



# Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

## Bil Dadreoleiddio Drafft y DU

Papur briffio

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Dyddiad y papur:

7 Hydref 2013

Cynhyrchwyd y papur briffio hwn gan y Gwasanaeth Ymchwil at ddefnydd y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol.

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Research  
Service

Mae'r papur briffio hwn yn rhoi gwybodaeth gefndirol i gyd-fynd â'r nodyn a baratowyd gan y Gwasanaethau Cyfreithiol.



## 1. Cyflwyniad

Cyhoeddwyd y [Bil Dadreoleiddio Drafft](#) ("y Bil Drafft") gan Swyddfa'r Cabinet ar 1 Gorffennaf 2013. Mae'r Bil Drafft yn diwygio neu'n diddymu 182 o ddarnau gwahanol o ddeddfwriaeth, gan ddileu'r hyn a elwir gan Lywodraeth DU yn "feichiau diangen" ar dri phrif grŵp, sef busnesau, unigolion a chymdeithas sifil, a chyrrff cyhoeddus. Dywedodd y Gwir Anrhydeddus Ken Clarke QC AS:

I am as strongly in favour of sensible regulation as the next man, but only where it is necessary to prevent wrongdoing and protect the public. In recent years a mountain of unnecessary legislation has been piled onto the statute book, usually introduced with the most worthy motives. This regulatory burden wastes time and money for hard-working people and ties honest businesses and public bodies in bureaucratic knots.<sup>1</sup>

Cafodd y Cydbwyllgor ar y Bil Dadreoleiddio Drafft, a gaiff ei gadeirio gan yr Arglwydd Rooker, ei benodi gan ddau Dŷ'r Senedd ar 17 Gorffennaf 2013 er mwyn cynnal gwaith craffu cyn deddfu ar y Bil Dadreoleiddio drafft a'r polisiau sy'n sail iddo. Mae'r Cydbwyllgor yn cynnwys chwe Aelod Seneddol a chwe Arglwydd (nad oes yr un ohonynt yn ASau o Gymru nac yn Arglwyddi sy'n gysylltiedig â Chymru). Bydd y Cydbwyllgor yn casglu tystiolaeth ysgrifenedig a llafar ac yn gwneud argymhellion mewn adroddiad i'r ddau Dŷ. Mae'n ofynnol i'r Cydbwyllgor gwblhau ei adroddiad erbyn 16 Rhagfyr 2013. Mae'r Cydbwyllgor wedi gwahodd sefydliadau ac unigolion sydd â diddordeb i gyflwyno tystiolaeth ysgrifenedig fel rhan o'r ymchwiliad. Gellir gweld cwestiynau'r ymgynghoriad yn Atodiad 1 ac maent yn cynnwys y cwestiwn Beth yw goblygiadau'r Bil drafft ar gyfer y gweinyddiaethau datganoledig?<sup>2</sup>

Mae'r papur briffio hwn yn rhoi gwybodaeth gefndirol i gyd-fynd â'r nodyn a baratowyd gan y Gwasanaethau Cyfreithiol ar y Bil Drafft.

## 2. Y Bil Drafft

Mae Rhaglen Lywodraethu'r Glymblaid y cytunwyd arni gan y Ceidwadwyr a'r Democratiaid Rhyddfrydol ym mis Mai 2010 yn nodi, "We will cut red tape by introducing a 'one-in, one-out' rule whereby no new regulation is brought in without other regulation being cut by a greater amount."<sup>3</sup>

Mae Llywodraeth y DU eisoes wedi cyflwyno mesurau dadreoleiddio nad oeddent yn cynnwys deddfwriaeth:

- symleiddio mawr ar y system gofrestru a thalu ar gyfer taliadau cwmnïau;
- cyflwyno rheolau newydd sy'n eithrio cannoedd ar filoedd o fusnesau risg isel rhag arolygiadau iechyd a diogelwch;

<sup>1</sup> [Swyddfa'r Cabinet, Government unveils Deregulation Bill, Datganiad i'r Wasg, 1 Gorffennaf 2013 \[fel ar 2 Hydref 2013\]](#)

<sup>2</sup> [Senedd y DU, y Cydbwyllgor ar y Bil Dadreoleiddio Drafft, Have your say on the Draft Deregulation Bill, Datganiad i'r Wasg, 31 Gorffennaf 2013 \[fel ar 2 Hydref 2013\]](#)

<sup>3</sup> [Llywodraeth y DU, Rhaglen Lywodraethu'r Glymblaid, Mai 2010 \[fel ar 3 Hydref 2013\]](#)

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- cyflwyno gwiriad Cofnodion Troseddol cludadwy, y gall cyflogwyr ei weld ar unwaith ar-lein, gan osgoi'r angen i gynnal gwiriad o'r newydd yn y rhan fwyaf o achosion;
- ailwampio hawliadau o beidio codi ffi os nad yw achos cyfreithiol yn llwyddiannus (no win, no fee);
- cynyddu'r cyfnod cymhwyso ar gyfer diswyddo annheg i ddwy flynedd;
- cyflwyno cymhellion newydd i sicrhau y caiff gwaith ar y ffyrdd prysuraf ei wneud yn ystod adegau tawel.

