddogaeth fel enw asiant i “dysgu” (neu “addysgu”). Yn Saesneg, defnyddir “*lunar*” fel ansoddair o “*moon*” a “*bovine*” fel ansoddair o “*cow*”. Gallant gael eu hystyried yn rhannau ymadrodd cyflenwadol gwahanol o’r un gair.

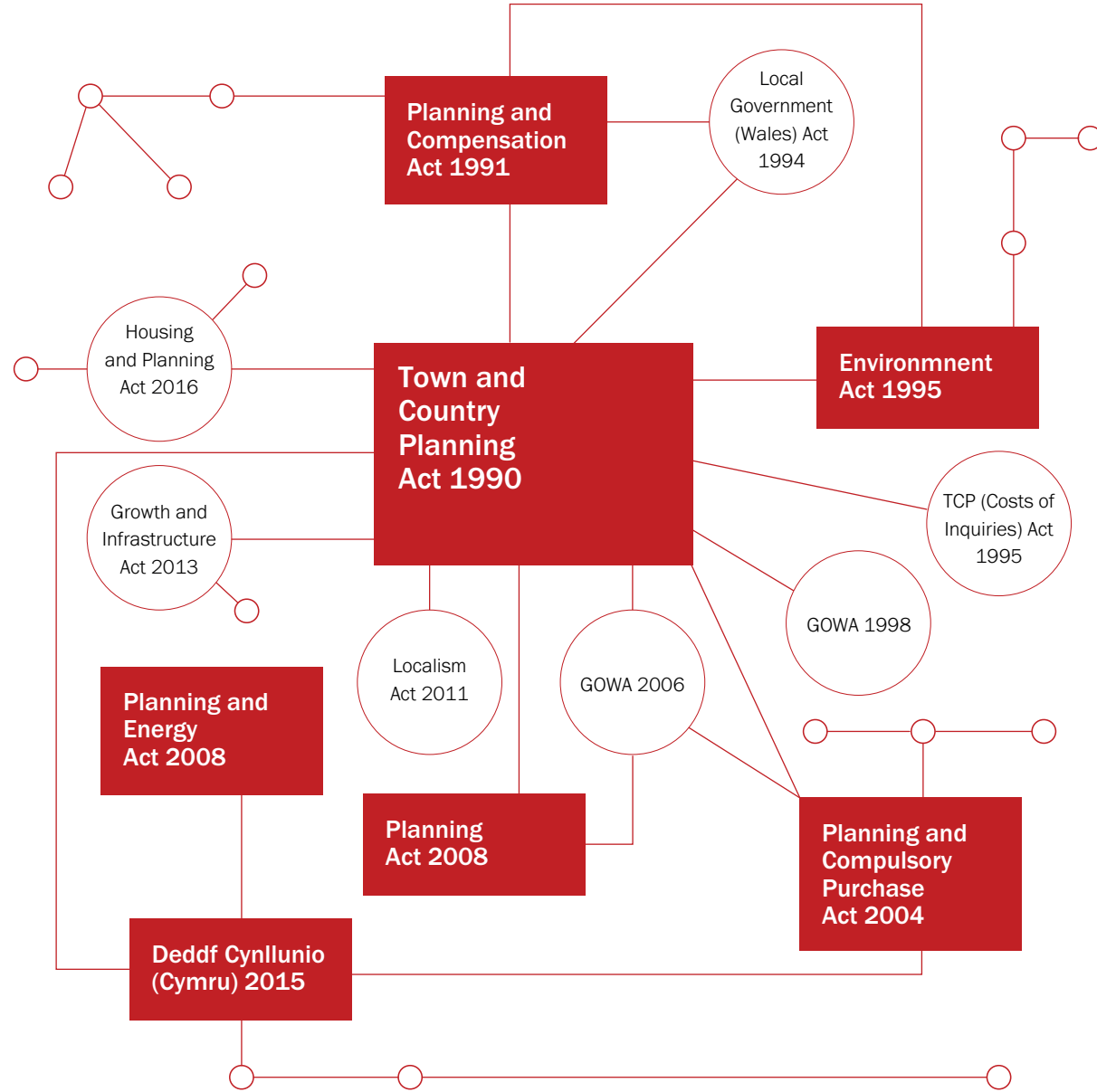
19. Fel yn yr enghreifftiau hyn, gall cyflenwadaeth ddigwydd yn y naill iaith ond nid yn y llall. Gall olygu fod y geiriau a ddefnyddir mewn un iaith yn perthyn yn etymolegol er nad yw hynny’n wir am y geiriau cyfatebol yn yr iaith arall. Mae hwn yn fater y bydd rhaid i ddrafftwyd a chyfieithwyr ei gadw mewn cof wrth lunio dau destun mewn dwy iaith wahanol ar gyfer Bil neu offeryn, yn union fel y maent yn gorfod cadw mewn cof wahaniaethau eraill rhwng y Gymraeg a’r Saesneg.
20. Hefyd, mae’n bwysig nodi nad adran 8 o’r Bil sy’n creu’r materion hyn, ond gallant godi yn awr. Ar hyn o bryd, os yw drafftiwr darn o ddeddfwriaeth Cymru yn bwriadu cymhwyso diffiniad o derm i dermau perthynol eraill, neu os yw’n tybio ei bod yn amlwg y bydd diffiniad yn gymwys i dermau perthynol, bydd rhaid i’r drafftiwr a’r cyfieithydd sicrhau ei bod yn hollol glir i ba dermau y mae’r diffiniad yn gymwys ym mhob iaith. Os oes unrhyw amheuaeth, un ateb posibl yw diffinio’r holl eiriau ac ymadroddion o dan sylw yn y testunau Cymraeg a Saesneg fel ei gilydd. Ni fydd adran 8 yn newid y sefyllfa honno.