Yn araith y Frenhines yn 2013, cyhoeddodd Llywodraeth y DU y câi Bil ei gyflwyno i leihau'r baich ar fusnesau o ganlyniad i reoleiddio gormodol. Nodwyd y canlynol:

The Deregulation Bill would be part of the Government's agenda to reduce the burden of excessive or unnecessary regulation where primary legislation is required. The Bill will be published in draft for pre-legislative scrutiny. Many other regulations are being scrapped and reformed either administratively or via secondary legislation.<sup>4</sup>

Yn ôl Llywodraeth y DU, byddai prif fanteision y Bil Drafft yn cynnwys lleihau neu ddileu beichiau ar fusnesau a chymdeithas sifil a hwyluso twf; lleihau neu ddileu beichiau ar gyrff cyhoeddus, trethdalwyr neu unigolion a thacluso'r llyfr statud drwy ddiddymu deddfwriaeth nad yw'n ymarferol mwyach.

Mae'r Bil Drafft yn nodi amryw fesurau sydd wedi'u hanelu at dri grŵp:

Mae'r darpariaethau sy'n effeithio ar fusnesau yn cynnwys:

- diddymu rheolau iechyd a diogelwch ar gyfer gweithwyr hunangyflogedig mewn swyddi risg uchel;
- gosod dyletswydd i fynnu bod rheoleiddwyr aneconomaidd yn rhoi sylw i effaith eu gweithredoedd ar dwf;
- gwella hyblygrwydd y system brentisiaethau a'i gallu i ymateb i anghenion cyflogwyr a'r economi. Bydd y Bil yn dileu llawer o'r manylion rhagnodol a geir yn y deddfwriaeth bresennol ac yn rhoi eglurder i statws cyflogaeth prentisiaid;
- dileu pwerau dyfarnwyr mewn tribiwnlysoedd cyflogaeth i gyhoeddi argymhellion ehangach.<sup>5</sup>

Mae'r darpariaethau sy'n ymwneud ag unigolion a chymdeithas sifil yn cynnwys:

- lleihau'r cyfnod y mae'n rhaid i bobl fyw yn eu tai cymdeithasol er mwyn cymhwyso i gael yr Hawl i Brynu o bum mlynedd i dair blynedd
- dileu cosbau i bobl sy'n gwneud camgymeriad wrth roi eu biniau allan
- dadreoleiddio'r hawl i ddangos ffilmiau mewn neuaddau pentref a chanolfannau cymunedol yn ddielw, gan ei gwneud yn haws i elusennau bach a grwpiau cymunedol gynnal nosweithiau ffilm

<sup>4</sup> [GOV.UK, Araith y Frenhines 2013: nodiadau briffio cefndirol, 8 Mai 2013, tudalen 19 \[fel ar 2 Hydref 2013\]](#)

<sup>5</sup> [Swyddfa'r Cabinet, Government unveils Deregulation Bill, Datganiad i'r Wasg, 1 Gorffennaf 2013 \[fel ar 2 Hydref 2013\]](#)

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- datganoli penderfyniadau ar hawliau tramwy i lefel leol<sup>6</sup>

Mae'r darpariaethau sy'n effeithio ar gyrff cyhoeddus yn cynnwys:

- dileu'r gofynion rhagnodol ar awdurdodau lleol i ymgynghori ar strategaethau amrywiol a'u paratoi, gan eu rhyddhau yn fwy o reolaeth ganolog
- rhyddhau ysgolion o waith papur dibwynt a gofynion rhagnodol gan lywodraeth ganolog.<sup>7</sup>

Mae'r Bil Drafft hefyd yn cyflwyno system newydd a fyddai'n ei gwneud yn bosibl i'r Senedd adnabod unrhyw ddeddfwriaeth annadleuol, a chael gwared arni'n fwy cyflym.

Dylid cyfeirio at nodyn y Gwasanaethau Cyfreithiol i weld sut y bydd y darpariaethau hyn yn effeithio ar Gymru.

Mae Nodiadau Esboniadol y Bil Drafft yn nodi:

Some provisions in the Bill deal with matters which have been devolved. It is therefore envisaged that some legislative consent motions may be needed at the appropriate time. Discussions with the devolved administrations about provisions in the Bill which relate to devolved matters are ongoing. The purpose of these discussions is to determine whether the governments in Wales, Scotland and Northern Ireland wish these provisions to be included in the Bill on introduction to Parliament.<sup>8</sup>

Mae Cymdeithas Cyfreithwyr yr Alban wedi cyhoeddi ymateb i'r ymgynghoriad ar y Bil Drafft. Mae'n nodi'r canlynol mewn perthynas â darpariaethau sy'n ymwneud â deddfwriaeth nad yw'n ymarferol mwyach (Cymalau 51 - 57):

Clause 51 his allows a Minister of the Crown to make an order for legislation to cease to apply if the Minister considers it is of no practical use. The Order can repeal or revoke the legislation or amend it.

In terms of Clause 52, before making an Order under Section 51 which contains provisions which would be within the legislative competence of the Scottish Parliament, if it were contained in an Act of that Parliament, the Minister must obtain the consent of the Scottish Ministers. Clauses 52(2) and (3) apply a similar provision to Wales and Northern Ireland.

The Society questions whether it is appropriate for a Minister acting under Section 5, where the Order would contain a provision which would be within the legislative competence of the Scottish Parliament, that the Minister should only require the consent of Scottish Ministers and not the Scottish Parliament. The lack of Parliamentary engagement in connection with such Orders which affects Scottish legislation or indeed Welsh or Northern Irish devolved legislation lacks proper democratic engagement. These concerns also extend to Clause 57.<sup>9</sup>

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<sup>6</sup> [Swyddfa'r Cabinet, Government unveils Deregulation Bill, Datganiad i'r Wasg, 1 Gorffennaf 2013 \[fel ar 2 Hydref 2013\]](#)

<sup>7</sup> [Swyddfa'r Cabinet, Government unveils Deregulation Bill, Datganiad i'r Wasg, 1 Gorffennaf 2013 \[fel ar 2 Hydref 2013\]](#)

<sup>8</sup> [Y Bil Dadreoleiddio Drafft, Nodiadau Esboniadol, 1 Gorffennaf 2013 \[fel ar 3 Hydref 2013\]](#)

<sup>9</sup> [Cymdeithas Cyfreithwyr yr Alban, y Bil Dadreoleiddio drafft: Ymateb, Medi 2013 \[fel ar 3 Hydref 2013\]](#)

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Atodiad: Cwestiynau'r Ymgynghoriad

General

1. The draft Bill covers a broad range of specific activities and a large amount of legislative provision is amended by it. Could the same result have been achieved using existing secondary legislative procedures?
2. What are the advantages and disadvantages of including specific deregulatory provisions amending existing legislation and providing additional or amended order making powers within primary legislation rather than considering them through existing deregulatory mechanisms?
3. Are the changes proposed in the draft Bill evidence-based and have any risks associated with the changes been taken adequately into account?
4. Does the draft Bill achieve its purpose of reducing the regulatory burden on business, organisations and individuals effectively and fairly?
5. Will the draft Bill generally benefit businesses by offsetting other regulatory burdens? Are there indirect impacts on other businesses from reducing regulation in specific sectors?
6. To what extent does the draft Bill benefit consumers as well as businesses?
7. How does the provision in the draft Bill affect:
  - i. protections afforded to individuals under human rights and equalities legislation?
  - ii. employment law, skills and the labour market?
  - iii. the environment, particularly in the management of waste?
  - iv. the provision of education?
  - v. the effective administration of justice?
  - vi. social, wellbeing or health inequalities?
8. Have the measures set out in the draft Bill been subject to adequate cost-benefit analysis on the basis of consultation with those affected?
9. Will any or all of the proposals have any significant economic or financial impact? Do you have any evidence of the impact that will aid the Committee in their scrutiny?

Power to disapply legislation no longer of practical use

10. Is a new “power to disapply legislation no longer of practical use” necessary or are there existing procedures which could be used to achieve the same effect?” (Clause 51)?

11. Is the meaning of the phrase “no longer of practical use” clear? In this context, what is meant by “practical”? Should it be defined and, if so, how? Will removing any of the provision proposed in Schedule 16 of the draft Bill have implications for any other areas of regulation?

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12. Are the safeguards regarding the use of the “no longer of practical use” power (set out in Clauses 54 to 56) adequate and appropriate?
13. Other deregulatory mechanisms such as Legislative Reform Orders or Public Bodies Orders have specific tests set out in the parent Act - should there be similar tests set out in the draft Bill? What should they be?
14. Are the mechanisms set out for parliamentary oversight (Clauses 55 and 56) of deregulation orders adequate and appropriate?
15. Are there other changes to deregulatory powers, procedures and parliamentary oversight which you think should have been included in the Bill and, if so, why?
16. What are the risks associated with the proposed new power to disapply legislation that is “no longer of practical use”?

A duty to have regard to the desirability of promoting economic growth

17. To what extent do the Government’s existing powers of direction over regulators already provide the ability to guide regulators towards the importance of promoting economic growth? Is this legislation necessary?
18. Will the introduction of a duty to have regard to “promoting economic growth” compromise the independence of regulators? What additional safeguards are required to ensure that the introduction of such a duty will not compromise the independence of a regulator?
19. How is a duty to have regard to the desirability of economic growth likely to affect those regulators to which it is applied?
20. Where is the introduction of such a duty likely to have beneficial effect? Where might there be adverse consequences?
21. How might the extent to which a regulator has fulfilled, or breached, the duty be ascertained?
22. How can the likely financial and economic impact of the proposed duty be assessed?

Devolution

23. What are the consequences of the draft Bill for the devolved administrations?