Casgliad

21. Am y rhesymau a nodir uchod, rydym yn ystyried bod y materion ieithyddol a grybwyllwyd yn y dystiolaeth o berthnasedd cyfyngedig i dermau sydd wedi eu diffinio yn neddfwriaeth Cymru. Nid ydym yn credu eu bod yn dangos y bydd adran 8 o’r Bil yn achosi unrhyw broblemau.

Deddfwriaeth sylfaenol presennol ar gynllunio

Tudalen y pecyn 826



Nodyn: Mae hyn yn gynrychiolaeth o ddeddfwriaeth sylfaenol presennol ar gynllunio, y mwyafrif yn gymwys i Gymru a Lloegr. Mae llawer o'r ddeddfwriaeth yn diwygio y Ddeddf Cynllunio Tref a Gwlad 1990 a oedd ei hyn yn gyfuniad o ddeddfwriaeth cynllunio wnaed ers 1947, ond llawer ar wahân ar hyn o bryd. Nid yw'r diagram yn cyfleu'r helaeth o is-ddeddfwriaeth a chanllawiau (megis Nodiadau Cyngor Technegol) sydd hefyd yn berthnasol.

Deddfwriaeth yn y dyfodol a'r gynllunio

Cod

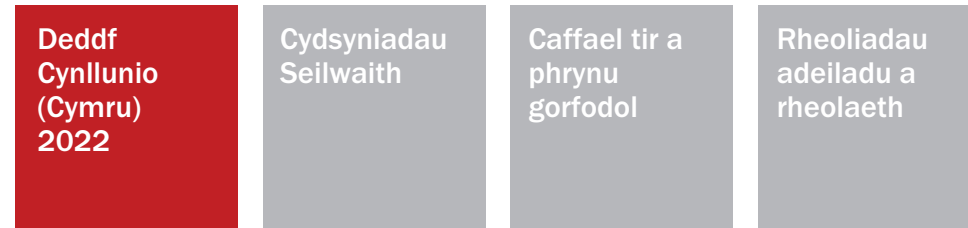
Deddfwriaeth sylfaenol

Is-Deddfwriaeth

Codau Ymarfer a chanllawiau

Deunydd esboniadol

Cod cynllunio, adeiladu a defnydd tir



Nodyn: Fydd y Deddf Cynllunio (Cymru) 2022 yn cyfnerthu, ar gyfer Cymru yn unig, o'r holl ddeddfwriaeth sylfaenol ar gynllunio. Byddai ei deddfu gan y Cynulliad Cenedlaethol ac yn 'Brif Ddeddf' ar gyfraith cynllunio. Gallai Rheolau Sefydlog y Cynulliad ddiogelu strwythur 'prif ddeddfau' yn y dyfodol.

Beth yw cyfraith cynllunio?

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Sut mae gwneud cais am ganiatâd cynllunio?

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Codau deddfwriaethol taith llywio'r safle

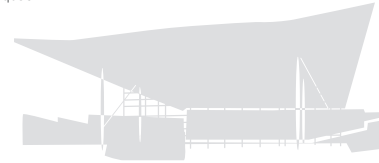
Tudalen y pecyn 828

Tudalen ragarweiniol

Codau Cyfraith Cymru

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> Codau



www.legislation.gov.uk

Pob Cod

Codau Cyfraith Cymru

| | | | |
|-----------------------------------|------------------|--|--|
| Cynllunio, adeiladu a tuir | Addysg a sgiliau | | |
| | | | |

Un cod

Cod cynllunio, adeiladu a defnydd tir

| | | | |
|-------------------------------------|----------------------|-------------------------------|---------------------------------|
| Deddf Cynllunio (Cymru) 2022 | Cydyniadau Sillwaith | Caffael tir a phrynu gorfodol | Rheoliadau adeiladu a rheolaeth |
|-------------------------------------|----------------------|-------------------------------|---------------------------------|

Rhan o god

Cod cynllunio, adeiladu a defnydd tir: Cynllunio

| | |
|------------------------------|--|
| Cod | Cod cynllunio, adeiladu a defnydd tir |
| Deddfwriaeth sylfaenol | Deddf Cynllunio (Cymru) 2022 |
| Is-Deddfwriaeth | Rheoliadau Sillwaith |
| Codau Ymferfer a chanllawiau | Caffael tir a phrynu gorfodol |
| Deunydd esboniadol | Rheoliadau adeiladu a rheolaeth |

Beth yw orfain gorfodol?
Sut mae gwneud cais am ganiatâd cynllunio?

Naratif esboniadol

Cynllunio Cyfraith Cymru / Law Wales

Beth yw cyfraith cynllunio?

Sut mae gwneud cais am ganiatâd cynllunio?



Elin Jones AC, Llywydd

Cynulliad Cenedlaethol Cymru

Elin Jones AM, Presiding Officer

National Assembly for Wales

Eitem 6.7

Mick Antoniw AC
Cadeirydd, Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol
Cynulliad Cenedlaethol Cymru
Bae Caerdydd
CF99 1NA

Eich cyf:
Ein cyf: PO593/EJ/GE

13 Mawrth 2019

Annwyl Mick

Diolch yn fawr ichi am anfon yr adroddiad y gwnaethoch ei gomisiynu gan Syr Paul Silk sy'n ystyried sut y gallai Cynhadledd y Llefaryddion weithio yn ymarferol. Mae'r papur yn ddefnyddiol iawn wrth iddo nodi'r materion allweddol sydd angen eu hystyried. Mae'n werth rhoi ystyriaeth fanwl i'r gwahanol bosibiliadau o ran sut y gallai corff o'r fath weithredu a beth fyddai ei werthoedd, ac mae papur Syr Paul Silk yn gyfraniad gwerthfawr i'r drafodaeth honno.

Mae gennyf feddwl agored o hyd, ac rwy'n croesawu'r drafodaeth barhaus â'ch pwyllgor chi ac Aelodau eraill ar y mater pwysig iawn hwn o ran strwythurau rhyngseneddol. Dylai unrhyw farn gadarn y dof iddi ar y mater hwn gael ei llywio gan safbwyntiau Aelodau'r Cynulliad a'r Pwyllgorau.

Cyn y cyfarfod nesaf a gaf gyda Chyd-lefaryddion, rwy'n cynnig y dylwn gael rhyw fath o syniad o'r hyn y mae'r Aelodau yn ei gredu fyddai'r model gorau ar gyfer Cynhadledd y Llefaryddion. Gan hynny, rwy'n awgrymu eich bod yn ystyried defnyddio'r papur a gomisiynwyd at ddibenion y drafodaeth yn eich fforwm rhyngseneddol fis Ebrill, a'n bod ni'n trefnu cyfarfod rhyngom ni a Chadeirydd y Pwyllgor Materion Allanol a Deddfwriaeth Ychwanegol yn dilyn y fforwm. Bydd y cyfarfod hwn yn gyfle i drafod y gwahanol fodelau a nodir yn y papur, ac i glywed barn yr Aelodau ynghylch pa bosibiliadau y maent yn credu y dylid eu hystyried ymhellach a'r ffordd orau o gyflawni hyn.

Yn gywir

Elin Jones AC
Llywydd

Croesewir gohebiaeth yn Gymraeg neu Saesneg / We welcome correspondence in Welsh or English

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Tudalen y pecyn 829

Eitem 8

Yn rhinwedd paragraff(au) vi o Reol Sefydlog 17.42

Mae cyfyngiadau ar y ddogfen hon